

**IN THE MATTER OF THE *SECURITIES ACT*,
R.S.O. 1990. c. S. 5, as amended;**

**IN THE MATTER OF THE *STATUTORY POWERS PROCEDURE ACT*,
R.S.O. 1990, c. S. 22, as amended; and**

IN THE MATTER OF MAUREEN KERBEL

**SETTLEMENT AGREEMENT BETWEEN STAFF
OF THE ONTARIO SECURITIES COMMISSION
AND MAUREEN KERBEL**

I. INTRODUCTION

1. Pursuant to section 5(1) of the "Practice Guidelines - Settlement Procedures in Matters Before the Ontario Securities Commission" of the Ontario Securities Commission Rules of Practice, Staff of the Ontario Securities Commission and Maureen Kerbel ("Kerbel") propose to settle the matters described further below.

II. FACTS

Acknowledgement

2. Kerbel acknowledges that the facts set out in Part II of this Settlement Agreement are correct.
3. J.M. Charter Securities Corp. ("Charter") was, at all material times, registered under Ontario securities law as a securities dealer. Effective May 9, 2001, the registration of Charter was suspended. Kerbel was registered as a salesperson with Charter from August 11, 1994 to May 21, 1996 and as a director, trading officer and President of Charter from May 21, 1996 to February 6, 2001. Kerbel is not registered currently in any capacity under Ontario securities law.
4. During the period from 1996 to 2000 (the "Material Time"), virtually all of Charter's business consisted of it acquiring stock for its own account and selling that stock to its clients (referred to below as "principal trading").
5. During this same period, approximately 84% of Charter's revenue was derived from principal trading in the stock of five issuers (the "Five Issuers") referred to below. Stock of each of the Five Issuers was traded through the Canadian Dealing Network ("CDN")

and, in the case of stock traded after October 2, 2000, through the Canadian Venture Exchange (ACDNX@).

6. The Five issuers are as follows:
 1. Beverly Glen Capital Corp. (ABeverly@); now Phonetime Inc.
 2. Central Canada Foods Corp.(ACentral@)
 3. FirstSmart Sensor Corp. (AFirstSmart@);
 4. GoldMint Explorations Ltd. (AGoldMint@), now Caspian Oil Tools Limited. (ACaspian@);
 5. Microsolve Computer Capital Inc. (AMicrosolve@);
7. In the case of the Five Issuers, Charter either held stock in its inventory or options to acquire stock in each of the Five Issuers. In respect of the Five Issuers, Charter signed option agreements with various parties to acquire stock in the Five Issuers and options were exercised subsequent to the commencement of principal trading in the stock of the Five Issuers with Charter's clients.
8. Charter acquired stock in the Five Issuers at prices significantly lower than the selling price of the stock to its clients. Charter re-sold this stock to its own clients at mark-ups above acquisition costs ranging from approximately 255% to approximately 392%, which mark-ups were excessive.
9. During the Material Time, Charter's gross profit (*i.e.* sale price less direct cost of sales) earned from principal trading in the stock of the Five Issuers was approximately \$8.5 million.
10. Particulars of the principal trading in the Five Issuers by Charter are set out below.

Beverly Glen Capital Corp. (ABeverly@) (now Phonetime Inc.(APhonetime@))

11. Phonetime (formerly Beverly) is a reporting issuer in Ontario whose shares are currently traded through the CDNX. (Beverly changed its name to Phonetime on October 28, 1999.)
12. During the period from January 2, 1998 to September 24, 1998, Charter purchased 1,293,750 shares of Beverly at an average price of \$0.34 per share.
13. On November 27, 1997, Beverly was approved for quotation on the CDN. On or about December 3, 1997, Charter commenced selling securities in Beverly to its clients at \$1.65 per share.

14. During the Material Time, Charter sold substantially all of its shares to its clients at an average price of \$1.39 per share, generating a gross profit of approximately \$1.4 million. During this time, Charter accounted for approximately 25% of the trading in Beverly.
15. Charter sold shares in Beverly/Phonetime to its clients at a mark-up of approximately 309%, which mark-up was excessive. Phonetime Inc. last traded on September 20, 2002 at \$0.21.

