

ALBERTA SECURITIES COMMISSION
SETTLEMENT AGREEMENT AND UNDERTAKING

Citation: Keystone Real Estate Investment Corp., 2008 ABASC 452

Date: 20080722

Docket: E/03748

Securities Act, R.S.A. 2000, c. S-4 (Act)

Keystone Real Estate Investment Corp., Ron Cadman and Travis Cadman

Agreed Facts

Introduction

1. The staff of the Alberta Securities Commission (respectively, **Staff** and **Commission**) conducted an investigation into allegations that Keystone Real Estate Investment Corp. (**Keystone**), Ron Cadman and Travis Cadman (collectively, **Cadmans**) breached Alberta securities laws by making misrepresentations to the public in Keystone's advertising materials, during its investment seminars, and in two offering memoranda, by acting as advisors or permitting other Keystone representatives to act as advisors despite the fact that none of them was registered to act in that capacity, and by failing to make certain filings within the requisite time frames.
2. The investigation confirmed and each of Keystone and the Cadmans (collectively, **Respondents**) admits that they breached those sections of the *Act* referred to in this Settlement Agreement and Undertaking (**Agreement**), and that each acted contrary to the public interest.
3. Solely for securities regulatory purposes in Alberta and elsewhere, and as the basis for the settlement and undertaking referred to in paragraphs 35 to 37 of this Agreement, each of the Respondents agree to the facts and consequences set out in this Agreement.
4. Terms used in this Agreement have the same meaning as provided in Alberta securities laws, a defined term in the *Act*.

Parties

5. The Cadmans are residents of Alberta. At all material times, the Cadmans were the sole directors of Keystone and responsible for its management. The Cadmans

have never been registered in any capacity with the Executive Director of the Commission (**Executive Director**).

6. At all material times, Keystone was a corporation registered to do business in Alberta, with its head office in Red Deer, Alberta. It was not a reporting issuer in Alberta and was not registered in any capacity with the Executive Director.
7. 50% of Keystone's shares were owned by 744988 Alberta Ltd. (100% of the shares of which were owned by Ron Cadman), and the other 50% of Keystone's shares were owned by Cadman Investments Ltd. (100% of the shares of which were owned by Travis Cadman).
8. At all material times, the Respondents marketed investment opportunities and sold the securities of a number of different companies involved in real estate development to Alberta investors, including Lake House Capital Ltd., Lake House Investments Ltd., Keystone Communities Ltd., and Diamond Key Capital Corporation.
9. At all material times, Lake House Capital Ltd. and Lake House Investments Ltd. were corporations registered to do business in Alberta. The sole officers and directors of both Lake House Capital Ltd. and Lake House Investments Ltd. were Travis Cadman (president) and Ron Cadman (vice-president). Neither Lake House Capital Ltd. nor Lake House Investments Ltd. were reporting issuers in Alberta, nor were they registered in any capacity with the Executive Director.
10. At all material times, Keystone Communities Ltd. and Diamond Key Capital Corporation were also corporations registered to do business in Alberta. The sole officers and directors of Keystone Communities Ltd. were Ron Cadman (president) and Travis Cadman (vice-president). The sole officers and directors of Diamond Key Capital Corporation were Travis Cadman (president) and Ron Cadman (vice-president). Neither Keystone Communities Ltd. nor Diamond Key Capital Corporation were reporting issuers in Alberta, nor were they registered in any capacity with the Executive Director.

Circumstances

Misrepresentations - Claimed Past Projects

11. Keystone claimed, in its print advertising, on its website and during investment seminars offered to the public, to have previously successfully completed at least 13 real estate development projects (collectively, **Claimed Past Projects**), and referenced substantial offerings in and investor returns from those Claimed Past Projects.
12. The Claimed Past Projects included:

- 12.1 Rustler Holdings (Sylvan Lake, Alberta, 2006);
 - 12.2 Maui Land Syndication #1 and #2 (Maui, Hawaii, 2005);
 - 12.3 two Springbank Land Syndications (Calgary, Alberta, 1988);
 - 12.4 Desert Sky (Phoenix, Arizona, 2003);
 - 12.5 Desert Sands (Phoenix, Arizona, 2002);
 - 12.6 Diamond Key Capital Fund (Central Alberta, 2006);
 - 12.7 Venu (Red Deer, Alberta, 2006);
 - 12.8 Edmonton Apartment Syndication (Edmonton, Alberta, 2002);
 - 12.9 Quadra Townhomes (Victoria, B.C., 2001);
 - 12.10 Park Place Condos & Town Homes (Victoria, B.C., 2004); and
 - 12.11 Davenport Project (Red Deer, Alberta, 2003).
13. None of the Claimed Past Projects were actually completed by or participated in by Keystone. However, the Cadmans were personally involved in various capacities in the Claimed Past Projects.

