

**THE COMMONWEALTH OF THE BAHAMAS**  
**THE SECURITIES COMMISSION OF THE BAHAMAS**

**Formal Complaint No. SCB/HP/02/2017**

**IN THE MATTER** of the Administration of the Securities Industry Act, 2011 and  
the Securities Industry Regulations, 2012

**BETWEEN**

**THE SECURITIES COMMISSION OF THE BAHAMAS**

**Plaintiff**

**AND**

**OWEN BETHEL**

**Defendant**

**SETTLEMENT AGREEMENT**

**1. RECITALS**

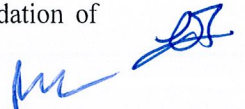
**WHEREAS** Mr. Owen Bethel, has on the **29<sup>th</sup> day of March 2018** agreed to settle, pursuant to section 133(1) of the Securities Industry Act 2011 (hereafter, “the Act”), with the Plaintiff, Securities Commission of The Bahamas (hereafter “the Commission”), this Settlement Agreement (hereafter “Settlement”) is accordingly executed concerning the breaches and allegations outlined in the Commission’s Formal Complaint-No. SCB/HP/02/2017;

**AND WHEREAS** the Commission has approved the Settlement on the terms in Clause 3 below;

**2. FACTS AGREED**

Solely for securities regulatory purposes and as the basis for this Settlement concerning the Commission’s disciplinary action against Mr. Owen Bethel (hereafter “the Defendant”), the facts and conclusions set out herein are agreed as follows —

- (1) At all material times, the Defendant was a director of Montaque Capital Partners (hereafter “Montaque”), a securities firm duly licensed by the Commission. On October 6, 2011 and following a period of its insolvency from about 2008, the Commission approved the voluntary liquidation of



Settlement Agreement – SCB/HP/02/2017

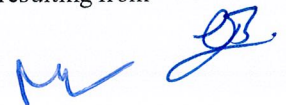
Montaque subject to the voluntary liquidation becoming court-supervised, which also took place in October, 2011 (Supreme Court matter COM/bnk/00083 of 2011). In the course of the court-supervised liquidation the Official Liquidators produced a total of six (6) reports (hereafter “the Reports”), outlining a number of infractions by Montaque and its directors, including the Defendant.

- (2) The issues revealed in the reports included Montaque being used, either directly or indirectly, to fund personal loans which the directors obtained for themselves, for related parties and for third parties, including about seven (7) companies belonging to the Defendant, namely:

- DSX International,
- DSX Holdings Ltd.,
- Mode Iles Limited,
- Bahamas Film Invest International Ltd.,
- Bahamas Film Studio Project,
- TropiKids Limited, and
- Farriell Corporation,

for all of which the Defendant was, at the material time, the primary owner and/or shareholder, and were indebted to Montaque in the amount of approximately **\$3.5 million**. Transactions were conducted by the companies via accounts created by and in the name either of Montaque or in the name of Montaque Securities International (hereafter, “MSI”), another company owned by the Defendant and also used to transact for and on behalf of Montaque. The Plaintiff here notes that there is no indication where MSI received its funds, especially given that MSI was not a licensed securities firm. However, it is apparent that MSI was utilised for securities transactions. The Defendant authorised the abovementioned transactions for his own personal benefit as well as for the benefit of the abovementioned companies.

- (3) The Defendant’s aforesaid use of funds belonging to Montaque and/or its clients, indicated in the Reports, was also outlined in an affidavit sworn by the Defendant and dated 2 March, 2016 (see **Appendix A**), wherein the Defendant more specifically outlined the indebtedness of the aforementioned seven companies, beginning at paragraph 10, and how he personally benefitted, beginning at paragraph 51.
- (4) The Commission further notes that contrary to the Defendant’s assertion in his Affidavit that Montaque did not suffer any loss as a result of the transactions, the Official Liquidators have concluded otherwise, attributing the resulting loss as having been borne either by Montaque or its clients. The Official Liquidators noted that it was hard to say with any precision who bore the loss because of the poor maintenance of books and records; however, the loss was borne by one or the other.
- (5) Following on from the above, the Reports also outlined Montaque’s failure to maintain books and records as required by statute, and the extensive comingling of client and company assets resulting from the failure to segregate accounts as required by statute.