Central Canada Foods Corp. (Central)

16. Central is a reporting issuer in Ontario and Quebec.
17. During the period from May 25, 1999 to December 29, 1999, Charter purchased 1,350,000 shares of Central at an average price of \$0.43 per share.
18. On March 17, 1999, Central was added to the CDN system for reporting purposes only. On or about April 14, 1999, Charter commenced selling securities in Central to its clients at \$1.40 per share.
19. During the Material Time, Charter sold substantially all of its shares to its clients at an average price of \$1.63 per share, generating a gross profit of approximately \$2 million. During this time, Charter accounted for approximately 47% of the trading in Central.
20. Charter sold Central shares to its clients at a mark-up of approximately 279%, which mark-up was excessive. Central last traded on July 22, 2002 at \$0.04 per share.

FirstSmart Sensor Corp. (FirstSmart)

21. FirstSmart is a reporting issuer in Ontario whose trades are now reported to the Canadian Unlisted Board.
22. During the period from July 31, 1998 to August 24, 2000, Charter purchased 3,580,065 shares of FirstSmart at an average price of \$0.25 per share.
23. On June 18, 1998, FirstSmart commenced reporting its trades to CDN . On or about June 25, 1998, Charter commenced selling securities in FirstSmart to its clients at \$0.80 per share.

24. During the Material Time, Charter sold substantially all of its shares to its clients at an average price of \$1.23 per share, generating a gross profit of approximately \$3.2 million. During this time, Charter accounted for approximately 55% of the trading in FirstSmart.
25. Charter sold FirstSmart shares to its clients at an average mark-up of 392%, which mark-up was excessive. FirstSmart's last reported trade to the CUB was on January 4, 2001 at \$0.10 per share.

GoldMint Explorations Ltd.(GoldMint) (now Caspian Oil Tools Limited (Caspian))

26. Caspian Oil Tools Limited (ACaspian®) (formerly known as GoldMint Explorations Ltd. (AGoldMint®) until November 2, 1998, and as Axcension Capital Corp. (AAxcension) until July 5, 1999) is a reporting issuer in Ontario. During the Material Time, trades of its shares were reported through the CDN. On March 14, 2001 the Commission ordered pursuant to subsection 127(8) of the Act that trading in securities in Caspian cease by reason of the failure by Caspian to file interim statements for the nine month period ended December 31, 2000. This Order was extended by the Commission on March 26, 2001 and remains in effect. Caspian is a reporting issuer in Ontario whose shares were listed on the CDN but which are presently cease traded for failure to file annual and interim financial statements.
27. During the period from July 31, 1996 to June 30, 1998, Charter purchased 1,100,000 shares of GoldMint at \$0.22 per share.
28. On July 26, 1996, GoldMint was approved for quotation on the CDN. On or about August 1996, Charter's commenced selling securities in GoldMint to its clients at \$1.20 per share.
29. During the Material Time, Charter sold substantially all of its shares to its clients at an average price of \$0.91 per share, generating a gross profit of approximately \$0.6 million. During this time, Charter accounted for approximately 19% of the reported trading of GoldMint.
30. Charter sold GoldMint shares to its own clients at a mark-up of approximately 313%, which mark-up was excessive. GoldMint last traded on the CDN on February 2, 1999, as Axcension, at a price of \$0.05 per share. It has not traded since that date.

Microsolve Computer Capital Inc. (AMicrosolve®)(now Homebank Technologies Inc. (AHomebank®))

31. Homebank (formerly Microsolve) is a reporting issuer in Ontario whose shares trade on CDNX.

32. During the period from August 2, 1998 to January 2, 1999, Charter purchased 1,190,000 shares of Microsolve at an average price of \$0.44 per share.
33. On July 6, 1998, Microsolve was approved for quotation on the CDN. On or about July 7, 1998, Charter commenced selling securities in Microsolve to its clients at \$0.80.
34. During the Material Time, Charter sold substantially all of its shares to its clients at an average price of \$1.56 per share, generating a gross profit of approximately \$1.2 million. During this time, Charter accounted for approximately 39% of the trading in Microsolve/Homebank.
35. Charter sold Microsolve/Homebank shares to its clients at an average mark-up of 255%, which mark-up was excessive. Homebank last traded on September 19, 2002 at \$0.10 per share.

Conduct Contrary to Public Interest

36. In engaging in the conduct described above, Kerbel failed to deal fairly, honestly and in good faith with the clients of Charter, in breach of the requirements set out in Ontario securities law, and in particular, subsections 2.1(1) and (2) of Rule 31-505, and failed to act in the best interests of Charter's clients. Kerbel, in her position as director, President and trading officer of Charter during the Material Time, authorized, permitted or acquiesced in the contraventions by Charter, as described above, and acted contrary to the public interest.