Misrepresentations - Offering Memoranda

14. Commencing in or about May 2007, Keystone sold securities in its “Lake House” project, a resort development to be constructed in the Sylvan Lake area of Alberta (**Lake House Project Securities**). Approximately 400 investors invested \$8,000,000 in Lake House Project Securities.
15. The Lake House Project Securities were offered for sale to the public pursuant to two offering memoranda, both dated May 25, 2007. One offering memorandum was in the name of Lake House Capital Ltd. (**OM 1**), and the other offering memorandum was in the name of Lake House Investments Ltd. (**OM 2**).
16. Section 3.3 of OM 1 stated:

There are no penalties or sanctions that have been in effect during the last ten (10) years against an Officer, Director or control person of the Corporation or against a company of which any of the foregoing was an Officer, Director or control person. No declaration of bankruptcy, voluntary assignment in bankruptcy, proposal under any bankruptcy or insolvency legislation, proceedings, arrangement

or compromise with creditors or appointment of a receiver, receiver manager or trustee to hold assets, has been in effect during the last ten (10) years with regard to those individuals or any companies of which those individuals was an Officer, Director or control person at that time.

17. Section 3.3 of OM 2 stated:

There are no penalties or sanctions that have been in effect during the last ten (10) years against a Director, Officer or control person of the Corporation or against a company of which any of the foregoing was a Director, Officer or control person. No declaration of bankruptcy, voluntary assignment in bankruptcy, proposal under any bankruptcy or insolvency legislation, proceedings, arrangement or compromise with creditors or appointment of a receiver, receiver manager or trustee to hold assets, has been in effect during the last ten (10) years with regard to those individuals or any companies of which any of those individuals was a Director, Officer or control person at that time.

18. As the directors, officers and promoters of Lake House Capital Ltd. and Lake House Investments Ltd., the Cadmans signed certificates dated May 25, 2007 which appeared at the end of both OM 1 and OM 2 (**OM Certificates**). The OM Certificates stated that OM 1 and OM 2 did “not contain a misrepresentation”.

19. The Cadmans declared bankruptcy in September 1997 and were not discharged until September 22, 1998, making the representations described above inaccurate.

Advising Without Registration

20. At all material times, Keystone and certain Keystone representatives, including the Cadmans, held themselves out as being in the business of providing investment advice.

21. Keystone’s website:

21.1 invited members of the public to “Investment Seminars”, at which they could “Learn to Invest with Confidence”;

21.2 stated, “Experienced both as real estate developers and investment advisors, our dedicated team aims to deliver intelligent investment solutions that satisfy each clients [sic] risk-return requirements”; and

- 21.3 in its careers section, invited applicants to apply for positions as “Investment Advisors”, and did not stipulate that any particular credentials, education or registration were required.
22. In addition, Keystone’s advertising materials spoke generally of investment opportunities available through Keystone. Its brochures contained statements such as:
- 22.1 “Our clients invest confidently, knowing Keystone is lead by experts who are wholly dedicated to creating, preserving and managing their personal wealth.”
- 22.2 “Investment options range extensively so clients can be expertly matched with the opportunity best suited for their current and future financial situation.”
- 22.3 “Our expert Wealth Builder’s [sic] work closely with each investor to ensure their specific financial goals are properly understood, crafted and met. Individual risk-return requirements are carefully weighed to perfectly tailor a personalized wealth-building path designed to build a powerful financial future through real estate investments.”
23. Keystone representatives identified themselves to prospective investors as Keystone “advisors”, and provided general information with respect to the benefits of adding real estate to investment portfolios.
24. Keystone also enrolled “members”, who received advance notice of future investment opportunities and monthly newsletters, and had access to both the “Investors’ Corner” on the Keystone website and a designated “Investor Relations Manager”.
25. At all material times, neither Keystone nor the Cadmans or any other Keystone representatives were registered with the Executive Director to act as advisors.

Filing Deficiencies

26. OM 1 and OM 2 were not filed with the Commission within 10 days of the distribution under the OMs.
27. Keystone Communities Ltd.’s offering memorandum dated Oct. 25, 2005 (**Keystone Communities OM**) and Diamond Key Capital Corporation’s offering memorandum dated June 1, 2006 (**Diamond Key OM**), were also not filed with the Commission within 10 days of the distribution under those offering memoranda.

28. Reports of Exempt Distribution applicable to Keystone Communities Ltd. and Diamond Key Capital Corporation distributions occurring between January 10, 2006, and September 11, 2006, were not filed with the Commission within 10 days of the distributions.