Settlement Agreement – SCB/HP/02/2017The Defendants Position

- (6) The Defendant responded primarily via letter dated 12 January 2018 and in an interview held on 7 March 2018, which he prior requested with the Commission. He also referenced his affidavit, aforesaid, which indicated that in some instances, MSI was owed as opposed to either Montaque or another related-party company and Financial and Corporate Services Provider, Montaque Corporate Partners Ltd. (hereafter, "Corporate"). The Plaintiff here notes that it is not entirely clear in the affidavit how much is owed to MSI versus Montaque or Corporate (see for example, paragraphs 31 – 33 and 38 of **Appendix A**), tending to further demonstrate the intermingling of funds. The Defendant asserted in paragraph 7 that while funds were transferred to the seven companies and to him personally, there was no intent to deprive clients of their assets. The Defendant indicated that although he does not agree with the premise for the Commission's sanctions, he has accepted that as a director his actions ultimately negatively impacted Montaque and its clients.
- (7) The Defendant further noted that, to expedite the conclusion of this matter, he will accept, "without prejudice", sanctions imposed by the Commission. The Defendant has also declared his current inability to pay penalties in full.

Breaches

- (8) The Commission determined from the Reports, as outlined above, that the following breaches occurred:
- **Failure to maintain Books and Records;**
  - **Failure to segregate clients' assets and/or accounts; and**
  - **Conflict of Interest.**

Mitigating Factors

- (9) The Defendant acknowledges and accepts responsibility for his conduct, which is the subject matter of the Formal Complaint and this ensuing Settlement.

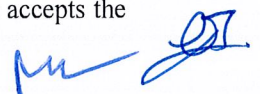
Conduct contrary to Public Interest

- (10) In summary, during the material times and notwithstanding the Defendant's explanation outlined above, the Defendant's actions violated the securities laws and were contrary to the public interest. The Defendant's conduct was both detrimental and prejudicial to the interests of Montaque and its clients.

**3. TERMS OF SETTLEMENT**

**IT IS HEREBY AGREED THAT THE FOLLOWING CONSTITUTE THE TERMS OF THIS SETTLEMENT:**

- (1) The Defendant understands and agrees that notwithstanding anything to the contrary, and solely for purposes of this Settlement, the Commission here agrees to the Defendant neither admitting nor denying allegations and/or liability per the aforesaid Formal Complaint. However, the Defendant accepts the



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above Facts Agreed as stated herein and further agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the Formal Complaint or creating the impression that the Formal Complaint is without legal or factual basis. If the Defendant breaches this Settlement, the Commission may then commence administrative and/or court proceedings in the usual manner and pursue a full hearing of the Formal Complaint and any other matter emanating therefrom.

(2) Sanctions will be imposed by the Commission in the public interest, pursuant to section 133 of the Act, and accepted by the Defendant as follows:

- a. **An Order**, pursuant to section 133(1)(s) of the Act, that the Defendant pay to the Official Liquidators an acceptable amount based on what remains outstanding from the **\$3.5 million** owing, which includes the personal debts, as outlined in the Defendant's affidavit dated 2<sup>nd</sup> March 2016, in satisfaction of the amount borrowed for the aforesaid personal expenses and for and/or on behalf of the abovementioned companies;
- b. **A Penalty**, pursuant to section 135(1) of the Act, of \$200,000.00 to be paid by the Defendant for each breach outlined above (**totalling \$600,000.00 for 3 breaches**).
- c. **Prohibition**, pursuant to section 133(1)(d) and (s) of the Act, against the Defendant applying to act, accepting to act or acting in, any capacity for any market participant **for life**. Notwithstanding, the Defendant may apply to the Commission, **after fifteen (15) years**, for the lifting of this prohibition.

(3) **Provided the Defendant fully satisfies Terms 3(1) and 3(2) above, the Commission will not pursue criminal offences** that may potentially be commenced via the Office of the Attorney General.

