

ALBERTA SECURITIES COMMISSION

IN THE MATTER OF the *Securities Act*  
S.A. 1981, c. S-6.1, as amended (the "Act")

- and -

IN THE MATTER OF Steve Bekropoulos  
("Bekropoulos")

- and -

HyBURN Inc.  
(the "Corporation")

(COLLECTIVELY REFERRED TO AS THE "RESPONDENTS")

**SETTLEMENT AGREEMENT AND UNDERTAKING**

1. INTRODUCTION

- 1.1 The Staff of the Alberta Securities Commission (the "Staff") conducted an investigation into:
- 1.1.1 the failure by, or on behalf of, the Corporation to file with the Alberta Securities Commission (the "ASC") the report required to be filed by the Corporation pursuant to section 110 of the Act and subsection 131(2) of the rules made pursuant to the Act (the "Rules") (the "Form 22");
  - 1.1.2 the failure by, or on behalf of, the Corporation to file with the ASC:
    - 1.1.2.1 the Corporation's offering memorandum dated September 15, 1997 and offering a total of 3,250,000 special warrants of the Corporation (the "First Offering Memorandum");

1.1.2.2 the Corporation's offering memorandum dated September 15, 1997 and offering a total of 5,000,000 special warrants of the Corporation (the "Second Offering Memorandum"); and

1.1.2.3 the Corporation's offering memorandum dated August 11, 1998 and offering a total of 7,500,000 special warrants of the Corporation (the "Third Offering Memorandum")

required to be filed by the Corporation pursuant to section 108.1 of the Act and section 127 of the Rules;

1.1.3 the failure by, or on behalf of, the Corporation to file with the ASC those reports required to be filed by the Corporation pursuant to subsection 108(1) of the Act and subsection 129(1) of the Rules (the "Form 20s");

1.2 the Executive Director and the Respondents have agreed to settle certain breaches of the Act and the Rules arising from certain filing violations by, or on behalf of, the Corporation.

## 2. STATEMENT OF AGREED FACTS

2.1 On August 1, 1997, 749641 Alberta Ltd. ("749641") was incorporated pursuant to the laws of the Province of Alberta;

2.2 on September 15, 1997, 749641 filed with the Registrar of Corporations for the Province of Alberta articles of amendment changing its name to HyBurn Inc. and removing all restrictions on its right to transfer its shares and the number of its shareholders;

2.3 at all material times, Steve Bekropoulos was an officer and promoter (as the terms "officer" and "promoter" are defined in the Act) of the Corporation and was designated by the Corporation to ensure compliance with the Act and Rules and to retain and instruct legal counsel for that purpose;

2.4 at all material times, the Corporation engaged legal counsel who purported to, or were retained to, provide the Corporation with legal advice respecting the matters described herein;

- 2.5 despite ceasing to be a private company (as the term "private company" is defined in the Act) the Form 22 was not filed by the Corporation as required by section 110 of the Act and subsection 131(2) of the Rules;
- 2.6 between September 15, 1997, and September 1, 1998, the Corporation issued securities, namely special warrants, to individual investors in reliance upon the exemptions contained in subsections 107(1)(d), 107(1)(p) and 107(1)(z) of the Act and in the process raised approximately \$1,100,000.00;
- 2.7 the issuance of the special warrants referenced in paragraph 2.6 were trades that were a distribution (as the terms "trade" and "distribution" are defined in the Act);
- 2.8 the First Offering Memorandum, the Second Offering Memorandum or the Third Offering Memorandum were relied upon by the Corporation in making the trades referenced in paragraph 2.6;
- 2.9 the First Offering Memorandum, the Second Offering Memorandum and the Third Offering Memorandum were not filed with the ASC as required by section 108.1 of the Act and section 127 of the Rules;
- 2.10 the Form 20s were not filed with the ASC as required by subsection 108(1) of the Act and subsection 129(1) of the Rules;
- 2.11 after the commencement of the investigation and at the prompting of the Staff, the Corporation filed the Second Offering Memorandum, the Third Offering Memorandum, the Form 22 and the Form 20s;
- 2.12 the Corporation filed the Form 20s referred to in paragraph 2.11 recording the sales to investors as having occurred in reliance upon the exemptions contained in either section 107(1)(z) or 107(1)(d) of the Act;
- 2.13 the Corporation amended the Form 20s to show that 18 investors had purchased special warrants of the Corporation in reliance upon the exemption contained in subsection 107(1)(p) of the Act and thus the Corporation sold its special warrants to three such purchasers beyond the 6 month limitation specified in subsection 107(1)(p)(ii);

- 2.14 as a result of the foregoing, Bekropoulos and the Corporation acted in a manner contrary to the Act, the Rules and the public interest.
- 2.15 as a result of concerns of prejudice to investors expressed by the Staff, the Corporation offered rescission all those who purchased special warrants of the Corporation pursuant to the distribution referenced in paragraph 2.6;
- 2.16 each of the purchasers of special warrants of the Corporation referenced in paragraph 2.6 rejected the Corporation's offer of rescission.
- 2.17 the Corporation subsequently learned and revealed to the Staff that a purchaser of 5,000 of its special warrants had misrepresented herself and did not qualify as an exempt purchaser pursuant to section 107 of the Act and consequently the purchaser and the Corporation agreed to a refund of that purchaser's subscription.

### 3. SETTLEMENT TERMS

- 3.1 Bekropoulos hereby undertakes to the Executive Director that he will make himself aware of the requirements of the Act and that he will comply with the Act and the Rules in the future;
- 3.2 the Corporation hereby undertakes to the Executive Director that it will make itself and its directors and officers aware of the requirements of the Act and that it will comply with the Act and the Rules in the future;
- 3.3 the Respondents agree to pay to the ASC at the time of execution of this Settlement Agreement and Undertaking the sum of \$3000.00 towards the costs of the investigation;
- 3.4 the Respondents hereby waive any right that they may have under the Act or otherwise to a hearing, review, judicial review or appeal of the matters referred to herein;

3.5 this Settlement Agreement and Undertaking resolves all matters described herein, and the Staff will take no further steps, including the initiation of any proceedings before the ASC in this regard.

Signed by Steve Bekropoulos at )  
Calgary this 10 day of November )  
1998 in the presence of: ) “Original Signed By”  
 ) Steve Bekropoulos  
“Original Signed” )  
WITNESS

) HyBURN Inc.  
)  
) Per: “Original Signed”

Dated at CALGARY, ALBERTA ) ALBERTA SECURITIES COMMISSION  
)  
this 12<sup>th</sup> day of November, 1998 )  
) “Original Signed By”  
) H.C. Blakey  
) Director, Market Standards