

ALBERTA SECURITIES COMMISSION

Citation: Re Ward, 2020 ABASC 74

Docket: ENF-011604

Date: 20200529

NOTICE OF HEARING

To: Shane Courtney Ward (**Respondent**)

Notice: The Alberta Securities Commission (the **Commission**) will convene at 2:00 p.m. on July 8, 2020, or as otherwise directed (the **Set Date Hearing**), at Calgary, Alberta, to set a date or dates for the conduct of a hearing regarding the allegations in this Notice (the **Merits Hearing**). At the Merits Hearing, the Commission will consider whether the allegations have been proven. If so, the Commission will subsequently consider whether it is in the public interest to make orders against you under sections 198, 199, and 202 of the *Securities Act*, RSA 2000, c. S-4, as amended (the *Act*).

Location: Alberta Securities Commission, 5th Floor, 250 – 5 Street SW, Calgary, Alberta.

Procedure:

1. You may obtain document disclosure and further information about particulars of the allegations in this Notice from Adam Karbani, c/o Alberta Securities Commission, 600, 250 - 5 Street SW, Calgary, Alberta, T2P 0R4, telephone: 403.592.8183, email: adam.karbani@asc.ca.
2. You may be represented by legal counsel or represent yourself. You or your legal counsel may make representations at the Set Date Hearing as part of the process for scheduling the Merits Hearing and the hearing management sessions that will take place between the Set Date Hearing and the Merits Hearing. At the Merits Hearing, you or your legal counsel may make representations and introduce relevant evidence regarding the allegations in this Notice.
3. If you or your legal counsel fail to attend the Set Date Hearing, the scheduling of the Merits Hearing and the hearing management sessions may proceed in your absence without further notice, and the Merits Hearing itself may proceed in your absence without further notice, following which orders may be made against you.

See attached sections 29, 92(4.1), 93(1)(b), 110, 198, 199, and 202 of the Act, and Commission Rule 15-501 – Rules of Practice and Procedure for Commission Proceedings.

Reciprocation: Take notice that orders or settlements made by the Commission may form the basis for parallel orders in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions may allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to you. If an order is made or a settlement agreement is reached in relation to this Notice, you should contact the securities regulator of any other jurisdiction in which you may intend to engage in any securities related activities.

Allegations:

Parties

1. Shane Courtney Ward (**Ward**) is an individual and resident of Edmonton, Alberta. Ward raised capital from the public using a registered trade name, Engineered Wealth (**E-Wealth**).
2. Ward was the sole declarant and sole proprietor of E-Wealth and he authorized or carried out all acts in the name of E-Wealth.

Circumstances

3. Ward promoted E-Wealth as an opportunity to invest in exempt market securities for sophisticated and accredited investors, business associates, and close family and friends.
4. In February 2011, Ward began selling E-Wealth units for \$5,000 per unit. Ward described the investment strategy for E-Wealth as a proprietary trading strategy, which combined advantages from various investment strategies.
5. Ward raised investment capital by selling units in E-Wealth to, and by entering into investment loan agreements and promissory notes with investors.
6. Each of the E-Wealth units, promissory notes, and investment loan agreements (collectively, the **Securities**) are a security within the meaning of section 1 (ggg) the *Act*.
7. Between February 2011 and April 2018 (the **Relevant Period**), Ward operated a purported investment business under the name of E-Wealth (the **E-Wealth Scheme**) in non-compliance with Alberta securities laws. Throughout the Relevant Period, Ward solicited investment funds from individuals without a prospectus and without ensuring all investors qualified for prospectus exemptions.
8. As part of the E-Wealth Scheme, Ward encouraged investors to purchase Securities by advising them their principal would be protected, they would receive specified rates of return, and their investment funds would be used for investing and trading securities according to E-Wealth's proprietary trading strategy.

9. Further, on several occasions within the Relevant Period, Ward converted investors' funds to personal uses, contrary to statements he made to investors that their principal would be protected and invested.
10. As part of the E-Wealth Scheme, Ward provided investors with account statements that purported to confirm they had earned the promised returns in order to encourage investors to reinvest their principal, and to solicit additional funds for a "top-up" investment. In reality, but unbeknownst to investors, the investments were not earning the stated returns, and their investment principal was ultimately lost when the E-Wealth Scheme collapsed in late 2017.
11. In carrying out the E-Wealth Scheme, Ward engaged in a continuing course of conduct in breach of Alberta securities laws. As more particularly set out below, throughout the Relevant Period Ward engaged in illegal distributions, made false and misleading statements to investors, and used investor funds in unauthorized ways that were contrary to his representations to investors, including misappropriating investor funds for his personal use.

Illegal Distributions

12. During the Relevant Period, Ward raised approximately \$819,000 in capital for E-Wealth by selling E-Wealth Securities to 22 investors, 21 of whom were Alberta residents (the **Distributions**).
13. As trades in securities of an issuer that had not been previously issued, the sales of the Securities were "distributions" as defined in the *Act*.
14. At no time did E-Wealth file a preliminary prospectus or prospectus with the Executive Director of the Alberta Securities Commission, or receive a receipt for same, in respect of the Distributions.
15. The Respondent purportedly relied upon the prospectus exemptions under National Instrument 45-106, *Prospectus Exemptions*, and in particular the family, friends, and business associates exemption as well as the accredited investor exemption, but failed to qualify investors for these exemptions in connection with the Distributions.
16. For many of the Distributions, prospectus exemptions were not available.