III. POSITION OF KERBEL

37. Kerbel represents to Staff the following mitigating factors to be considered in relation to the settlement agreement herein:
 - (a) Kerbel took steps in 2000 to change the focus of the business activity of Charter from principal trading to agency trading and to ensure that Charter would meet the membership requirements of the Investment Dealers Association of Canada, but was not successful in her efforts;
 - (b) In the latter part of 2000, when it became apparent to Kerbel that she could not effect the changes referred to in paragraph 37(a) above, she undertook efforts from November 2000 to approximately mid April 2001 to complete the transfer of securities owned by clients to brokerage firms to ensure the orderly and voluntary wind up of the operations of Charter.

IV. TERMS OF SETTLEMENT

38. Kerbel agrees to the following terms of settlement:

- (a) Kerbel undertakes not to apply for registration in any capacity for a period of two years from the date of consent by the Executive Director of this settlement agreement;
- (b) Kerbel undertakes not to act as an officer or director of a registrant or an officer or director of any issuer in Ontario which has an interest directly or indirectly in any registrant for a period of five years from the date of consent by the Executive Director of this settlement agreement;
- (c) Kerbel undertakes not to purchase or sell securities for a period of two years from the date of consent by the Executive Director of this settlement agreement, with the exception that she be permitted to purchase or sell securities:
 - (i) in personal accounts in her name in which she has the sole beneficial interest; and
 - (ii) in registered retirement savings plans in which she has sole beneficial interest;
- (d) Kerbel undertakes to cooperate with the Commission and its Staff with any investigation by Staff relating to matters concerning other persons; and
- (e) Kerbel acknowledges that the Director retains discretion to consider her suitability for registration pursuant to section 26 of the Act in the event that Kerbel seeks to apply for registration in any capacity under the Act, following the two year period referred to in clause (a) above. In the event of such application, Kerbel agrees that she will not oppose the imposition of terms to her registration, including terms of supervision and reporting requirements should the Director, in exercising his or her discretion, deem appropriate the imposition of such terms in considering Kerbel suitability for registration.

39. Kerbel agrees that she will not, in any proceeding, refer to or rely upon this Settlement Agreement, the settlement discussions/negotiations or the process of obtaining the Executive Director's consent to this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

V. STAFF COMMITMENT

40. If this settlement receives the consent of the Executive Director, Staff will not initiate any other proceeding under the Act against Kerbel in relation to the facts set out in Part II of this Settlement Agreement.
41. If this settlement receives the consent of the Executive Director, and at any subsequent time Kerbel fails to honour the terms contained in Part IV of this Settlement Agreement, Staff may initiate proceedings against Kerbel in relation to facts set out in Part II herein and/or refer to this Settlement Agreement in any future proceeding.

VI. APPROVAL OF SETTLEMENT

42. If, for any reason whatsoever, the Executive Director does not consent to this settlement:
 - (a) this Settlement Agreement and its terms, including all discussions and negotiations between Staff and Kerbel leading up to the execution of this Settlement Agreement, shall be without prejudice to Staff and Kerbel;
 - (b) Staff and Kerbel shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of these matters before the Commission, unaffected by this Settlement Agreement or the settlement discussions/negotiations; and
 - (c) the terms of this Settlement Agreement will not be referred to in any subsequent proceeding, or disclosed to any person, except with the written consent of Staff and Kerbel or as may be required by law.

VII. DISCLOSURE OF SETTLEMENT AGREEMENT

43. This Settlement Agreement and its terms will be treated as confidential by Staff and Kerbel until consented to by the Executive Director, and forever, if for any reason whatsoever this settlement is not consented to by the Executive Director, except with the consent of Staff and Kerbel, or as may be required by law.
44. Any obligation of confidentiality shall terminate upon receiving the Executive Director's consent to this settlement.
45. Staff and Kerbel agree that if the Executive Director does consent to this settlement, they will not make any public statement inconsistent with this Settlement Agreement.

VIII. EXECUTION OF SETTLEMENT AGREEMENT

- 46. This Settlement Agreement may be signed in one or more counterparts which together shall constitute binding agreement.
- 47. A facsimile signature of any signature shall be effective as an original signature.

DATED this 21st day of November, 2002

Witness

MAUREEN KERBEL

**STAFF OF THE ONTARIO
SECURITIES COMMISSION**

(Per) _____
MICHAEL WATSON
Director, Enforcement Branch

I hereby consent to the settlement of this matter on the terms contained in this Settlement Agreement.

DATED this 29th day of November, 2002

(Per) _____
CHARLIE MACFARLANE
Executive Director