



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF THE *SECURITIES ACT*,
R.S.O. 1990, c. S.5, AS AMENDED**

- AND -

**IN THE MATTER OF CHARTCANDLE INVESTMENTS CORPORATION, CCI
FINANCIAL, LLC, CHARTCANDLE INC., PSST GLOBAL CORPORATION,
STEPHEN MICHAEL CHESNOWITZ and CHARLES PAULY**

**SETTLEMENT AGREEMENT BETWEEN
STAFF OF THE ONTARIO SECURITIES COMMISSION
AND CHARLES PAULY**

PART I – INTRODUCTION

1. The Ontario Securities Commission (the “Commission”) issued a Notice of Hearing dated April 8, 2010 to announce that it will hold a hearing to consider whether pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”), it is in the public interest for the Commission to approve this Settlement Agreement and to make an order in respect of the Respondent, Charles Pauly (“Pauly”).

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) agree to recommend a settlement of the proceedings commenced by Notice of Hearing and Statement of Allegations dated February 17, 2010 (“the Proceeding”) against Pauly according to the terms and conditions set out in Part V of this Settlement Agreement (“Settlement Agreement”). Pauly agrees to the making of an Order in the form attached as Schedule “A” based on the facts set out below.

3. For the purposes of this proceeding and any other regulatory proceeding, Pauly agrees with the facts as set out in Part III of this Settlement Agreement.

PART III – AGREED FACTS

I. Background

4. The allegations in this proceeding involve the solicitation of residents of the United States of America and of Ontario, for the purpose of investing money to be managed by Stephen Michael Chesnowitz (“Chesnowitz”) through the Chartcandle Inc. Investment Hedge Fund (the “Chartcandle Fund”). The conduct of the Respondents spanned the period from December 1, 2004 to December 31, 2006 (the “Material Time”).

A. The Corporate Respondents

5. Chartcandle Investments Corporation (“Chartcandle Corp.”) was incorporated in Alberta on December 8, 2004 and then continued in Ontario as of December 15, 2005. During the Material Time, the place of business for Chartcandle was Petersburg, Ontario.
6. CCI Financial, LLC (“CCI Financial”) was incorporated in Nevada, United States of America on August 24, 2005. During the Material Time, the place of business for CCI Financial was Petersburg, Ontario.
7. Chartcandle Inc. (“Chartcandle Inc.”) was incorporated in Nevada, United States of America on August 3, 2005. Chartcandle Inc. was held out as the manager, managing partner or general partner of CCI Financial. During the Material Time the place of business for Chartcandle Inc. was Petersburg, Ontario.
8. PSST Global Corporation (“PSST Global”) was incorporated in Ontario on September 2, 2005. During the Material Time, the registered address and place of business for PSST Global was Kitchener, Ontario.

9. None of the corporate Respondents have ever been registered with the Commission in any capacity.

B. The Individual Respondents

10. During the Material Time Chesnowitz resided in Petersburg, Ontario. Chesnowitz was a director of Chartcandle Corp., PSST Global and sole director of Chartcandle Inc. Chesnowitz held himself out as a director of CCI Financial and caused a resolution to be passed authorizing himself to conduct trades and banking on behalf of CCI Financial. Chesnowitz has never been registered with the Commission in any capacity.
11. During the Material Time, Chesnowitz was the directing and controlling mind behind all of the corporate Respondents.
12. Pauly resides in Clinton, Ontario. Pauly has never been registered with the Commission in any capacity.

C. Related Individual

13. John Williams (“Williams”) was an investment advisor operating in Maryland, United States of America, and solicited investors to raise funds to be invested and managed by Chesnowitz.

III. Trading/Advising with Investor Funds

14. Chesnowitz met Williams in 2005 and they subsequently developed a business relationship whereby Williams solicited U.S. residents to invest funds to be managed by Chesnowitz through Chartcandle Fund.
15. Chesnowitz solicited a small number of Ontario residents directly to invest in the Chartcandle Fund and have their investments managed by Chesnowitz. Chesnowitz purported to sell partnership interests and/or debt instruments to various corporate Respondents in order to facilitate investment in the Chartcandle Fund.