(4) The effective date for the sanctions in Term 3(2), including the prohibition period, will commence from the date of execution of this Settlement. **The payment of monetary sanctions is expected within 30 days of execution, aforesaid, but notwithstanding this, payment may be arranged between the parties and further to this Settlement.**

#### 4. WAIVERS, UNDERTAKINGS AND ACKNOWLEDGEMENTS

(1) This Settlement and its terms will be treated as confidential by all parties to it until approved by the Commission, and forever if, for any reason whatsoever, this settlement is not approved by the Commission.

(2) If this Settlement is approved by the Commission, the parties to this Settlement will not make any statement that is inconsistent with the Settlement.

(3) The parties waive any rights to a hearing, judicial review or appeal of this Settlement and/or any of its provisions, or the Formal Complaint giving rise to this Settlement.





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(4) The parties acknowledge that the terms set out in Clause 3 shall be deemed to be and treated as a final decision of the Commission.

Signed .....  
(print name) OWEN BETHEL

(Defendant)

Signed .....  
(print name) R.V. LOTMORE  
Chairman  
Securities Commission of The Bahamas (Plaintiff)

Made this 18<sup>th</sup> day of June 2018

**APPENDIX A**

**COMMONWEALTH OF THE BAHAMAS**

**2011**

**IN THE SUPREME COURT**

**COM/BNK/00083**

**Commercial Division**

**IN THE MATTER OF MONTAQUE CAPITAL PARTNERS LTD  
(IN LIQUIDATION)**

**AND**

**IN THE MATTER OF THE COMPANIES ACT, 1992**

**AFFIDAVIT OF OWEN S.M. BETHEL**

I, **OWEN S.M. BETHEL**, of the Western District of the Island of New Providence, one of the Islands of the Commonwealth of the Bahamas, **MAKE OATH** and **SAY AS FOLLOWS:**

1. I was the majority shareholder, President and a Director of Montaque Capital Partners Limited (In Official Liquidation) ("Capital") and Montaque Corporate Partners Limited (In Voluntary Liquidation) ("Corporate"), and as such, have knowledge of the matters contained in this Affidavit. Where I do not have direct knowledge of information set out below, I declare the source of the information and verily believe it to be true.
2. I have met several times with the Joint Liquidators and their staff to assist them in identifying various outstanding amounts that relate to the liquidation's estate. These meetings have been constructive and have enabled the Joint Liquidators and their staff to identify, review and document various receivables owed by various corporate entities as more described below.
3. I have been advised by the Joint Liquidators that they may have potential claims against me personally for the management of the affairs of Capital and Corporate. The Joint Liquidators and I continue our dialogue on these matters.
4. Since the commencement of the liquidation, I have been cooperative with the Joint Liquidators and in this regard have opted to seek to agree to certain facts as set out below relating to the liquidation estate.
5. My cooperation has led me to agree to contribute to the liquidation's estate for amounts which I may have directly benefited. In fact, I have already contributed the total sum of \$156,707.50.00 to the estate in an effort to show good faith.
6. At no time did I engage in any unscrupulous conduct so as to deprive the Companies and/or the clients of their funds. As was the custom of Corporate and Capital, several

clients over the years agreed to invest in certain deals and financial initiatives which were speculative in that they may not prove to be immediately financially rewarding. In some instances the charges for expenses were applied to the clients' account at Corporate and Capital and either I or a nominee company would serve as director or shareholder. In cases where there were financial losses, Corporate and Capital did not pursue to seek recovery of the debts as the clients remained valuable clients of the businesses and it was felt that funds would be paid and credited.

7. As far as I am aware and based on the course of dealings, at no time did I or any officer or employee of Corporate and/or Capital benefit from clients funds otherwise as stated herein and there was no intent to deprive clients of their assets.
8. As the former owner of the business, I take full responsibility for any accounting irregularities that may have resulted.
9. I have set out below some of the transactions involving clients of Corporate and Capital and my personal finances.

