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Temporary Order and Amended Notice of Hearing

Sung Wan (Sean) Kim

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

- ¶ 1 The British Columbia Securities Commission (the Commission) will hold a hearing at which the Executive Director will tender evidence, make submissions and apply for orders under sections 161, 162 and 174 of the *Securities Act*, RSBC 1996, c. 418 (the Act), based on the following facts:

Background

1. Sung Wan (Sean) Kim (Kim) was registered under the Act as a Director of and a Salesperson at Cirplus Futures Inc. (Cirplus), a Vancouver-based exchange contracts dealer registered under the Act. Their registrations ended on October 14, 2009 and November 19, 2009, respectively.
2. Between January 24, 2007 and July 16, 2009 Kim entered into investment agreements (the Investment Agreements) with 31 investors . Under these agreements, Kim was to purchase United States treasury bills or engage in futures and options trading on their behalf.
3. Kim raised more than CDN\$14 million through the Investment Agreements. Most of the investors paid for their investments by giving their money directly to Kim. All of the investors were from British Columbia.
4. Kim offered investors various rates of return. Some investors received payments that purported to be returns, but most lost all of their investment.

Forged Commission documents and false information

5. Kim gave investors forged documents that related to their investments. These documents were prepared on forged Commission letterhead, contained untrue statements, and were purported to be authored by individuals who in fact did not work at the Commission.
6. Kim told investors that:
 - (a) the Commission supervised, monitored, controlled or verified his and Cirplus' accounts; and
 - (b) payments to investors were delayed because the Commission had:

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- (i) audited Cirplus;
 - (ii) levied a fine against Cirplus; and
 - (iii) required Cirplus to change its payment schedule to investors.
- (c) Cirplus had given a report to the Commission that included transaction breakdowns, fund flows, and account information; and
- (d) if investors reported him to the Commission, it would damage their investments.

These statements were false.

Forged carrying broker documents and false information

7. Kim told some investors that:
- (a) he would invest their funds in accounts that he or Cirplus held at Man Financial Inc. or MF Global Inc.; and
 - (b) They had individual accounts at Man Financial Inc. or MF Global Inc. that were profitable.

These statements were false.

8. Kim gave some investors account statements on Cirplus letterhead that purported to show they had earned a profit through trading he had purportedly conducted on their behalf. That information was false.
9. Kim gave to one investor a forged document that purported to be from Man Financial Inc.

Fraud

10. By giving forged documents and false information to investors, Kim participated in conduct relating to the Investment Agreements that he knew or should have known perpetrated a fraud, contrary to section 57 of the Act.

Conduct Contrary to the Public Interest

11. Kim's conduct set out in this Notice was contrary to the public interest.

Temporary Order

- ¶ 2 On October 20, 2009, the Executive Director issued a temporary order under sections 161(1)(b), 161(1)(d)(v), 161(1)(f) and 161(2) of the Act against Kim that cease traded and prohibited him from purchasing any securities or exchange

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contracts, prohibited him from engaging in investor relations activities and suspended his registration, until November 4, 2009.

- ¶ 3 On November 3, 2009, the Commission extended the temporary order until a hearing is held and a decision rendered.

Hearing

- ¶ 4 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.

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

- ¶ 6 June 1, 2010

Paul Bourque

- ¶ 7 Paul C. Bourque, Q.C.
Executive Director