

2009 BCSECCOM 587

Temporary Order and Notice of Hearing

Sung Wan (Sean) Kim

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

¶ 1 The Commission will hold a hearing at which the Executive Director will tender evidence, make submissions and apply for an order under sections 161(1)(b), 161(1)(d)(v) and 161(1)(f) of the Securities Act, RSBC 1996, c. 418 (the Act), that Sung Wan (Sean) Kim cease trading and be prohibited from purchasing any securities or exchange contracts, that he be prohibited from engaging in investor relations activities, and that his registration be suspended, based on the following facts:

Background

1. Sung Wan (Sean) Kim (Kim) is registered under the Act as a Director (Non-Trading) and a Salesperson (Exchange Contracts) at Cirplus Futures Inc., a Vancouver-based exchange contracts dealer registered under the Act.
2. Kim has been involved in raising funds from investors purportedly for investments in U.S. T-Bills (the U.S. T-Bill Securities). While soliciting them to invest, Kim told at least some investors that
 - (a) their money would be invested in U.S. T-Bills
 - (b) they would receive interest of 32.40% per annum
 - (c) they would receive a return of 3% per month
 - (d) he was pooling investors' money because the carrying broker had a \$500,000 minimum and therefore investors were to give their investment funds to Kim personally
3. Kim also provided to at least one investor a letter purportedly from the Commission which stated that the investor's accounts were "subject to the supervision of BCSC and all corresponding transactions involving this account are reported to BCSC". The letter purported to be signed by Tyree Thomas (the Thomas Letter).
4. No individual named Tyree Thomas ever worked at the Commission. The Commission did not and does not supervise accounts or transactions as described in the Thomas Letter. The letterhead on the Thomas Letter is not the letterhead used by the Commission.

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5. Kim raised funds from at least fifteen investors. Some investors have unsuccessfully tried to get their money back from Kim. Some investors have also tried to contact Kim but have not been able to do so.
6. On or about October 18, 2009, Kim was arrested by Korean police for conduct contrary to their financial crimes statute and is detained pending a pre-trial hearing.

Public Interest

7. Commission Staff is concerned that in trading the U.S. T-Bill Securities, Kim may have engaged in conduct that is contrary to the public interest.
8. It would be prejudicial to the public interest to permit Kim to continue to trade and purchase any securities or exchange contracts, engage in investor relations activities, or be registered until Commission Staff makes further inquiries relating to his trading activities.

Temporary Order

- ¶ 2 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 and, considering that it would be in the public interest to do so, orders under sections 161(1)(b), 161(1)(d)(v), 161(1)(f) and 161(2) of the Act (the Temporary Order) that Sung Wan (Sean) Kim cease trading and be prohibited from purchasing any securities or exchange contracts, that he be prohibited from engaging in investor relations activities, and that his registration be suspended, until November 4, 2009.
- ¶ 3 A hearing (the Hearing) will be held at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on November 3, 2009 at 10:00 am.
- ¶ 4 At the Hearing, the Executive Director will ask the Commission to adjourn the matter and extend the Temporary Order.
- ¶ 5 Kim may be represented by counsel at the Hearing and may make representations and lead evidence. Kim is requested to advise the Commission of his intention to attend by contacting the Secretary to the Commission at PO Box 10142, Pacific Centre, 12th Floor, 701 West Georgia Street, Vancouver, BC, V7Y 1L2, phone: (604) 899-6500; email: commsec@bcsc.bc.ca.

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¶ 6 Determinations may be made in this matter if Kim or his counsel does not appear at the Hearing.

¶ 7 October 20, 2009

Langley E. Evans

¶ 8 Langley E. Evans
Acting Executive Director