

**In the Matter of
*The Securities Act, 1988***

and

**In the Matter of
Adele Kaminsky, carrying on business as
AK Financial Planning Services**

**STATEMENT OF ALLEGATIONS
OF STAFF OF THE FINANCIAL AND CONSUMER AFFAIRS
AUTHORITY OF SASKATCHEWAN**

To: **Adele Kaminsky, carrying on business as AK Financial Planning Services**

Staff of the Financial and Consumer Affairs Authority of Saskatchewan (Staff of the FCAA)
make the following allegations:

The Respondent

1. The Respondent, Adele Kaminsky (Kaminsky) is a resident of North Battleford, Saskatchewan.
2. At all relevant times, Kaminsky operated as financial planner, under the business name AK Financial Planning Services.
3. At various times between 2009 and 2012, the business name “AK Financial Planning Services” was registered with Information Services Corporation in Saskatchewan as a sole proprietorship. The registration of this name last expired on or about November 19, 2012.
4. From in or around 2003 to in or around March 2013, Kaminsky was employed by a registered mutual fund dealer (the Registered Dealer). Throughout this time, Kaminsky was registered with Financial and Consumer Affairs Authority of Saskatchewan (the Authority) first as a salesperson, then as a dealing representative of a registered mutual fund dealer.
5. Kaminsky has not been registered in any capacity with the Authority since or about March 5, 2013 to date.

4x Investment Funds

Contraventions of section 27 and 58 of *The Securities Act, 1988* (the Act)

6. From in or around 2007 to in or around 2013, Kaminsky acted as a dealer and an investment fund manager in Saskatchewan, the details of which include, but are not limited to, the following:
 - a. From in or around 2007 to in or around 2013, Kaminsky received approximately \$87,000 from Saskatchewan investors which she deposited into an investment fund or investment funds. Kaminsky had the power to direct and exercised the responsibilities of directing the affairs of said investment fund or investment funds. The details of certain of these transactions include, but are not limited to, the following:
 - i. On or about June 21, 2007, Kaminsky entered into an agreement (the First 4X Agreement) with a Saskatchewan resident, Investor 1. Pursuant to the First 4X Agreement, Investor 1 was to provide Kaminsky with monies, which would be deposited “with the Investment Pool Account managed solely by Adele Kaminsky”. Kaminsky agreed to make foreign currency trades with the monies deposited, and Investor 1’s returns would “be calculated according to the percentage owned within the Investment Pool Account”. Investor 1 agreed to pay Kaminsky trading and management fees of 2% per month;
 - ii. On or about October 16, 2007, Investor 1 entered into a similar agreement (the Second 4X Agreement) with Kaminsky on behalf of his daughter;
 - iii. On or about January 22, 2008, Investor 1 entered into a similar agreement (the Third 4X Agreement) with Kaminsky on behalf of his son;
 - iv. From in or around 2007 to in or around 2013, Investor 1 deposited with Kaminsky, approximately \$20,500 pursuant to the First 4X Agreement, approximately \$23,000 pursuant to the Second 4X Agreement, and approximately \$12,500 pursuant to the Third 4X Agreement;
 - v. From in or around 2008 to in or around 2012, Kaminsky received and managed approximately \$7,000, invested by a Saskatchewan resident, Investor 2, in an investment fund managed by Kaminsky.
 - vi. From in or around 2008 to in or around 2012, Kaminsky received and managed approximately \$5,500, invested by a Saskatchewan resident, Investor 3, in an investment fund managed by Kaminsky;
 - vii. From in or around 2006 to in or around 2012, Kaminsky received and managed approximately \$10,000 invested by Saskatchewan residents Investors 4 and 5, in an investment fund managed by Kaminsky;
 - viii. From in or around 2006 to in or around 2012, Kaminsky received and

managed at least \$10,000, invested by a Saskatchewan resident, Investor 6, in an investment fund managed by Kaminsky; and

- ix. From in or around 2008 to in or around 2012, Kaminsky received and managed approximately \$4,500, invested by a Saskatchewan resident, Investor 8, in an investment fund managed by Kaminsky.
- 7. Kaminsky has never been registered as an “investment fund manager” pursuant to the Act, and as such, from in or around 2009 to in or around 2013, contravened subsection 27(2)(c) of the Act when she engaged in the activities set out in paragraph 6, above.
- 8. In carrying out the acts indicated in paragraph 6, above, Kaminsky sold investment contracts (the Investments), and as such, from in or around 2008 to in or around 2009, traded in securities in Saskatchewan, and from in or around 2009 to in or around 2012, engaged in the business of trading in securities in Saskatchewan.
- 9. Although Kaminsky was registered as a dealing representative of the Registered Dealer while engaging in these trades, the securities traded by Kaminsky were not securities that the Registered Dealer was permitted to trade or underwrite. Therefore, Kaminsky has contravened clause 27(2)(a) of the Act, and section 2.1 of National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103), as well as clause 27(1)(a) of the Act (as was applicable at the relevant times).
- 10. The trades by Kaminsky, referred to in paragraph 6, above, related to securities that had not previously been issued, and as such, related to distributions under the Act.
- 11. No preliminary prospectus relating to the distribution of the Investments was filed, and no receipts were issued for the same. No prospectus relating to the distribution of the Investments was filed and no receipts were issued for the same. Therefore, Kaminsky contravened subsection 58(1) of the Act.
- 12. Kaminsky did not file any reports pursuant to section 6.1 of National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106) claiming any of the exemptions in NI 45-106.

