

# ALBERTA SECURITIES COMMISSION

## NOTICE OF APPLICATION

**Citation: Re Felgate, 2018 ABASC 114**

**Date: 20180622**  
**Docket: ENF-011473**

**To:** Nicholas John Felgate (**Respondent**)

### **NOTICE:**

An application will be made to the Alberta Securities Commission (**Commission**) by Litigation Counsel of the Commission (**Staff**) on **Monday, July 9, 2018, at 10:00 a.m.** pursuant to sections 33 and 198 of the *Securities Act* RSA 2000, c S-4, as amended (**Act**) to consider whether it is in the public interest to extend the Interim Cease Trade Order granted in this matter on March 16, 2018 until any proceeding arising from the investigations and initiated pursuant to the Act, including a trial in respect of an offence, is finally determined or otherwise concluded.

### **GROUND FOR APPLICATION:**

In support of the application, Staff will rely on grounds that include the following:

1. The Respondent is not a registrant under the Act;
2. The Respondent has traded in securities without registration to Alberta investors;
3. Trades or acts in furtherance of trades, and distributions of securities in the Respondent's personal capacity to Alberta investors by the Respondent, have occurred as recently as February 16, 2018;
4. *Prima facie*, the Respondent has perpetrated a fraud:
  - 4.1 On February 16, 2018, the Respondent accepted approximately \$379,719.51 from a vulnerable senior citizen in exchange for a "personal cash asset agreement promise note";
  - 4.2 The Respondent then used \$188,344.82 of the \$379,719.51 for personal uses, including payments to The Art of Music at The Mirage in Las Vegas and American Classic Motors Inc. in Pennsylvania. He also transferred \$150,000 to his personal account at another bank;
  - 4.3 The Respondent subsequently accompanied the senior citizen to her bank to liquidate her investment account and transfer those monies to him for investment purposes;
  - 4.4 On February 27, 2018, a draft from a different individual with the memo "invest" in the amount of \$300,000 was made payable to the Respondent and on the same

day, the Respondent sent a wire transfer for \$300,000 to a company with the detail "payment of shareholder loan, personal asset agreement";

- 5. The Respondent is a threat to the integrity of the capital market in Alberta and its investing public, warranting continued protective action in the public interest; and
- 6. The investigation into the Respondent has continued since the Interim Cease Order was granted on March 16, 2018 and the threat remains extant, making the length of time required to conduct a trial in respect of an offence and to render a decision, prejudicial to the public interest.

**EVIDENCE IN SUPPORT OF APPLICATION:**

In support of this application, Staff is relying upon the affidavits of Shawn Taylor sworn February 27, 2018, March 1, 2018, March 7, 2018, March 13, 2018, and June 22, 2018 and filed with the Commission; and such further and other evidence as Staff may adduce and the Commission may permit.

**AUTHORITY FOR MOTION:**

Sections 33 and 198 of the *Securities Act*, RSA 2000, c S-4.

**LOCATION:**

The application will be made at the offices of the Commission, in a hearing room located on the 5<sup>th</sup> Floor, 250 – 5 Street SW, Calgary, Alberta, T2P 0R4. 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.

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| Calgary, Alberta, June 22, 2018. | ) | ALBERTA SECURITIES COMMISSION |
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|                                  | ) | <i>“Original Signed By”</i>   |
|                                  | ) | _____                         |
|                                  | ) | Kelli McAllister              |
|                                  | ) | Litigation Counsel            |

**TO: The Registrar**  
**AND TO: Nicholas John Felgate**