#### **DSX International**

10. DSX International, the predecessor company to Mode Iles, was incorporated on 3<sup>rd</sup> July, 1997. DSX International was incorporated for the purpose of producing fashion shows.
11. At all times I was the President and primary Director of the Company.
12. DSX International is 75% owned by me and 25% owned by DSX Holdings.
13. An account for DSX International was established by MSI on 2<sup>nd</sup> October, 1997. Based on the account statement as of January 2007, DSX International is indebted to MSI, the predecessor to Capital, a total of B\$476,654.34. Produced and identified at exhibit OB-1 is the statement of account for DSX International according to the records of Capital.
14. I note that a portion of the alleged debt is more than 12 years old and therefore in my view that amount is not recoverable as it is statute barred. Also the alleged debt is owed to MSI and not Capital or Corporate, the subject entities in liquidation. At no time was this debt carried on the books of Capital or Corporate.

#### **Mode Iles Limited ("Mode Iles")**

15. Mode Iles was incorporated on 16<sup>th</sup> March, 2007. Mode Iles was incorporated for the purpose of the production of Islands of the World Fashion Week.
16. I am the President and primary Director of the Company.
17. Mode Iles is owned 95% by the Montague Group, which is ultimately owned by me.

18. An account for Mode iles was established by Capital on 15<sup>th</sup> March, 2007. I am the authorizing party for payments made on behalf of Mode iles by Capital and Corporate. As a result of conducting business on behalf of Mode iles, I authorized Capital to advance a total of BSD\$708,069.95 and USD\$592,761.07 from 15<sup>th</sup> March, 2007 through August 2011. Currently, Mode iles is indebted to Capital for BSD\$708,069.95 and USD\$592,761.07. Produced and identified at exhibit **OB-2** is the statement of account for Mode iles according to the records of Capital.
19. As at the date of this Affidavit Mode iles is struck off the Company Registry, and the company ceases to operate and has no marketable assets.
20. The alleged debt is more than 12 years old and therefore in my view the amount is not recoverable as it is statute barred.

**Bahamas Film Invest International Ltd. ("BFII")**

21. Bahamas Film Invest International Ltd. was incorporated on 30<sup>th</sup> September, 2004 for the purpose of providing treasurer/paymaster services for film production companies producing films in the Bahamas and subsequently as the lead agent in the negotiations for the purchase and operation of the Bahamas Film Studio in Grand Bahama with a group of client investors. Negotiations and the purchase were aborted after the previous developer and the Government could not settle on terms of transfer of the property.
22. The directors of BFII are Paulette Bethel, Edison Sumner and me. I also act as President and Carlos Smith as Secretary.
23. BFII is beneficially owned by the Montaque Group, which is ultimately owned by me.
24. An account for BFII was established by Corporate on 30<sup>th</sup> September, 2004. I am the authorizing party for payments made on behalf of BFII by Capital and Corporate. As a result of conducting business on behalf of BFII, I authorized Corporate to advance USD\$36,782.94 and BSD\$35,969.22. Currently, BFII is indebted to Corporate for USD\$36,782.94 and BSD\$35,969.22. Produced and identified as **OB-3** is the statement of account for BFII according to the records of Corporate.
25. As at the date of this affidavit BFII is active but the company has no assets.
26. I also note that a portion of the alleged debt is more than 12 years old and therefore in my view that amount is not recoverable as it is statute barred.

**DSX Holdings Ltd.**

27. DSX Holdings was incorporated on 30<sup>th</sup> September, 1997. The company held ownership of the Townhouse Unit 4 of Caprice, West Bay Street, in Nassau, Bahamas. This property was sold during 2015 and an accounting of the proceeds from that sale was shared with the Liquidator.



