



IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *TRUSTEE ACT*
R.S.B.C. 1996, c. 464 as amended

AND

LAW AND EQUITY ACT

R.S.B.C. 1996, c. 253 as amended

AND

**ELITE FX LIMITED PARTNERSHIP
ELITE FX MANAGEMENT INC.
ELITE FX INVESTMENTS INC.
ELITE FX TRADING INC.**

NOTICE OF APPLICATION

Name of Applicant: Boale Wood & Company Ltd., in its capacity as former Judicial Trustee and Receiver of Elite FX Limited Partnership, Elite FX Management Inc., Elite FX Investments Inc., and Elite FX Trading Inc.

TAKE NOTICE that a WITHOUT NOTICE application will be made by Boale Wood & Company Ltd. in its capacity as former Judicial Trustee and Receiver of Elite FX Limited Partnership, Elite FX Management Inc., Elite FX Investments Inc., and Elite FX Trading Inc. (in that capacity, the "**Former Judicial Trustee**") to the presiding Judge at the Courthouse at **800 Smithe Street, in the City of Vancouver**, in the Province of British Columbia on **Tuesday June 11, 2013, at 9:45 a.m.** for the order set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. An Order authorizing the Former Judicial Trustee to distribute funds received to the credit of these proceedings from the United States Treasury, less the Former Trustee's costs associated with this application and said distribution, in the manner as set out in the Report of the Judicial Trustee dated October 20, 2011 and Order pronounced herein on November 18, 2011.

Part 2: FACTUAL BASIS

2. Pursuant to an Order pronounced October 9, 2008, the Former Judicial Trustee was appointed as Judicial Trustee and Receiver of the following entities:
 - (a) Elite FX Limited Partnership (the "**Partnership**");
 - (b) Elite FX Management Inc. (the "**General Partner**");
 - (c) Elite FX Investments Inc.; and
 - (d) Elite FX Trading Inc. (collectively, with the entities above "**Elite FX**").
3. The Partnership was formed on January 18, 2006 and became a Limited Partnership under the laws of British Columbia on January 20, 2006. The purpose of the Partnership was to provide a structure to allow for Limited Partners to invest in foreign exchange contracts.
4. James Roland was the sole Officer and Director of the General Partner. He was responsible for the administration of the Partnership and the trading in foreign exchange contracts conducted initially by Elite FX Investments Inc., and later by Elite FX Trading Inc.
5. The Elite FX records indicate that between January 2006 and September 2006, the Partnership raised approximately \$7,300,000 from 238 Limited Partners. All of the funds raised (after deducting commissions, expenses and management fees) were invested with Razor FX, a New York company that purported to be experts in trading foreign exchange contacts and provided literature that indicated their clients were yielding returns as high as 60% annually.
6. According to Mr. Roland, in September 2006 approximately 65% of the Limited Partners redeemed their investments in the Partnership and transferred those funds to a new Limited Partnership named Horizon FX. Horizon FX had been created by Gem Ali, a former Director of the Partnership. It was at this time that the Elite FX Limited

Partnership Offering Memorandum was amended and Elite FX Trading Inc. took over the management of the partnership and trading in foreign exchange contracts.

7. Of the remaining 35% of Limited Partners (the “**Elite Investors**”) in the Partnership, some had redeemed all or part of their investment prior to the appointment of the Former Judicial Trustee, while others had not redeemed any portion.
8. On January 16, 2008, Mr. Roland became aware that Razor FX was essentially a ponzi scheme whereby the new capital invested by parties was used to satisfy withdrawals or redemptions, and that Razor FX did not engage in any meaningful trading with the funds.
9. A principal of Razor FX, Bradley David Eisner, pleaded guilty to conspiracy to commit mail and wire fraud in proceedings commenced in the United States District Court, Eastern District of New York, Case No. 1:08-cr-00401 (the “**US Action**”) and has since been convicted in said action.
10. On March 20, 2009, the Former Judicial Trustee was granted an order which approved and set out the claims process and scheme of distribution.
11. On November 18, 2011, the Former Judicial Trustee obtained an order:
 - (a) Approving its final statement of receipts and disbursements;
 - (b) Approving (what the Former Judicial Trustee thought would be) the final distribution in the manner and in such amounts as set out in the Report of the Judicial Trustee dated October 20, 2011;
 - (c) Authorizing it to pay into Court to the credit of this proceeding any unclaimed distributions to Proven Creditors (as defined in the Former Judicial Trustee’s Final Report to the Court);
 - (d) Summarily approving its accounts;
 - (e) Summarily approving the accounts of its solicitors, Lawson Lundell LLP; and
 - (f) Stating that upon the Former Judicial Trustee disbursing the remaining assets of

