

ALBERTA SECURITIES COMMISSION

Citation: Re Hunter, 2023 ABASC 45

Docket: ENF-012985

Date: 20230425

NOTICE OF HEARING

To: **Glenn Donald Hunter, Kyle William Watters, HW & Associates Inc. and HW TradeFX LLC (Respondents)**

A. NOTICE

Staff of the Alberta Securities Commission (**Staff**) will make an application to the Alberta Securities Commission (**Commission**) on Thursday, May 4, 2023, at 9:30 a.m. (**Application Date**) for an interim order pursuant to sections 33(1) and 198(1) of the *Securities Act*, RSA 2000, c S-4, as amended (**Act**) and orders pursuant to sections 2.3, 7.1(a) and 11.1 of Commission Rule 15-501 *Rules of Practice and Procedure for Commission Proceedings* (**Rules**).

B. ORDERS SOUGHT

Staff will apply to the Commission for the following orders:

1. An interim order of 12 months' duration that:
 - (a) under section 198(1)(b), the Respondents cease purchasing or trading in any securities or derivatives;
 - (b) under section 198(1)(c), all of the exemptions contained in Alberta securities laws do not apply to the Respondents;
 - (c) under section 198(1)(e.2), the Respondents are prohibited from acting as registrants; and
 - (d) under section 198(1), such further and other orders as the Commission considers appropriate in the public interest.
2. An order that the affidavit filed in support of Staff's application, and any further evidence admitted at the hearing, remain confidential and shall not be divulged except in accordance with section 45 of the *Act*, pursuant to sections 11.1(a) and (b) of the Rules.

C. GROUNDS

The grounds for Staff's application include the following:

3. Staff are investigating whether the Respondents breached the *Act*, including by acting as dealers without registration under Alberta securities laws, contrary to section 75(1)(a) of the *Act*.
4. As set out below, the evidence gathered to date establishes, on a *prima facie* basis, that the Respondents are engaged in the business of trading securities or derivatives without being registered, and without an available exemption to the requirement to register. Specifically, the Respondents are buying and selling foreign exchange contracts for difference (**Forex CFDs**) on behalf of investors, using funds provided to them by investors. Forex CFDs are both a security, specifically an "investment contract" pursuant to section 1(ggg)(xiv) of the *Act*, and a derivative pursuant to section 1(n.01)(i) of the *Act*.¹ The Respondents have also entered into profit-sharing agreements with investors, which are securities pursuant to section (1)(ggg)(ix) of the *Act*.
5. In operating this business, the Respondents are engaging in activities similar to a registrant by engaging in discretionary buying and selling of Forex CFDs on behalf of investors, with repetition and continuity. The Respondents expect to be compensated and they have directly solicited investors to provide funds to be invested in Forex CFDs, including by offering referral fees.
6. Glenn Donald Hunter (**Hunter**) is an individual residing in Grand Prairie, Alberta.
7. Kyle William Watters (**Watters**) is an individual residing in Kelowna, British Columbia.
8. HW & Associates Inc. (**HW**) is a corporation that was registered in British Columbia on October 19, 2021. Hunter and Watters are the sole directors of HW.
9. HW TradeFX LLC (**HW TradeFX**) is a limited liability company formed under the laws of Saint Vincent and the Grenadines on April 29, 2022. Upon the formation of HW TradeFX, Hunter was appointed its manager and secretary, and was issued 100 per cent of its shares.
10. Watters was listed as the primary contact person for HW TradeFX in documents filed with Tradeview Ltd., an online trading platform based in the Cayman Islands.
11. None of the Respondents are registered, in any capacity, in accordance with Alberta securities laws.
12. Starting in 2021, Hunter, Watters and HW solicited individuals, including Alberta residents, to provide funds that they would use to invest in Forex CFDs.

¹ ASC Staff Notice and Request for Comment 91-708 – *OTC Trading in Contracts for Difference, Foreign Exchange Contracts and Binary Options* at 1-3.

13. Hunter, Watters and HW represented themselves as foreign exchange experts to investors, offered investors referral fees and offered to grow investors' funds by investing on their behalves.
14. Watters used investor funds to buy and sell Forex CFDs at Tradeview Ltd. using an account registered to HW TradeFX (**Tradeview Account**).
15. Hunter and Watters have instructed investors to execute Powers of Attorney (**POAs**), which give Tradeview the authority to replicate trades conducted in the Tradeview Account in investors' accounts. The POAs contain a profit-sharing agreement, whereby 35 per cent of profits from buying and selling Forex CFDs are payable to HW TradeFX or Watters.
16. Documents obtained from Tradeview Ltd. indicate that around \$18 million from investors was deposited to the Tradeview Account under the management of Watters, Hunter and HW TradeFX between August 2022 and February 2023, of which approximately \$4 million was from Alberta residents.
17. As of February 2023, the account balance in the Tradeview Account indicated that almost all of the investor funds had been lost through unsuccessful trading by Watters.
18. To date, Watters has not co-operated with Staff's investigation, citing health concerns. He advised Staff that he has not engaged in any "trading" since September 2022; however, Forex CFD transactions were conducted in the Tradeview Account as recently as February 2023. In March 2023, Watters represented himself to an investor as "President of HW TradeFX LLC."
19. The Respondents present a recent and ongoing threat to investors and the integrity of the capital market.
20. It would be in the public interest to make orders to cease all trading in securities or derivatives by the Respondents, and to prohibit the Respondents from acting as registrants, while the investigation proceeds.
21. The length of time required for Staff to complete their investigation, to conduct a hearing and to render a decision on the merits of alleged breaches of the *Act* could be prejudicial to the public interest.
22. The investigation is ongoing, and the evidence tendered in support of the application should not be available to the public prior to a hearing on the merits of alleged breaches of the *Act*.

D. EVIDENCE IN SUPPORT OF APPLICATION

Staff will rely on the following:

23. Affidavit of Jennifer Stachow, Securities Investigator in the Enforcement branch of the Commission, affirmed April 25, 2023, together with the exhibits attached; and

24. Such further and other materials as Staff may advise and the Commission may permit.

E. LOCATION

Alberta Securities Commission, 5th Floor, 250 – 5 Street SW, Calgary, Alberta. Contact Jayne Lewis, Registrar of the Commission, by telephone at 403.294.4277, email at registrar@asc.ca, or facsimile at 403.297.4486 for further information.

F. PROCEDURE

You may obtain further information about Staff's application from Sakeb Nazim c/o Alberta Securities Commission, 600, 250 – 5 Street SW, Calgary, Alberta, T2P 0R4, telephone 403.592.8187, email: sakeb.nazim@asc.ca.

You may be represented by legal counsel and you or your counsel may make submissions and introduce relevant evidence at the hearing.

If you or your counsel fail to attend on the Application Date, or as directed, the hearing may proceed in your absence and an interim order may be made against you without further notice.

See attached sections 29, 33, 45, 75 and 198 of the Act, and Commission Rule 15-501 Rules of Practice and Procedure for Commission Proceedings.

Calgary, Alberta, 25 April, 2023.

) ALBERTA SECURITIES COMMISSION
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) "Original signed by"
) Denise Weeres
) Acting Executive Director