

# 2004 BCSECCOM 6

## Second Further Amended Temporary Order and Notice of Hearing

**Quest Capital Enterprises, Ltd., Capital Management International,  
Financial Trading Group International, Dwayne A. Daley, Kevin R. Moran  
International Currency Traders, S.A., Brian Tierney, Rick Grosch  
and James Dryden also known as Jimmy Dryden**

### Section 161 of the *Securities Act*, RSBC 1996, c. 418

¶ 1 A hearing (the Hearing) will be held to give Quest Capital Enterprises Ltd. (Quest), Capital Management International (Capital), Financial Trading Group International (Financial), Dwayne A. Daley (Daley) and Kevin R. Moran (Moran), International Currency Traders, S.A. (ICT), Brian Tierney (Tierney), Rick Grosch (Grosch) and James Dryden also known as Jimmy Dryden (Dryden) (collectively the Respondents), an opportunity to be heard before the British Columbia Securities Commission considers whether it is in the public interest to make the following orders:

1. under section 161(1)(b) of the *Securities Act*, RSBC 1996, c. 418, that the Respondents, their employees, and/or agents cease trading in any securities or exchange contracts;
2. under section 161(1)(c) of the Act, that any or all of the exemptions described in sections 44 to 47, 74, 75, 98 or 99, do not apply to the Respondents, their employees, and/or agents;
3. under section 162 of the Act, that the Respondents each pay an administrative penalty;
4. under section 174 of the Act, that the Respondents each pay prescribed fees or charges for the costs of, or related to, the Hearing; and
5. to make any other orders as may be appropriate in the circumstances.

¶ 2 The Commission will be asked to consider the following facts and allegations in making its determinations:

1. The Respondents are not residents of British Columbia. Quest was incorporated in the Bahamas on July 9, 1997. The Respondents, other than Quest, are residents of Costa Rica.

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2. Each of Quest, and Financial purport to be engaged in the business of foreign currency trading on behalf of clients (Investors).
3. Investors remit their investment funds to Capital for investment by Quest and Financial.
4. In February 2003, Financial stopped using Capital to receive Investor funds and began using ICT.
5. Daley is the president of Quest.
6. Moran is listed as the Associate Vice-President & General Manager of Financial.
7. Moran, Tierney, Grosch and Dryden are currency traders or brokers employed with Financial.
8. None of the Respondents have ever been registered in any capacity under the Act.
9. On January 7, 2003, the Executive Director issued a temporary order against Quest and Daley that they cease trading in any securities or exchange contracts and that certain exemptions not apply to them.
10. On January 20, 2003, the Executive Director amended the temporary order to include Capital, Financial and Moran in addition to Quest and Daley. The temporary order remains extant (the Temporary Order).

### **Summary of Activities**

11. During the period from at least March of 2002 forward (the Relevant Period) Quest and Financial, by way of the Quest and Financial websites and through newspaper advertisements, purported to trade in “off-exchange foreign currency option contracts” for Investors resident in BC and elsewhere. Quest and Financial represent to be able to turn \$5,000 into \$15,000 in 30 days (the Program).
12. Investors in the Program are required to send their funds by bank draft or wire transfer to Capital and since February 2003 to ICT.
13. Residents of British Columbia and elsewhere have been solicited by Quest and Financial.

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14. The Respondents have refused or neglected to cease their solicitation activities.
15. In October 2002, a Vancouver, British Columbia resident (the Vancouver Investor) received an unsolicited telephone call at her home from a representative of Financial.
16. In October 2002, the Vancouver Investor spoke with Moran by telephone where he explained the business of Financial and currency option trading. During this telephone conversation, Moran also advised the Vancouver Investor that her investments had the potential of increasing up to 300 percent.
17. The Vancouver Investor invested \$3,000 USD initially with Financial through Moran as broker.
18. Between October 2002 and September 2003, the Vancouver Investor invested a total of \$24,000 CDN with Financial through Moran, Tierney, Grosch and Dryden as brokers.

### **Breaches of the Act**

19. During the Relevant Period, the Respondents did the following:
  - (a) traded in securities for individuals in British Columbia without being registered in accordance with the requirements of the Act, and without an exemption from the registration requirements of the Act, contrary to section 34(1)(a) of the Act;
  - (b) acted as an advisor to individuals in British Columbia without being registered in accordance with the requirements of the Act, and without an exemption from the registration requirements of the Act, contrary to section 34(1)(c) of the Act;
  - (c) placed advertisements in printed news media in order to obtain investor interest in its products and services; and
  - (d) received funds from residents of British Columbia, with the understanding that the funds were used for investment purposes.

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### **Breaches of Temporary Order**

20. Financial and Moran traded in securities on behalf of the Vancouver Investor in breach section 161 of the Act and in breach of the temporary order dated January 20, 2003;

21. Particulars of the breaches are as follows:

- (e) In February or March 2003, Moran, while employed at Financial recommended that the Vancouver Investor transfer her existing holdings with Financial into U.S.index dollar puts;
- (f) On June 16, 2003, Moran, while employed at Financial sold the Vancouver Investor currency options namely, 20 long September U.S. dollar index puts;
- (g) On September 2, 2003, Tierney and Grosch, while employed at Financial sold the Vancouver Investor currency options, namely 3 long November Japanese puts; and
- (h) these trades were made through Financial.

(collectively the 2003 Trades)

### **Public Interest**

22. It would be contrary to the public interest, as set out in section 161 of the Act, to allow the Respondents to continue to operate in the capital markets of British Columbia.

### **Temporary Order**

- ¶ 3 The Executive Director considers the length of time to hold a hearing under section 161(1) of the Act could be prejudicial to the public interest.
- ¶ 4 The Executive Director, considering that it would be in the public interest to do so, orders under section 161(2) of the Act (the Temporary Order) that:
1. under section 161(1)(b) of the Act, that the Respondents cease trading in any securities or exchange contracts;
  2. under section 161(1)(c) of the Act, that any or all of the exemptions described in sections 44 to 47, 74, 75, 98 or 99, do not apply to the Respondents;

for a period expiring on January 21, 2004.

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- ¶ 5 The Hearing will be held at the 12<sup>th</sup> Floor Hearing Room, 701 West Georgia Street, Vancouver, BC, on Tuesday, January 20, 2004 at 9:00 am.
- ¶ 6 The Respondents may be represented by counsel at the Hearing and may make representations and lead evidence. The Respondents are requested to advise the Commission of their intention to attend by contacting the Commission Secretary at PO Box 10142, Pacific Centre, 5<sup>th</sup> Floor, 701 West Georgia Street, Vancouver, BC, V7Y 1L2, phone: (604) 899-6500; email: commsec@bcsc.bc.ca
- ¶ 7 Determinations may be made in this matter if the Respondents or their counsel do not appear at the Hearing.
- ¶ 8 January 7, 2004
  
- ¶ 9 Stephen J. Wilson  
Executive Director