

ALBERTA SECURITIES COMMISSION

NOTICE OF HEARING

Citation: Sellars, Re, 2010 ABASC 105

Date: 20100310

Docket: E/04554

Securities Act, R.S.A. 2000, c. S-4, as amended (Act)

To: Penny Jean Sellars

Notice: The Alberta Securities Commission (**Commission**) will convene at 12:30 pm on Wednesday, the 14th day of April 2010, at Calgary, Alberta, to deal with any preliminary matters and to set a date for a hearing regarding the allegations in this Notice. At the hearing, the Commission will consider whether it is in the public interest to order:

- (i) Under subsection 198(1)(a) of the *Act*, that trading in or purchasing cease in respect of specified securities;
- (ii) Under subsection 198(1)(b) of the *Act*, that you cease trading in or purchasing securities;
- (iii) Under subsection 198(1)(b.2) of the *Act*, that you be reprimanded;
- (iv) Under subsection 198(1)(c) of the *Act*, that any or all of the exemptions contained in Alberta securities laws do not apply to you;
- (v) Under subsection 198(1)(d) and (e) of the *Act*, that you resign any positions that you hold as a director or officer of an issuer, registrant or investment fund manager and that you be prohibited from becoming or acting as a director or officer or as both a director and officer of any issuer, registrant, or investment fund manager;
- (vi) Under subsection 198(1)(e.3) of the *Act*, that you be prohibited from acting in a management or consultative capacity in connection with activities in the securities market;
- (vii) Under subsection 198(1)(i) of the *Act*, that you pay to the commission any amounts obtained or payments or losses avoided as a result of non-compliance with Alberta securities laws;
- (viii) Under subsection 199 of the *Act*, that you each pay an administrative penalty to the Commission;

(ix) Under subsections 202(1) and (2) of the *Act*, that you pay the costs of the investigation and hearing to the Commission; and

(x) Such further and other orders under Section 198 as the Commission deems appropriate.

Location: Alberta Securities Commission, 6th Floor, 300 – 5th Avenue SW, Calgary, Alberta.

Procedure:

1. You may obtain disclosure and particulars of the allegations in this Notice from Richard J. Finn, c/o Alberta Securities Commission, 4th Floor, 300 - 5 Avenue SW, Calgary, Alberta, T2P 3C4, telephone 403.297.4967
2. You may be represented by legal counsel and you or your counsel may make representations and introduce relevant evidence.
3. If you or your counsel fails to attend on April 14, 2010, at 12:30 pm, or as directed, the hearing may proceed in your absence and an order may be made against you without further notice.

See also section 29 of the Act and Commission Rule 15-501 – Rules of Practice and Procedure for Commission Proceedings.

Allegations

Summary of Breaches

- 1 Staff of the Commission (**Staff**) alleges that Penny Jean Sellars (**Sellars**) traded illegally, and engaged in an illegal distribution of, securities issued by Sellars Financial Inc. (**SFI**), a Calgary-based financial services company.
- 2 Staff alleges that Sellars made prohibited representations to Alberta investors.
- 3 Staff alleges that Sellars acted contrary to the public interest.

Parties

- 4 Sellars was an employee of SFI at all material times. She provided general operational support to the company as well as acting as a salesperson for securities issued by SFI.

Circumstances

Illegal Trading and Distribution

- 5 Staff alleges that between 2006 and 2008, Sellars offered for sale, and sold in Alberta to investors, Fixed Rate Term Notes issued by Sellars Financial Inc. (**SFI Notes**) with a total value of more than \$1,200,000.
- 6 The SFI Notes promised rates of return on investment that varied from 12% to 15% per annum, paid monthly. All of the SFI Notes sold to investors by Sellars had 12 month terms.
- 7 Staff alleges that the transactions undertaken by Sellars in relation to SFI Notes were trades, as defined in the *Act* and that, as these trades related to securities that had not previously been issued, they constituted distributions, as defined in the *Act*.
- 8 Staff alleges that Sellars personally earned more than \$34,000 as a direct result of her participation in the distribution of SFI Notes.
- 9 The investors who purchased SFI Notes from Sellars stopped receiving returns on their investments in December of 2008.
- 10 Sellars was not registered to sell securities at the time that she took part in the distribution of SFI Notes.
- 11 SFI has never filed a preliminary prospectus or prospectus with the Commission, or received a receipt for same.
- 12 Neither Sellars, nor SFI has ever filed a Report of Exempt Distribution with the Commission.
- 13 Sellars made no attempts to determine whether or not the investors to whom she sold SFI Notes were eligible to participate in an exempt distribution of securities.

Misrepresentations to Investors

14 Staff alleges that Sellars made misrepresentations to Alberta investors in the course of her involvement with the distribution of SFI Notes regarding the safety of these investments that she knew, or ought to have known, were untrue or misleading at the time that they were made, or that failed to include information or facts that would have rendered them not misleading. Staff further alleges that the misrepresentations made by Sellars to investors would have reasonably been expected to have a significant effect on the market price or value of the securities being sold.

Breaches

15 As a result of the above, Staff alleges that Sellars:

15.1 breached Section 75 of the *Act* by trading in securities of SFI without being registered to do so, and without an applicable exemption from this requirement; and

15.2 breached Section 92(4.1) of the *Act* by making misrepresentations to investors.

16 Staff further alleges that Sellars' conduct, as described above, was contrary to the public interest.

Calgary, Alberta, March 10 2010.

) ALBERTA SECURITIES COMMISSION
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) *“original signed by”*

) John P. Petch
) Director, Enforcement