



British Columbia Securities Commission

Citation: 2013 BCSECCOM 220

## Temporary Order and Notice of Hearing

**The Falls Capital Corp., Deercrest Construction Fund Inc., West Karma Ltd. and  
Rodney Jack Wharram**

**(collectively, the Respondents)**

### **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 the Respondents under sections 161, 162, and 174 of the *Securities Act*, RSBC 1996, c. 418 (the Act), based on the following facts:

#### **Background**

1. The Falls Capital Corp. (the Falls) is an Alberta-incorporated company. It raised funds purportedly to lend to a developer to develop a recreational property (the Falls Resort) located in Chilliwack, British Columbia.
2. Deercrest Construction Fund Inc. (Deercrest) is an Alberta-incorporated company. It raised funds purportedly to lend to a developer to develop the Deercrest townhomes and clubhouse located at the Falls Resort (the Deercrest Property).
3. West Karma Ltd. (West Karma) is an Alberta-incorporated company that was extra-provincially registered in British Columbia. West Karma owned 40% of the voting shares of the Falls. West Karma raised capital for the Falls and Deercrest by marketing and promoting their offering memorandum (OM) offerings.
4. The Falls, Deercrest and West Karma (the Corporate Respondents) have never been registered in any capacity or filed a prospectus under the Act.
5. Rodney Jack Wharram (Wharram) became a British Columbia resident in June 2007 and is a director and president of the Corporate Respondents. He has never been registered in any capacity under the Act.

#### **Misconduct**

##### *The Falls Frauds*

##### Less than half of funds invested

6. The Falls had one OM dated October 15, 2007 (the 2007 OM) and one dated October 15, 2008 (the 2008 OM).



7. The 2007 and 2008 OMs said that the Falls would lend the majority of funds raised from investors to a developer who was intending to develop the Falls Resort.
8. The Falls:
  - (a) raised \$5,442,400 from investors between December 2006 and December 2009 using the 2007 and 2008 OMs (the Falls Investments); and
  - (b) advanced approximately \$2,300,000 to the developer of the Falls Resort (the Developer).
9. Wharram used at least \$75,000 of the Falls Investments towards the purchase of his residence.

Personal use of sale of claims proceeds

10. The Developer was granted protection from its creditors in February 2011, and in March 2012 a receiver was appointed.
11. The Falls filed claims against the Developer in August 2011.
12. In September 2011, the Falls sold its creditor claims against the Developer for proceeds of about \$63,779 (the Sale of Claims Proceeds).
13. Wharram used at least \$47,500 of the Sale of Claims Proceeds for personal expenses, including restoring his father's jeep and paying his mortgage.
14. The Falls, West Karma and Wharram perpetrated fraud on the Falls investors by:
  - (a) raising \$5,442,400 from investors for investment with the Developer, and only advancing \$2,300,000 to the Developer; and
  - (b) using most of the Sale of Claims Proceeds for Wharram's personal expenses, contrary to section 57(b) of the Act.

*Deercrest Frauds*

15. Deercrest had one OM dated March 2, 2009 (the 2009 OM) and one dated March 2, 2009 – Amended March 31, 2010 (the 2010 OM).
16. The 2009 and 2010 OMs said that Deercrest was raising funds to lend to a developer to develop the Deercrest Property.



17. Between March 2009 and October 2010, Deercrest raised \$3,953,000 from investors pursuant to the 2009 and 2010 OMs (the Deercrest Investments).
18. Deercrest only advanced \$1,636,000 to the Developer.
19. Wharram, from the Deercrest Investments, used:
  - (a) at least \$130,000 towards the purchase of his residence;
  - (b) \$240,000 to lend to his wife to invest in a grocery store; and
  - (c) \$24,000 to purchase a diamond ring for his wife.
20. Deercrest, West Karma and Wharram perpetrated fraud on Deercrest investors by:
  - (a) raising \$3,953,000 from them for investment with the Developer and only advancing \$1,636,000 to the Developer; and
  - (b) using at least \$394,000 of the Deercrest Investments for Wharram's personal expenses,contrary to section 57(b) of the Act.

*False statements to an investigator*

21. Commission staff conducted an interview of Wharram on March 12 and 13, 2013 (the Interview).
22. During the Interview, Wharram stated that he:
  - (a) had not raised any funds from investors in 2013; and
  - (b) was not currently trying to raise any funds from investors.
23. After the Interview, Commission staff learned that Wharram:
  - (a) contacted an investor in February 2013 and asked him to invest in the Deercrest Property;
  - (b) raised approximately:
    - (i) \$50,000 from one person on March 8, 2013; and



(ii) \$400,000 from additional people later in March and April 2013.

24. Wharram made false statements to an investigator appointed under the Act contrary to section 168.1 of the Act.

**Liability under section 168.2**

25. Wharram as director and president of the Corporate Respondents authorized, permitted, and acquiesced in their contraventions of the Act and therefore also contravened those same provisions by operation of section 168.2 of the Act.

**Public Interest**

¶ 2 It is in the public interest that the Commission issue orders under sections 161 and 162 of the Act.

**Temporary Order**

¶ 3 The Executive Director, considering the length of time to hold a hearing under section 161(2) of the Securities Act to be prejudicial to the public interest, orders that (the Temporary Order) under section:

- (a) 161(1)(a) of the Act, the Respondents comply with or cease contravening the Act;
- (b) 161(1)(b) of the Act, all persons cease trading in the Corporate Respondents;
- (c) 161(1)(d) of the Act, Wharram resign any position he holds, and is prohibited from becoming or acting as, a director or officer of any issuer; and
- (d) 161(1)(d) of the Act, each Respondent is prohibited from engaging in investor relations activities.

**Hearing Process**

¶ 4 A hearing will be held in the 12<sup>th</sup> Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on **June 26, 2013, at 2:00 pm**, at which time the Executive Director will ask the Commission to extend the temporary order until a hearing is held and a decision is rendered.

¶ 5 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, 701 West Georgia Street, Vancouver, BC V7Y 1L2, phone: 604-899-6500; email: [commsec@bcsbc.ca](mailto:commsec@bcsbc.ca).



¶ 6 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 and determinations adverse to the Respondents may be made.

¶ 7 June 14, 2012.

Paul Bourque

¶ 8 Paul C. Bourque, Q.C.  
Executive Director