16. Chesnowitz held himself out to Williams and to potential investors as an experienced trader with an established trading system that produced consistent returns over long periods of time. Further, Chesnowitz represented that he had been mentored by several prominent traders. These representations were not true.
17. Chesnowitz was the Trader and President of the Chartcandle Fund and was the only individual responsible for directing all trading in the Chartcandle Fund.
18. Investor funds were transferred to bank accounts under the control of Chesnowitz in several ways:
 - i. investors transferred funds to Wells Fargo bank accounts opened in the name of Chartcandle Corp. and CCI Financial in the United States (the “Wells Fargo Accounts”);
 - ii. investors transferred funds to one of several Canadian bank accounts located at the Bank of Montreal or TD Canada Trust opened in the name of Chartcandle Corp. (the “Canadian Accounts”); and
 - iii. investor funds were forwarded from Millennium Trust LLC to Chesnowitz for the purpose of investing on behalf of the various U.S. investors.
19. Chesnowitz transferred, directly or indirectly, investor funds from:
 - i. the Wells Fargo Accounts;
 - ii. the Canadian Accounts; and
 - iii. the funds sent from Millennium Trust, LLC to Chesnowitz to brokerage accounts controlled by Chesnowitz.

20. During the Material Time Chesnowitz engaged in trading on behalf of investors without any trading strategy.
21. As a result of Chesnowitz's trading activity, significant losses were incurred in a very short period of time. During the Material Time approximately \$1.4 million was lost through trading by Chesnowitz including \$1.2 million in a 24 hour period on or about May 22, 2006.
22. On July 31, 2006 approximately \$950,000 was frozen in a brokerage account controlled by Chesnowitz as a result of unrelated bankruptcy proceedings in the United States. Subsequently, approximately \$300,000 was returned to Chartcandle Corp. through the bankruptcy proceedings. However, these funds were not used to reimburse investor losses.
23. During the Material Time, Chesnowitz received, directly or indirectly, approximately \$4 million from fifty-three investors for the purpose of investment in the Chartcandle Fund.

IV. Fraudulent Conduct

24. Investors were provided access to www.mychartcandle.com (the "Website") as a means to follow their investments and review their account statements. The Website was created at the direction of Chesnowitz and this was the only method of reporting provided to investors.
25. Pauly inputted the data into a database used to update the Website with investment return percentages provided to him by Chesnowitz. The Website was updated on a regular basis at the direction of Chesnowitz. Despite heavy trading losses incurred by Chesnowitz during the Material Time, he directed Pauly to post false and misleading returns on the Website that did not reflect actual trading results.

26. Pauly knew that Chesnowitz had incurred trading losses during the Material Time and accordingly, that the returns he was posting on the Website were false and misleading to investors.
27. Pauly communicated with investors providing passwords and technical support to facilitate investors' access to the Website. Pauly and Chesnowitz were aware that investors were relying on the Website and its contents to follow their investments. During the Material Time Chesnowitz provided some investors directly, or indirectly through Williams, with a purported monthly return on their investment using capital from other investors.
28. During the Material Time, PSST Global held assets valued at approximately \$220,000 that were purchased with investor funds and used for personal purposes by Chesnowitz. PSST Global did not engage in any other business apart from holding these assets.
29. On March 2, 2009, Pauly attended the offices of the Commission and participated in an examination conducted by Staff. At the commencement of the examination, Pauly affirmed to tell the truth. Pauly has reviewed the entire transcript of his March 2, 2009 examination and the exhibits attached and confirms the truth of their contents.

**PART IV – CONDUCT CONTRARY TO ONTARIO SECURITIES LAW
AND THE PUBLIC INTEREST**

30. By engaging in the conduct as described above in Part III, the Respondent Pauly traded in securities without registration in respect of which there is no exemption available, contrary to section 25(1)(a) of the *Act*.
31. During the Material Time, the Respondent Pauly engaged or participated in acts, practices or courses of conduct relating to securities that Pauly knew or reasonably ought to have known perpetrated a fraud on persons, contrary to section 126.1(b) of the *Act*.

32. The Respondent Pauly's conduct was contrary to Ontario securities law and contrary to the public interest and harmful to the integrity of the capital markets of Ontario.

