

# 2007 BCSECCOM 309

## Order

Joseph Edward Allen

### Section 161(6) of the *Securities Act*, RSBC 1996, c. 418

#### Introduction

- ¶ 1 This is an order made under section 161(6) of the *Securities Act*, RSBC 1996, c. 418.

#### Background

- ¶ 2 On October 12, 2005, after holding a hearing, the Ontario Securities Commission found that:
1. Andromeda Capital Corporation is an Ontario company that operated and was based in Ontario.
  2. Andromeda and Joseph Edward Allen entered into a business consulting agreement. Under this agreement, Allen agreed to refer potential investors to Andromeda and discuss the merits of Andromeda with potential investors.
  3. Between September 2002 and June 2003, Allen, directly and through agents, solicited investors in Ontario and Alberta to invest in common shares and warrants of Andromeda. The investors solicited were aged 40 to 60 with reported incomes exceeding \$100,000 and who owned businesses with between 5 and 50 employees.
  4. In making some of the distributions of the Andromeda securities to potential investors, Allen sent a summary of the offering of and a brochure about the Andromeda securities and followed up with telephone calls.
  5. Through their sales efforts, Allen and his agents raised \$1,080,000 from approximately 240 investors by June 2003.
  6. Andromeda paid Allen an aggregate fee or commission of 60% of the funds that he and his agents collected from the sale of the Andromeda Securities. Allen paid his agents a commission of 20% of the funds collected by them from the sale of Andromeda Securities.
  7. Allen attempted to structure his relationship with Andromeda as that of employee to get around the registration requirements under section 25(1) of the *Securities Act*, RSO, c.S.5, as amended.

## 2007 BCSECCOM 309

8. Allen solicited, negotiated and acted in furtherance of trades in Andromeda securities without registration, contrary to section 25(1) of the Act.
  9. Allen distributed Andromeda securities to investors without a prospectus or filing and receiving a receipt for a preliminary prospectus and without an exemption, contrary to section 53 of the Act.
  10. Allen failed to disclose commissions received from the sale of Andromeda securities, contrary to section 36(1)(f) of the Act.
  11. Allen acted contrary to the public interest by engaging in the conduct set out above.
- ¶ 3 On May 10, 2006, after holding a hearing, the OSC rendered a decision on sanctions. In the OSC's reasons for its decision, the OSC considered among other things: the seriousness of Allen's conduct; Allen's regulatory history; Allen's failure to disclose substantial commissions; and the Alberta Securities Commission's decision in the matter of *Re InstaDial Technologies Corp. et al* 2005 ABASC 965, and the ASC's sanctions against Allen. The OSC ordered, among other things, that Allen permanently cease trading in securities (with some exceptions).

### **Order**

- ¶ 4 After providing Allen an opportunity to be heard, and considering public interest, we order under subsection 161(1)(b) of the Act that
1. Allen permanently cease trading in, and is prohibited from purchasing any securities, except that Allen may trade in securities in his own account or a registered retirement savings plan or registered retirement income fund of which he is the beneficiary and held with a registered dealer provided that:
    - (a) the securities are listed and posted for trading on the Toronto Stock Exchange or the New York Stock Exchange (or their successor exchanges) or are issued by a mutual fund which is a reporting issuer; and
    - (b) Allen is not does not own legally or beneficially more than one per cent of the outstanding securities of the class or series of the class in question.
- and

## 2007 BCSECCOM 309

2. Allen is prohibited from engaging in investor relations activities.

¶ 5 May 30, 2007

¶ 6 **For the Commission**

Brent W. Aitken  
Vice Chair

Neil Alexander  
Commissioner