Elite FX in accordance the Order, the Former Judicial Trustee was to be discharged without further order.

12. The Former Judicial Trustee subsequently completed its administration and made a final distribution to Investors on December 19, 2011. Thereafter the Former Judicial Trustee paid into Court any unclaimed distributions and was discharged.
13. On May 8, 2013, the Former Judicial Trustee received a cheque from the United States Treasury for the sum of \$63,683.03 (the "US Funds").
14. The US Funds appear to relate to the US Action.
15. Further, the notice accompanying the US Funds dated April 26, 2013, stated that the Former Judicial Trustee had been identified by the United States Probation Office, Eastern District of New York, as a "victim entitled to restitution in the [US Action]" and that the US Funds were issued "in accordance with a court order directing restitution to victims."
16. The Former Judicial Trustee intends to distribute the US Funds in the same manner as set out in the order granted herein on November 18, 2011 and seeks the approval of this Honorable Court to allow it to do so.

Part 3 LEGAL BASIS

17. Order pronounced herein October 9, 2008, appointing the Judicial Trustee;
18. Claims Process and Distribution Order pronounced herein March 20, 2009;
19. Order pronounced herein on November 18, 2011; and
20. The inherent jurisdiction of this Honourable Court.

Part 4: MATERIAL TO BE RELIED ON

21. Report to the Court of the Judicial Trustee dated October 20, 2011;
22. Affidavit #3 of John McEown sworn July 9, 2012; and

23. Affidavit of Cindy Curran sworn June 5, 2013.

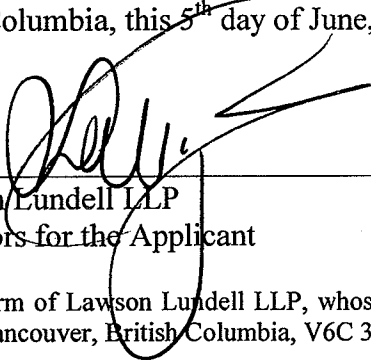
The Applicant estimates that the application will take 5 minutes.

- This matter is within the jurisdiction of a Master.
- This matter is not within the jurisdiction of a Master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days after service of this Notice of Application.

1. file an Application Response in Form 33,
2. file the original of every affidavit, and every other document, that
 - (a) you intend to refer to at the hearing of this application, and
 - (b) has not already been filed in the proceeding, and
3. serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (a) a copy of the filed Application Response;
 - (b) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (c) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated at the City of Vancouver, in the Province of British Columbia, this 5th day of June, 2013.



 Lawson Lundell LLP
 Solicitors for the Applicant

This Notice of Application is filed by Sarah J. Nelligan, of the law firm of Lawson Lundell LLP, whose place of business and address for delivery is 1600 – 925 West Georgia Street, Vancouver, British Columbia, V6C 3L2.

To be completed by the court only:

Order made

in the terms requested in paragraphs _____
of Part 1 of this Notice of Application

with the following variations and additional terms:

Date:

Signature of Judge Master

APPENDIX

The following information is provided for data collection purposes only and is of no legal effect.

THIS APPLICATION INVOLVES THE FOLLOWING:

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

No. S-086670
Vancouver Registry

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Attention: Sarah J. Nelligan