PART V – TERMS OF SETTLEMENT

33. The Respondent Pauly agrees to the terms of settlement listed below.
34. The Commission will make an Order pursuant to section 127(1) of the *Act* that:
- a) the settlement agreement is approved;
 - b) Pauly shall cease trading in all securities for a period of 10 years, except for trading in securities for the account of his registered retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which he and/or his spouse have sole legal and beneficial ownership, provided that:
 - (i) the securities traded are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund which is a reporting issuer;
 - (ii) he does not own legally or beneficially (in the aggregate, together with his spouse) more than one percent of the outstanding securities of the class or series of the class in question;
 - (iii) he carries out any permitted trading through a registered dealer (which dealer must be given a copy of this order) and through accounts opened in his name only; and
 - (iv) he shall provide Staff with the particulars of the accounts (before any trading in the accounts under this order occurs) including the name of the registered dealer through which the trading will occur and the account numbers, and he shall instruct the registered dealer to provide copies of all trade confirmation notices with respect to the accounts directly to Staff at the same time that such notices are provided to him;

- c) Pauly shall cease acquisitions of all securities for a period of 10 years, except for acquisitions of securities for the account of his registered retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which he and/or his spouse have sole legal and beneficial ownership, provided that:
- (i) the securities traded are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund which is a reporting issuer;
 - (ii) he does not own legally or beneficially (in the aggregate, together with his spouse) more than one percent of the outstanding securities of the class or series of the class in question;
 - (iii) he carries out any permitted trading through a registered dealer (which dealer must be given a copy of this order) and through accounts opened in his name only; and
 - (iv) he shall provide Staff with the particulars of the accounts (before any trading in the accounts under this order occurs) including the name of the registered dealer through which the trading will occur and the account numbers, and he shall instruct the registered dealer to provide copies of all trade confirmation notices with respect to the accounts directly to Staff at the same time that such notices are provided to him;
- d) Pauly shall be reprimanded;
- e) any exemptions in Ontario securities law do not apply to Pauly for a period of 10 years;
- f) Pauly is prohibited from becoming an officer or director of an issuer permanently;
- g) Pauly is prohibited from becoming an officer or director of a registrant permanently;

- h) Pauly is prohibited from becoming an officer or director of an investment fund manager permanently;
 - i) Pauly is prohibited from becoming a registrant, investment fund manager, or promoter permanently; and
 - j) Pauly shall disgorge to the Commission \$60,000 obtained as a result of his non-compliance with Ontario securities law for allocation to or for the benefit of third parties.
35. Pauly agrees to cooperate fully with Staff in the event he is required to testify as a witness to any subsequent hearing related to the within proceeding.

PART VI – STAFF COMMITMENT

36. If the Commission approves this Settlement Agreement and Pauly fails to comply with any terms of this Settlement Agreement, Staff may bring proceedings under Ontario securities law against Pauly. These proceedings may be based on, but are not limited to, the facts set out in Part III of this Settlement Agreement as well as any breach of this Settlement Agreement.
37. If the Commission approves this Settlement Agreement, Staff will not continue any proceedings under Ontario securities law against Pauly.

PART VII – PROCEDURE FOR APPROVAL OF SETTLEMENT

38. The parties will seek approval of this Settlement Agreement at an *in camera* hearing, with submissions to the Commission on April 26, 2010 or on another date agreed to by Staff and Pauly according to the procedures set out in this Settlement Agreement and the Commission's *Rules of Procedure*.

39. Staff and Pauly agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing on Pauly's conduct, unless the parties agree that additional facts should be submitted at the settlement hearing.
40. If the Commission approves this Settlement Agreement, Pauly agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the *Act*.
41. If the Commission approves this Settlement Agreement, neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the hearing.
42. Whether or not the Commission approves this Settlement Agreement, Pauly will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this agreement as the basis for any attack of the Commission's jurisdiction, alleged bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

PART VIII – DISCLOSURE OF SETTLEMENT AGREEMENT

43. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule "A" to this Settlement Agreement:
 - i this Settlement Agreement, and all discussions and negotiations between Staff and Pauly before the settlement hearing takes place, will be without prejudice to Staff and Pauly;
 - ii Staff and Pauly will be entitled to all available proceedings, remedies and challenges including proceedings to a hearing of the allegations contained within the statement of allegations. Any proceedings, remedies, and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this agreement.

44. Both parties will keep the terms of this Settlement Agreement confidential until the Commission approves the Settlement Agreement. At that time the parties will no longer have to maintain confidentiality. If the Commission does not approve the Settlement Agreement both parties must continue to keep the terms of the Settlement Agreement confidential unless they agree in writing not to do so, or if required by law.

PART IX – EXECUTION OF SETTLEMENT AGREEMENT

45. The parties may sign separate copies of this agreement. Together, these signed copies will form a binding agreement.

46. A fax copy of any signature will be treated as an original signature.

DATED at Toronto, the 26th day of April, 2010.