Breaches

29. As a result of the conduct outlined above, the Respondents admit that they breached:
- 29.1 sub-section 92(4.1) of the *Act* by making misrepresentations with respect to the Claimed Past Projects in Keystone's advertising materials, including on Keystone's website and during investment seminars offered to the public; and
 - 29.2 sub-section 75(1)(b) of the *Act* by acting or permitting other Keystone representatives to act as advisors when they were not registered to act in that capacity.
30. As a result of the conduct outlined above, the Cadmans admit that they breached:
- 30.1 sub-section 92(4.1) of the *Act* by causing Lake House Capital Ltd. and Lake House Investments Ltd. to make misrepresentations in OM 1 and OM 2;
 - 30.2 section 2.9 of National Instrument 45-106 (**NI 45-106**) by:
 - 30.2.1 signing false certificates certifying that OM 1 and OM 2 did not contain a misrepresentation at the time of signing and at the date they were delivered to purchasers of the security sold;
 - 30.2.2 failing to cause Lake House Capital Ltd. and Lake House Investments Ltd. to file OM 1 and OM 2 with the Commission within 10 days of the distributions; and
 - 30.2.3 failing to cause Keystone Communities Ltd. and Diamond Key Capital Corporation to file the Keystone Communities OM and the Diamond Key OM with the Commission within 10 days of the distributions; and
 - 30.3 section 6.1 of NI 45-106 by failing to cause Keystone Communities Ltd. and Diamond Key Capital Corporation to file Reports of Exempt Distribution applicable to distributions occurring between January 10, 2006 and September 11, 2006 with the Commission within 10 days of the distributions.

31. The Respondents acknowledge that their failure to comply with Alberta securities laws as outlined above was conduct contrary to the public interest.

Other Circumstances Relevant to Settlement

32. In the Keystone Communities OM and the Diamond Key OM ultimately filed with the Commission, reference was made to the Cadmans' bankruptcies.
33. The Respondents have taken steps, including obtaining legal guidance, promptly removing contravening advertising material and making all delinquent filings, to rectify the breaches of Alberta securities laws outlined above and prevent future breaches.
34. The Respondents have not been previously sanctioned by the Commission and have cooperated fully with Staff during the investigation.
35. The Commission has not received any complaints from Keystone investors with respect to the Respondents' conduct.
36. This Agreement has saved the Commission the time and expense associated with further investigation and a contested hearing under the *Act*.

Settlement Payments and Undertakings

37. Based on these facts and admissions, Keystone agrees to pay upon execution of this Agreement the amount of \$50,000.00 to the Commission in settlement of the allegations against it.
38. Based on these facts and admissions, each of the Cadmans:
 - 38.1 agrees to pay upon execution of this Agreement the amount of \$100,000.00 to the Commission in settlement of the allegations against them; and
 - 38.2 undertakes to the Executive Director to resign all positions that each holds as a director or officer of any issuer, and refrain from becoming or acting as a director or officer (or both) of any issuer for a period of two (2) years from the date of this Agreement.
39. Based on these facts and admissions, the Respondents jointly and severally agree to pay upon execution of this Agreement the amount of \$10,000.00 to the Commission towards the costs of the investigation of this matter.

Administration

40. The Respondents waive any rights existing under the *Act*, or otherwise, to a further hearing, review, judicial review or appeal of this matter.

- 41. The Respondents acknowledge that this Agreement may be referred to in any other proceedings under the *Act*.
- 42. This Agreement resolves all issues involving the Respondents as described in the preceding paragraphs, and Staff will take no further steps against the Respondents arising from these facts.
- 43. This Agreement may be executed in counterpart.

Signed by Keystone Real Estate)
Investment Corp. at Red Deer,)
Alberta, this 18th day of)
July, 2008, in the presence)
of:) “original signed by”
) **Keystone Real Estate Investment Corp.**
) Elsa-May Pye)
WITNESS NAME)
) “original signed by”)
SIGNATURE)

Signed by Ron Cadman at Red Deer,)
Alberta, this)
18th day of July, 2008,)
in the presence of:) “original signed by”
) **Ron Cadman**
) Elsa-May Pye)
WITNESS NAME)
) “original signed by”)
SIGNATURE)

Signed by Travis Cadman at Red)
Deer, Alberta, this)
18th day of July, 2008,)
in the presence of:) “original signed by”
) **Travis Cadman**
) Elsa-May Pye)
WITNESS NAME)
) “original signed by”)
SIGNATURE)

Calgary, Alberta, this 22nd day of
July, 2008

) **ALBERTA SECURITIES COMMISSION**

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)

) *“original signed by”*

) _____
David Linder

) Executive Director