

Citation: 2017 BCSECCOM 331

## **Settlement Agreement**

**Kenneth Brooks**

***Securities Act, RSBC 1996, c. 418***

- ¶ 1 The Executive Director of the British Columbia Securities Commission (the Executive Director) and Kenneth Brooks (Brooks) agree as follows:

### **Agreed Statement of Facts**

1. Brooks is a BC resident and the former director of Investor Relations at LML Payment Systems Inc. (LML).
2. LML was a BC company whose shares traded on the NASDAQ.

### ***Misconduct***

3. In December 2011 LML contemplated entering into a significant transaction, either by acquiring a target, or by soliciting bids from prospective purchasers. Brooks was aware that LML retained a broker for those purposes.
4. Early in 2012, LML decided to solicit bids from prospective purchasers. By June 2012, the bidding process was at an advanced stage, and LML had received several bids representing a substantial premium on the trading price of LML.
5. On June 27, 2012, with knowledge of the advanced stage of the bidding process, Brooks purchased 50,000 shares of LML through a private corporation for \$1.91 per share, totaling approximately USD \$95,000.
6. In July 2012, Brooks purchased an additional 39,420 shares of LML through the private corporation for \$2.01 and \$2.06 per share, totaling approximately USD \$80,000.
7. On September 24, 2012, LML issued a news release announcing that Digital River, Inc. would acquire LML in an all cash transaction valued at USD \$3.45 per share, or an aggregate purchase price of approximately USD \$102.8 million.

8. Brooks sold the LML shares through the private corporation immediately after LML issued the news release, for approximately USD \$3.35 per share. The private corporation made approximately CDN \$120,000 on the sale of LML shares.
9. Brooks' trades in LML shares were contrary to section 57.2(2) of the Act.

***Factors Relevant to Settlement***

10. Brooks agreed to make early admissions prior to the issuance of a Notice of Hearing.

***Public Interest***

11. It is in the public interest that the Executive Director issue orders under section 161 of the Act.

***Undertaking(s)***

13. Brooks undertakes to pay \$140,000 to the British Columbia Securities Commission in respect of the settlement of this matter, which sum is due and payable immediately, without further demand.

**Order**

- ¶ 2 The Executive Director will issue an order (the Order) that:
  1. Under section 161 (1)(b) of the Act, Brooks cease trading in, and is prohibited from purchasing, any securities or exchange contracts of any issuer with whom he is in a special relationship for a period of 6 months.

**Consent to Regulatory Orders**

- ¶ 3 Brooks consents to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the Orders set out in paragraph ¶2 above.

**Waiver**

- ¶ 4 Brooks waives any right he may have, under the Act or otherwise, to a hearing, hearing and review, judicial review or appeal related to, in connection with, or incidental to this settlement.

Counterpart

¶ 5 This Settlement Agreement may be executed in counterpart or by facsimile execution and all such counterparts of executed copies or faxed copies shall be read or construed together as if they formed one originally executed document.

¶ 6 November 16 , 2017

¶ 7           Kenneth Brooks            
Kenneth Brooks

          Owais Ahmed           )

Witness Signature )

          Owais Ahmed           )

Witness Name (please print) )

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          3200 – 650 W. Georgia St.           )

)

          Vancouver, BC           )

Address )

          Barrister and Solicitor           )

Occupation )

¶ 8 November 16 , 2017

*Peter J. Brady*

¶ 9 Peter J. Brady  
Executive Director