“Charles Pauly”

Charles Pauly

“S. Horgan”

Witness

DATED at Toronto, the 26th day of April, 2010.

Staff of the Ontario Securities Commission

“T. Atkinson”

Director, Enforcement Branch

SCHEDULE "A"

**IN THE MATTER OF THE *SECURITIES ACT*,
R.S.O. 1990, c. S.5, AS AMENDED**

- AND -

**IN THE MATTER OF CHARTCANDLE INVESTMENTS CORPORATION, CCI
FINANCIAL, LLC, CHARTCANDLE INC., PSST GLOBAL CORPORATION,
STEPHEN MICHAEL CHESNOWITZ and CHARLES PAULY**

**ORDER
(sections 127 and 127.1)**

WHEREAS on February 17, 2010, the Commission issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5 as amended (the "*Act*"), accompanied by Staff's Statement of Allegations, in relation to the Respondents, Chartcandle Investments Corporation ("Chartcandle Corp."), CCI Financial, LLC ("CCI Financial"), Chartcandle Inc., PSST Global Corporation ("PSST Global"), Stephen Michael Chesnowitz ("Chesnowitz") and Charles Pauly ("Pauly");

AND WHEREAS the Respondent Pauly entered into a Settlement Agreement dated April 26, 2010 (the "Settlement Agreement") in which Pauly agreed to a settlement of the proceedings commenced by the Notice of Hearing dated February 17, 2010, subject to the approval of the Commission;

AND WHEREAS the Respondent Pauly acknowledges that the facts set out in Part III of the Settlement Agreement constituted conduct contrary to Ontario securities law and the public interest;

AND UPON reviewing the Settlement Agreement and Staff's Statement of Allegations, and upon hearing submissions from counsel for Staff and from Pauly;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this order;

IT IS ORDERED THAT:

- (1) the Settlement Agreement is approved;
- (2) Pauly shall cease trading in all securities for a period of 10 years, except for trading in securities for the account of his registered retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which he and/or his spouse have sole legal and beneficial ownership, provided that:
 - (i) the securities traded are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund which is a reporting issuer;
 - (ii) he does not own legally or beneficially (in the aggregate, together with his spouse) more than one percent of the outstanding securities of the class or series of the class in question;
 - (iii) he carries out any permitted trading through a registered dealer (which dealer must be given a copy of this order) and through accounts opened in his name only; and
 - (iv) he shall provide Staff with the particulars of the accounts (before any trading in the accounts under this order occurs) including the name of the registered dealer through which the trading will occur and the account numbers, and he shall instruct the registered dealer to provide copies of all trade confirmation notices with respect to the accounts directly to Staff at the same time that such notices are provided to him;

- (3) Pauly shall cease acquisitions of all securities for a period of 10 years, except for the acquisition of securities for the account of his registered retirement savings plans (as defined in the *Income Tax Act* (Canada)) in which he and/or his spouse have sole legal and beneficial ownership, provided that:
- (i) the securities traded are listed and posted for trading on the Toronto Stock Exchange, the New York Stock Exchange or NASDAQ (or their successor exchanges) or are issued by a mutual fund which is a reporting issuer;
 - (ii) he does not own legally or beneficially (in the aggregate, together with his spouse) more than one percent of the outstanding securities of the class or series of the class in question;
 - (iii) he carries out any permitted trading through a registered dealer (which dealer must be given a copy of this order) and through accounts opened in his name only; and
 - (iv) he shall provide Staff with the particulars of the accounts (before any trading in the accounts under this order occurs) including the name of the registered dealer through which the trading will occur and the account numbers, and he shall instruct the registered dealer to provide copies of all trade confirmation notices with respect to the accounts directly to Staff at the same time that such notices are provided to him;
- (4) Pauly shall be reprimanded;
- (5) any exemptions in Ontario securities law do not apply to Pauly for a period of 10 years;
- (6) Pauly is prohibited from becoming an officer or director of an issuer permanently;
- (7) Pauly is prohibited from becoming an officer or director of a registrant permanently;

- (8) Pauly is prohibited from becoming an officer or director of an investment fund manager permanently;
- (9) Pauly is prohibited from becoming a registrant, investment fund manager, or promoter permanently; and
- (10) Pauly shall disgorge to the Commission \$60,000 obtained as a result of his non-compliance with Ontario securities law for allocation to or for the benefit of third parties.

DATED AT TORONTO the day of April, 2010.