Misleading Statements

17. During the Relevant Period, from approximately February 26, 2012 to August 15, 2017, Ward communicated to existing or prospective investors statements including:
 - 17.1 Investors would have principal protection;
 - 17.2 Investors would, and did, earn specified rates of return; and

17.3 Investors' funds would be used for specified purposes, namely investing and trading using Ward's proprietary trading strategy.

(collectively, the **E-Wealth Statements**).

18. The E-Wealth Statements are statements within the meaning of section 92(4.1) of the *Act*.
19. The E-Wealth Statements were misleading or untrue, or failed to contain a fact required to make the E-Wealth Statements not misleading. The true facts included the following:
- 19.1 Ward could not reasonably offer principal protection to investors because he used investor funds in a manner that carried a high level of risk, investing primarily in binary options, forex, real estate and futures;
- 19.2 Ward could not reasonably offer specific rates of return to investors because he used investor funds in a manner that carried a high level of risk;
- 19.3 The account statements Ward sent to investors showing purported returns on their invested principal were fictitious; and
- 19.4 Ward improperly diverted investor funds from E-Wealth investment activities and used them for personal or other unauthorized purposes.

Misleading Statements were Material

20. The E-Wealth Statements were material and would reasonably be expected to have a significant effect on the market price or value of the Securities because:
- 20.1 Ward persuaded investors to invest in E-Wealth based on the E-Wealth Statements;
- 20.2 Ward told investors that the level of risk of the Securities was very low or non-existent; and
- 20.3 Ward told investors, or otherwise led them to believe, that their investment funds would be used exclusively for E-Wealth investment activities and did not advise them that he would use investor funds for his personal use.

Ward had Knowledge that Statements were Materially Misleading

21. Ward directly or indirectly conveyed the E-Wealth Statements to investors.
22. Ward made the E-Wealth Statements when he knew or reasonably ought to have known the true facts set out in paragraph 19 above, and therefore, Ward knew the E-Wealth Statements were misleading or untrue.
23. Based upon the facts set out in paragraph 20 above, Ward knew or reasonably ought to have known investors were more likely to invest in E-Wealth if they were promised principal protection and/or specific rates of return.

Fraudulent Course of Conduct

24. From approximately July 2013 to April 2018, Ward:
- 24.1 Provided false and misleading information to certain investors regarding the Securities; and
- 24.2 Misappropriated certain investor funds for personal and/or unauthorized uses;
- (collectively, the **Prohibited Acts**).
25. More particularly with respect to paragraph 24.1, Ward knew that principal provided by investors was not protected nor could he offer specific rates of returns, which was contrary to what he told investors. Ward also provided investors with fictitious account statements as described in paragraph 10 above.
26. More particularly with respect to paragraph 24.2, between July 2013 and April 2018, Ward deposited or transferred a minimum of \$110,000 in investment principal from investors directly to his personal bank accounts. A substantial portion of these funds were used for personal expenses or other unauthorized uses such as personal loan payments, credit card payments, utility payments and cash withdrawals.
27. In carrying out the Prohibited Acts, Ward deceived investors in that he did not advise them that their funds would be, or had been, used directly or indirectly for his personal use or other unauthorized uses.

Investors' Pecuniary Interest at Risk

28. In carrying out the Prohibited Acts, Ward put the investors' pecuniary interest at risk. Further, the Prohibited Acts resulted in actual deprivation to investors, as several lost their entire principal investment and received no returns.

Ward had Knowledge of the Fraud and Deprivation

29. Ward, by engaging in the Prohibited Acts, had subjective knowledge of the Prohibited Acts.
30. Ward knew or reasonably ought to have known that engaging in the Prohibited Acts could have, as a consequence, investor losses or investors' pecuniary interest being put at risk.
31. In carrying out the Prohibited Acts, Ward engaged in acts, practices, or a course of conduct that he knew or ought to have known may perpetrate a fraud on E-Wealth investors within the meaning of the *Act*.

Breaches

32. As a result of the actions and circumstances set out above, Ward breached:
- 32.1 Section 110(1) of the *Act* by distributing securities of E-Wealth without having filed and received a receipt for a preliminary prospectus or a prospectus, and without an exemption from that requirement for some or all of the relevant distributions of securities;
 - 32.2 Section 92(4.1) of the *Act* by making statements that he knew or reasonably ought to have known were, in a material respect, misleading or untrue, did not state facts that were required to be stated or necessary to make the statements not misleading, and would reasonably be expected to have a significant effect on the market price or value of a security; and
 - 32.3 Section 93(1)(b) of the *Act* by directly or indirectly engaging or participating in an act, practice or course of conduct relating to securities that he knew or ought to have known may perpetrate a fraud on investors.

Calgary, Alberta, 29th May, 2020.

) ALBERTA SECURITIES COMMISSION
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) “*Original signed by*”
) _____
) David C. Linder, Q.C.
) Executive Director