

2010 BCSECCOM 89

Temporary Order and Notice of Hearing

Genius Funds, also known as Genius Investments

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 that Genius Funds, also known as Genius Investments (collectively, Genius) cease trading in any securities under section 161(1)(b) of the *Securities Act*, RSBC 1996, c. 418 (the Act), and that Genius be prohibited from engaging in investor relations activities under section 161(1)(d) of the Act, based on the following facts:

Background

1. Genius is not registered as a corporation in British Columbia and is not registered in any capacity under the Act.
2. Genius purports to be based in Cyprus and operates a website that solicits investments in two investment funds that it claims to manage, and deposits in a high yield deposit account that it offers.

Genius Investments

3. Genius offers shares in two investment funds on its website:
 - (a) the Emerging Markets Growth Fund (EMGF); and
 - (b) the World Bond Market Fund (WBMF).
4. Shares in each of the funds are classified as Common, Preferred, or Premium depending on the amount of an investor's initial investment. The more money invested, the higher the dividend payout is claimed to be.
5. Genius states that all income generated by the EMGF is distributed daily, and daily payments range from 1.0% to 1.9% depending on the class of shares purchased. With respect to the EMGF investment strategy, Genius states:

Most investments are made in countries with S&P Rating BB+ or higher. Stock investments are diversified across many industries, with a high focus on the country's leading industry (producing 20 or more % GDP in some cases).

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6. Genius states that all income generated by the WBMF is distributed weekly, and weekly payments range from 6.0% to 9.0% depending on the class of shares purchased. With respect to the WBMF investment strategy, Genius states:

The fund's assets are mainly placed in high yield bonds, providing individual investors with access to a bond market that is usually available only to institutional investors.

7. On its website, Genius also offers the Genius High-Yield Deposit Account (HYDA).
8. Genius states that deposit in a HYDA earn interest between 14% and 25% monthly depending on the amount deposited.

Illegal Trading and Misrepresentations

9. On or about February 3, 2010, a financial institution alerted Commission staff that one of their customers wired \$25,000.00 to Genius, and that another customer was convinced not to wire money to Genius.
10. Through its website, Genius is carrying out acts and solicitations in furtherance of a trade in securities. Genius is trading and distributing securities contrary sections 34 and 61 of the Act.
11. Genius offers investors a rate of return that is impossible to earn consistently through legal means. By stating that investors will earn a rate of return that it knows, or ought reasonably to know, is false, Genius made misrepresentations contrary to section 50(1)(d) of the Act.
12. It would be prejudicial to the public interest to permit Genius to trade in any securities or to engage in investor relations 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) and 161(2) of the Act (the Temporary Order) that Genius cease trading in any securities, and is prohibited from engaging in investor relations activities.
- ¶ 3 A hearing (the Hearing) will be held at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on **Thursday February 25, 2010 at 10:00 AM.**

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- ¶ 4 At the Hearing, the Executive Director will ask the Commission to grant a final order in the same terms as the Temporary Order.
- ¶ 5 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.
- ¶ 6 Determinations may be made in this matter if the Parties or their counsel do not appear at the Hearing.
- ¶ 7 February 11, 2010

Martin Eady
- ¶ 8 Martin D. Eady
Acting Executive Director