

**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

EDISON SUMNER

Defendant

SETTLEMENT AGREEMENT

1. RECITALS

WHEREAS the Defendant has on the **2nd day of May 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. Edison Sumner (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 Montaque subject to the voluntary liquidation becoming court-supervised, which also took place in



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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 to fund loans and/or investments for related parties and for third parties, all of which were affiliated with at least one of the directors. In the case of the defendant, a company called **IP Solutions International, Ltd.**(IPSI), for which at all material times the Defendant acted as its President and CEO, and which was also an investee company of Montaque, was indebted to Montaque in the amount of **\$178,006.46**. Transactions were conducted by **IPSI** via accounts created by and in the name of Montaque. These transactions were authorized by the Defendant for the benefit of IPSI., a company in which Montaque held significant equity.
- (3) The aforesaid use of funds for IPSI, as indicated in the Reports, was also outlined in an affidavit sworn by the Defendant and dated 25 February, 2016 (see **Appendix A**), wherein the Defendant indicated at paragraph 7:

“An account for IPSI was established by [Montaque] ¹ in June 2008. Based on the account statement as of August 2011, IPSI is indebted to [Montaque] in the amount of B\$178,006.46IPSI has agreed to pay \$60,000 to settle the amount owing to [Montaque] and to obtain the 16% shareholding.” ²

- (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.

The Defendants Position

- (6) The Defendant responded primarily via letter dated 30 January 2018 and referenced his affidavit aforesaid, noting contrary to the Reports neither ELS nor IPSI benefitted from the transactions involving Montaque and neither Montaque nor its clients suffered any loss as a result of ELS’ investment transactions. However, although he does not agree with the premise for the Commission’s sanctions, the Defendant has accepted that as a director his actions 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.

¹ Note that the word “Montaque” is herein substituted for the Defendant’s use of the word “Capital” in his affidavit, when referring to Montaque Capital Partners Ltd.

² This is a reference to IPSI buying back the 16% IPSI shares owned by Montaque, per paragraph 6 of the affidavit.

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Breaches

(8) The Commission determined from the Reports, as outlined above, that the following breaches occurred:

1. **Failure to maintain Books and Records;**
2. **Failure to segregate clients' assets and/or accounts; and**
3. **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 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 the full amount of \$60,000.00, as agreed in the Defendant's affidavit dated 25th February 2016, in satisfaction of the amount borrowed for and/or on behalf of IP Solutions International Ltd.;
 - b. **A Penalty**, pursuant to section 135(1) of the Act, of \$50,000.00 to be paid by the Defendant for each breach outlined above (**totalling \$150,000.00 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 a period of ten (10)**

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years. Notwithstanding, the Defendant may apply to the Commission, **after six (6) 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.
- (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)

(Defendant)

Signed

(print name)

Chairman

Securities Commission of The Bahamas (Plaintiff)

Made this 18 day of July 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

THE COMPANIES ACT, 1992

AFFIDAVIT OF EDISON L. SUMNER

I, **EDISON L. SUMNER**, of the Eastern 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 minority shareholder (5%), Chief Operations Officer, and a director of Montaque Capital Partners Limited (In Official Liquidation) 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 amounts relating to the liquidation's estate. These meetings have been constructive and have enabled the Joint Liquidators and their staff to identify, review and document the various outstanding receivables.
3. Below I describe various amounts and transactions involved in the liquidation's estate of Capital and Corporate.

IP Solutions International

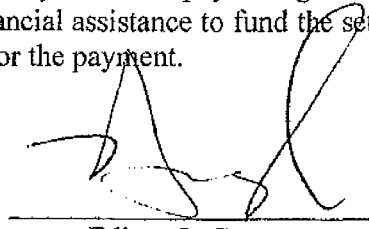
4. IP Solutions International Ltd. ("IPSI") is an International Business Company incorporated on 30th May, 2008. The Company is a wireless multi-play broadband communications, cable, data and internet service provider.
5. The directors of IPSI are former Governor-General Sir Orville A. Turnquest, GCMG, QC, Chairman; Fritz Stubbs, Dr. Larry Carroll, Owen S-M Bethel and me, at various times. I act as President and Chief Executive Officer.

6. IPSI is 16% owned by Capital and Corporate. Capital owns 5,325,750 shares in IPSI and Corporate owns 1,203,300 shares in IPSI. The estimated market value of this shareholding in IPSI as of the date of this affidavit is net \$0.
7. An account for IPSI was established by Capital in June 2008. Based on the account statement as of August 2011, IPSI is indebted to Capital in the amount of B\$178,006.46. Produced and identified at exhibit "ES-1" is the statement of account for IPSI according to the records of Capital. IPSI has agreed to pay \$60,000 to settle the amount owing to Capital and to obtain the 16% shareholding.

ELS Investments

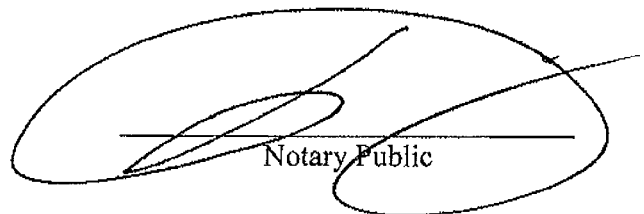
8. ELS Investments, Ltd. ("ELS") is a regular Bahamian company incorporated on 9th October, 2003. The company was set up to conduct my personal investment transactions.
9. ELS is wholly owned by me. I am the President of ELS.
10. Transactions were conducted by ELS via accounts created by and in the name of Capital. These transactions were authorized by myself as President of ELS. The transactions were for the benefit of IPSI of which I did not personally benefit nor did Capital suffer any loss from the transactions.
11. Unfortunately, IPSI is currently unable to pay the agreed amount of \$60,000.00 as set out above. It is seeking financial assistance to fund the settlement. At this time IPSI is not able to confirm a date for the payment.

SWORN TO on this 25th day)
of February A.D. 2016 at Nassau,)
The Bahamas)



Edison L. Sumner

BEFORE ME



Notary Public