

2009 BCSECCOM 604

Notice of Hearing

Cem Ali, Horizon FX Investments Limited Partnership, Horizon FX Investments Incorporated and HFX Management Services Inc.

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

- ¶ 1 The British Columbia Securities Commission will hold a hearing at which the Executive Director will tender evidence, make submissions and apply for orders against Cem Ali, Horizon FX Investments Limited Partnership, Horizon FX Investments Incorporated and HFX Management Services Inc. (collectively, the Respondents) under sections 161 and 162 of the *Securities Act*, RSBC 1996, c. 418, based on the following facts:

Background

1. HFX Management Services Inc. (HFX Management) was incorporated in British Columbia on August 10, 2006.
2. Horizon FX Investments Limited Partnership (Horizon LP) was formed on September 11, 2006 by HFX Management. HFX Management provided management services to Horizon LP.
3. Horizon FX Investments Incorporated (Horizon GP) was incorporated in British Columbia on September 11, 2006, and became the general partner of Horizon LP on that date.
4. Cem Ali is a resident of British Columbia. He is the President and sole director of Horizon GP and HFX Management.
5. None of the Respondents has ever been registered to trade securities, or filed a prospectus, under the Act.
6. The Respondents raised funds from investors (Investor Funds) through the sale of Horizon LP partnership units (Horizon LP Securities), purportedly for the purpose of investing in spot foreign exchange (Forex) contracts.
7. The Respondents sold approximately US \$34 million of Horizon LP Securities to 957 investors between August 29, 2006 and January 2008 (the Relevant Period).
8. Investor Funds were pooled and sent to a US company who purported to trade Forex contracts (US Trader) on behalf of Horizon LP.

2009 BCSECCOM 604

9. The US Trader was fraudulent and conducted no trading.
10. On September 1, 2009, the Respondents became bankrupt. Investor losses to date are approximately US \$25.5 million.

Misconduct

Illegal Trading and Distributions

11. The Respondents sold the Horizon LP Securities relying upon an offering memorandum dated September 11, 2006 (OM).
12. The OM contained misrepresentations and was not in the required form. Therefore, the Respondents could not rely upon the offering memorandum exemption from prospectus filing and registration.
13. The Respondents traded and distributed Horizon LP Securities contrary to section 34(1)(a) and section 61(1) of the Act.

Misrepresentations

14. The Respondents created or supervised the creation of the following material (Horizon Material):
 - (a) the OM;
 - (b) a website (the Horizon Website); and
 - (c) a brochure (Horizon Brochure);
15. The Horizon Material contained various statements representing that the Respondents have assessed, evaluated and carefully selected traders.
16. The statements in the Horizon Material were untrue, false or misleading because the Respondents did not assess, evaluate or carefully select Forex traders.
17. By making untrue, false or misleading statements in the Horizon Material, the Respondents made misrepresentations contrary to section 50(1)(d) of the Act.

Fraud

18. By engaging in the conduct described in this NOH, the Respondents perpetrated a fraud on the Horizon LP investors contrary to section 57(b) of the Act.

2009 BCSECCOM 604

Liability of Ali as a Director

19. As the sole director and officer of HFX Management and Horizon GP, Ali authorized, permitted or acquiesced in the contraventions of sections 34(1)(a), 50(1)(d), 57(b) and 61(1) of the Act and, therefore, also contravened the same provisions under section 168.2(1) of the Act.

Contravention of the Cease Trade Order

20. On October 18, 2007, the Executive Director ordered under section 164(1) of the Act that all persons cease trading in the securities of Horizon LP (the Cease Trade Order).

21. In contravention of the Cease Trade Order, the Respondents:

- (a) received funds after October 18, 2007, for subscription agreements dated before October 18, 2007; and
- (b) continued to sell Horizon LP Securities after October 18, 2007.

Public Interest

22. The Respondents acted contrary to the public interest by engaging in the conduct described in this NOH.

Hearing Process

- ¶ 2 At the Hearing, the Respondents may be represented by counsel, make submissions and tender evidence. The Respondents are requested to advise the Commission of their intention to attend the Hearing by informing 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.
- ¶ 3 The Respondents or their counsel are required to attend at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, BC, on **Thursday, November 26, 2009, at 9:00am** if they wish to be heard before the Commission sets a date for the Hearing.
- ¶ 4 If the Respondents or their counsel do not appear at the Hearing, the Executive Director may apply to have questions of liability and sanction heard at the same time. Determinations adverse to the Respondents may be made in his absence.
- ¶ 5 October 30, 2009
“L.E.Evans”
- ¶ 6 Langley E. Evans
Acting Executive Director