

2010 BCSECCOM 56

Temporary Order and Notice of Hearing

Luc Castiglioni, CPLC Limited Partnership and CPLC Management Group Ltd.

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 orders against Luc Castiglioni (Castiglioni), CPLC Limited Partnership (CPLC LP) and CPLC Management Group Ltd. (CPLC Management) (collectively, the Parties) under section 161(1) of the *Securities Act*, RSBC 1996, c. 418 (the Act), based on the following facts:

Background

1. CPLC Management is the general partner of CPLC LP, a limited partnership established in BC on September 30, 2008. CPLC LP claimed to be an investment fund under the Act.
2. CPLC Management is a BC company incorporated on June 14, 2005 and had a head office located in West Vancouver, BC.
3. On October 8, 2009 the Supreme Court of British Columbia issued a Bankruptcy Order against CPLC LP and CPLC Management.
4. Luc Castiglioni, a British Columbia resident, was the director and chief executive officer of CPLC Management.
5. The Parties have never been registered under the Act.
6. CPLC LP and CPLC Management have never filed a prospectus under the Act.

Unregistered Trading

7. CPLC Management unsuccessfully applied to the Commission for registration as a portfolio manager. After its application was denied, CPLC Management implemented a restructuring plan. The plan involved converting investors of CPLC Management into limited partners of CPLC LP.
8. On October 10, 2008, the Commission issued an Order (2008 BCSECCOM 545) relieving CPLC LP and CPLC Management of certain filing requirements in connection with the distribution of limited partnership units of CPLC LP (the Securities) to existing investors only.

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9. In spring 2009, Commission staff received complaints from investors that they were unable to redeem their investments in the Securities. Based on information from the complainants, it appears the Parties were dealing with investors on a discretionary basis, as would a portfolio manager, without the required registration under the Act.
10. As of May 2009, CPLC LP had about 63 limited partners (the Investors) and had issued about \$10 million of Securities.
11. The Parties continued to distribute the Securities until at least June 2009.

False or Misleading Information

12. In May 2009, Castiglioni met with a Commission staff member and advised that a substantial portion of the proceeds obtained from the sale of the Securities were placed in a trading account in Switzerland (the Swiss Account).
13. On July 31, 2009, Castiglioni provided copies of statements he said were for the Swiss Account (the Swiss Account Statements). The Swiss Account Statements indicated that as of June 30, 2009, the value of the account was €4,648,134.27 (about \$7,575,064.42).
14. In December 2009, the Swiss Financial Market Supervisory Authority (FINMA) confirmed that:
 - (a) the account number in the Swiss Account Statements did not belong to any of Castiglioni, CPLC LP or CPLC Management;
 - (b) neither CPLC LP or CPLC Management had accounts at the bank shown in the Swiss Account Statements;
 - (c) the value of the account in the Swiss Account Statements was, at July 31, 2009, only about €7,000 (about \$10,784);
 - (d) no significant amounts of money were transferred into the account between October 2008 and July 2009; and
 - (e) the Swiss Account Statements appear to be forged.

Breaches of the Act

15. Commission staff is concerned that the Parties may have:

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- (a) provided false or misleading information to Commission staff in the Swiss Account Statements, contrary to section 168.1 of the Act;
- (b) distributed the Securities without registration or a prospectus, or an exemption from the registration and prospectus requirements, contrary to sections 34 and 61 of the Act;
- (c) made statement(s) to Investors, for example about the Swiss Account, they knew, or ought reasonably to have known, were false or misleading, contrary to section 50(1)(d) of the Act; and/or
- (d) perpetrated a fraud on Investors contrary to section 57 of the Act.

Public Interest

16. Commission staff is concerned that:

- (a) the Parties may have acted contrary to the public interest; and
- (b) it would be prejudicial to the public interest to permit trading, or other activities in the securities market, by any of the Parties in British Columbia until Commission staff makes further inquiries relating to the Securities, and the use and whereabouts of the proceeds from the distribution of the Securities.

Temporary Order

¶ 2 The Executive Director, under section 161(2) of the Act, 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 (the Temporary Order):

- (a) under section 161(1)(b)(i) of the Act, that all persons cease trading in the Securities and in the securities of CPLC Management;
- (b) under section 161(1)(c) of the Act, that all of the exemptions from the Act set out in the regulations do not apply to any of the Parties;
- (c) under sections 161(1)(d)(ii)-(iii) of the Act, that Castiglioni is prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager; or as a registrant, investment fund manager or promoter;
- (d) under sections 161(1)(d)(iv)-(v) of the Act, the Parties are prohibited from acting in a management or consultative capacity in connection with

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activities in the securities market; and from engaging in investor relations activities,

for a period expiring on February 9, 2010, at 10:00 am, or the date the Commission extends the Temporary Order.

17. A hearing (the Hearing) will be held at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on February 9, 2010, at 10:00 am.
18. At the Hearing, the Executive Director will ask the Commission to extend the Temporary Order until a decision is rendered.
19. The Parties may be represented by counsel at the Hearing and may make representations and lead evidence. The Parties are requested to advise the Commission of their 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.
20. Determinations may be made in this matter if the Parties or their counsel do not appear at the Hearing.
21. January 28, 2010
22. Langley E. Evans
Acting Executive Director