28. DSX Holdings owns 25% of DSX International, the predecessor of Mode illes.
29. The directors of DSX Holdings are Paulette Bethel and me. I also act as President, Paulette Bethel acts as Vice President and Constance Godet acts as Secretary.
30. DSX Holdings is owned 80% by me, 10% by Paulette Bethel and 10% by Bethel Brothers Morticians.
31. An account was established on 2<sup>nd</sup> October, 1997 with MSI the predecessor to Capital and Corporate. I authorized payments to suppliers for renovations, and to numerous other parties on behalf of the property. Currently, DSX Holdings is indebted to MSI and its successor, Corporate, for BSD\$100,000. Produced and identified as **OB-3** is the statement of account for DSX Holdings according to the records of Corporate.
32. As at the date of this affidavit DSX Holdings is active. The company has no other assets that can be liquidated.
33. I note that a portion of the alleged debt is more than 12 years old and therefore in my view that amount is not recoverable as it is statute barred. Also the alleged debt is owed to MSI and not Capital or Corporate, the subject entities in liquidation. At no time was this debt carried on the books of Capital or Corporate.
34. Arising from the sale of the property, a payment was made in February, 2016 to the Joint Liquidators in the sum of \$75,000.00.

**TropiKids Limited ("Tropikids")**

35. Tropikids was incorporated on 1<sup>st</sup> November, 1996 although transactions began in September 1996 according to the accounting records.
36. The directors of Tropikids are Paulette Bethel, Marion Bethel, Donald McMillan, and me. I also act as President, Paulette Bethel as Vice President, and Marion Bethel as Secretary.
37. Tropikids is 45% beneficially owned by me.
38. An account was established with MSI on January 1, 1997. I authorized all payments made on behalf of Tropikids by MSI and Corporate during the period which resulted in advances of BSD\$845,140.92. Currently, Tropikids is indebted to MSI and Corporate for BSD\$845,140.92. Produced and identified as **OB-5** is the statement of account for Tropikids according to the records of Corporate.
39. I am advised by my attorney that recovery of the amount is statute barred and therefore this amount is not included as owing to the liquidation's estate.
40. As at the date of this affidavit Tropikids is inactive and the company has no assets.

**Farriell Corporation ("Farriell")**

41. Farriell was incorporated on 26<sup>th</sup> September, 1996 and was struck off the register on 1<sup>st</sup> February, 2007 for non-payment of government fees.
42. I acted as a director of the company until 4<sup>th</sup> January 2001 when I tendered my resignation. At that date, MSI Nominees Ltd. and Lucaya Management Nominees were appointed directors. Constance Godet acted as Secretary.
43. The beneficial owners of the company are Lucaya Nominees and MSI Nominees, companies ultimately owned by me.
44. An account was established with MSI on 4<sup>th</sup> June, 1997. I authorized all payments made on behalf of Farriell by MSI and Corporate. Advances to Farriell from 4<sup>th</sup> June, 1997 to 23<sup>rd</sup> May, 2003 made by MSI and Corporate amount to BSD\$272,851.67 and CAD\$120.00. These advances included payments to Tomas Frenes, Decorators Plumbing, Wood Workers International, Allen & Galego/Venetian, Home Depot, Endurance Floor, Open House Appliances Gallery, and Modenature. Currently, Farriell is indebted to Corporate for BSD\$272,851.67 and CAD\$120.00. Produced and identified as **OB-6** is the statements of account of Farriell according to the records of Corporate.
45. As at the date of this affidavit Farriell is struck-off the Company Registry and the company has no assets.
46. I note that a portion of the alleged debt is more than 12 years old and therefore in my view that amount is not recoverable as it is statute barred. Also the alleged debt is owed to MSI and not Capital or Corporate, the subject entities in liquidation. At no time was this debt carried on the books of Capital or Corporate.

**Bahamas Film Studio Project ("BFSP")**

47. BFSP was related to BFII, an entity I ultimately owned. In January of 2007 I established an account with Corporate to keep track of funds advanced on behalf of BFSP by Corporate.
48. On 17<sup>th</sup> January, 2007 I authorized a payment in the sum of USD\$15,000.00 on behalf of BFSP to Maurice Glinton & Co. for legal services. Produced and identified as **OB-10** is a copy of the statement of account according to the records of Corporate.
49. BFSP was not an incorporated entity. As at the date of this affidavit the project is not active and there are no funds available to repay the amount owing.
50. I note that a portion of the alleged debt is more than 9 years old and therefore in my view that amount is not recoverable as it is statute barred.

**Personal Cash Withdrawals & Credit Card Charges**

51. An account was established on 12<sup>th</sup> January, 2006 by Corporate to record purchases that I made for repairs to my personal residence. I authorized all payments that were made and advanced a total of BSD\$35,127.84 from Corporate for this purpose. Currently, BSD\$35,127.84 remains outstanding and due to Corporate. Produced and identified as **OB-4** is the statement of account for my house repairs according to the records of Corporate.
  
52. An account was established on 4<sup>th</sup> October, 2005 by Corporate to record advances made for special projects that I was involved with. I authorized all payments that were made, and advanced a total of USD\$4,860.00 and BSD\$62,115.72 for these various projects. Currently, USD\$4,860.00 and BSD\$62,115.72 remains outstanding to Corporate for my advances. Produced and identified as **OB-5** are the statements of account for Special Projects according to the records of Corporate.
  
53. On 1<sup>st</sup> March, 2004 I established an account with Corporate to keep track of my personal expenses and payments that were made on my behalf from Corporate or Capital's bank account or credit cards. I authorized all payments that were made on my behalf from 1<sup>st</sup> March, 2004 through 30<sup>th</sup> August, 2011. I advanced a total of USD\$275,404.34 and BSD\$109,260.92 from Corporate and Capital for my various personal expenses. Currently, these amounts remain outstanding. Produced and identified as **OB-6** are the statements of account for my personal draws according to the records of Corporate.
  
44. In 2008/2009 a decision was made to reduce my salary by 25% with the intent that the difference would be applied to an ongoing settlement of these personal expenses. This arrangement was in place for two years prior to the winding up order and resulted in \$60,000 of my salary remaining with Capital. As explained further below, I am currently not in a financial position to repay these amounts owing.
  
45. The table below lists the amounts shown above as owing and of which I accept full responsibility to repay the liquidation's estate:

**Table I – Accounts of Owen Bethel**

| Related Party                  | USD          | BSD          | Total Outstanding   |
|--------------------------------|--------------|--------------|---------------------|
| Owen Bethel – Home Repairs     |              | \$35,127.84  | \$35,127.84         |
| Owen Bethel – Special Projects | \$4,860.00   | \$62,115.72  | \$66,975.72         |
| Owen Bethel – Credit Card      | \$275,404.34 | \$109,260.92 | \$384,665.26        |
|                                |              |              | <b>\$486,768.82</b> |
| Less: Salary reduction         |              |              | <b>\$60,000.00</b>  |



|                         |  |  |              |
|-------------------------|--|--|--------------|
| Less: Payment from Sale |  |  | \$75,000.00  |
| Less: Sale of Artwork   |  |  | \$21,707.50  |
| Total Owing             |  |  | \$330,061.32 |

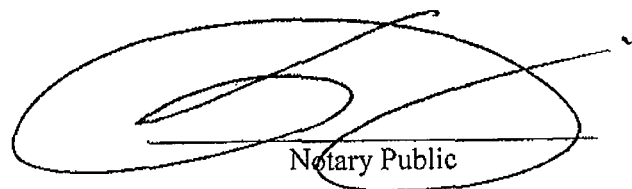
**Current Personal Financial Position**

46. Produced and identified as **OB-7** is a copy of a Statement of Net Worth which lists my net worth. This consists mainly of my equity interest in Bethel Brothers Morticians Company Ltd.
47. Other than the companies mentioned above I hold interest in no other corporate entities or assets. The companies mentioned above have not been transferred to other parties that are holding assets in trust for the companies or for me. There are no assets being held by other parties in trust for me.
48. Unfortunately, I am currently unable to repay the amounts detailed above. I do not have any assets, other than the artwork mentioned above. Should my financial position change I will make every effort to reach a formal settlement arrangement with the Joint Liquidators to liquidate the total amount agreed to be owing.

SWORN TO on this 2<sup>nd</sup> day     )  
of March, A.D., 2016 at Nassau, )  
The Bahamas                     )

  
Owen S.M. Bethel

**BEFORE ME**

  
Notary Public