“Enviro-Can Private Placement”

Contraventions of section 55.1 of the Act

- 13. Kaminsky directly engaged in acts or courses of action relating to securities that she knew or reasonably ought to have known perpetrated a fraud on a number of persons resident in Saskatchewan, the details of which include, but are not limited to, the following:
 - a. From in or around 2009 to in or around 2013 (the Relevant Time), Kaminsky raised approximately \$500,000 from approximately seven residents of Saskatchewan, including Investors 1 and 2 (the Investors), through sales of securities;
 - b. The Investors were clients of the Registered Dealer whom Kaminsky had met

through her work as a salesperson or dealing representative with the Registered Dealer;

- c. Kaminsky provided the Investors with a document entitled "Enviro-Can Private Placement Summary" which stated, *inter alia*, "Enviro-Can is a pool of financial advisors and brokers who have come together to offer guaranteed and equity investments for private investors.";
- d. After meeting with Kaminsky and being given a copy of the document entitled "Enviro-Can Private Placement Summary", each of the Investors filled out and signed a subscription form (each, an Investment Agreement), indicating their desire to subscribe for a stated sum "in the Enviro-Can Private Placement";
- e. The Investment Agreements provided four options for investors: (1) "1 year guaranteed investment at 4.5%" (2) "2 year guaranteed investment at 5.5%" (3) "3 year guaranteed investment at 7.0%" or (4) "5 year guaranteed investment at 8% plus equity option";
- f. The Investment Agreements were sold by Kaminsky to the Investors off-book, without the knowledge of the Registered Dealer;
- g. The Investment Agreements were not securities that the Registered Dealer was permitted to trade or underwrite;
- h. Kaminsky made no efforts to notify the Investors that the Investment Agreements were not securities the Registered Dealer was permitted to trade or underwrite;
- i. Kaminsky advised the Investors to make payments pursuant the Investment Agreements directly to her in her personal name;
- j. Throughout the Relevant Time, Kaminsky took each payment made by the Investors pursuant to the Investment Agreements, and deposited the same into one of her personal bank accounts;
- k. Kaminsky knowingly misappropriated the Investors' funds, converting the same to her own sole use and benefit;
- l. From time to time throughout the Relevant Time, Kaminsky provided the Investors with statements indicating supposed growth on the funds invested pursuant to the Investment Agreements;
- m. In reality, the funds supposedly invested pursuant to the Investment Agreements were never invested and never saw any growth, but rather, were arrogated by Kaminsky for her personal use;
- n. Kaminsky never set up, managed, or had any role with an actual private placement called Enviro-Can Private Placement;
- o. At no time during the Relevant Time did Kaminsky advise the Investors that there was no private placement called Enviro-Can Private Placement or that their

investment funds were being used by Kaminsky, personally; and

- p. As a result of Kaminsky's misappropriation of the Investors' funds, the Investors have been deprived of the value of their investments and their economic interests have been severely prejudiced.
14. As laid out in paragraph 13, Kaminsky knowingly and willfully committed dishonest and deceitful acts which directly deprived the Investors of the value of their investments. As such, Kaminsky engaged in acts or a course of action relating to securities that she knew or reasonably ought to have known perpetrated a fraud on a person, contrary to subsection 55.1(b) of the Act.

Contraventions of section 55.11 of the Act

15. Throughout the Relevant Time, Kaminsky made numerous statements to investors, which include, but are not limited to, the following:
- a. Kaminsky told Investor 2 that she was investing in a private placement called Enviro-Can Private Placement, which was a guaranteed investment paying an annual return of 4.5%;
 - b. Kaminsky told Investor 2 that Enviro-Can Private Placement was a good investment;
 - c. Kaminsky provided the Investors with a document entitled "Enviro-Can Private Placement Summary" which stated, *inter alia*, "Enviro-Can is a pool of financial advisors and brokers who have come together to offer guaranteed and equity investments for private investors.";
 - d. Kaminsky told one of the Investors, Investor 8, that her investment in the Enviro-Can Private Placement would be secured by the Canadian Deposit Insurance Corporation;
 - e. Kaminsky told one of the Investors, Investor 9, that she had 300,000 shares of Enviro-Can Private Placement to sell to clients;
 - f. Kaminsky told Investor 9 that her investment in the Enviro-Can Private Placement was covered under the Canada Deposit Association; and
 - g. Kaminsky told one of the Investors, Investor 10, that the capital she invested in the Enviro-Can Private Placement could not be lost as it was guaranteed.
16. The statements made by Kaminsky, referred to in paragraphs 13 and 15, above, where made by Kaminsky while she knew, or reasonably ought to have known, they were either misleading or untrue in material respects, at the time and in light of the circumstances in which they were made. The statements would reasonably be expected to have a significant effect on the market price or value of the Investment Agreements, and as such, Kaminsky has contravened subsection 55.11(1) of the Act.

Further Contraventions of sections 27 and 58 of the Act

17. In carrying out the acts indicated in paragraph 13, above, Kaminsky engaged in the business of trading in securities in Saskatchewan. Although Kaminsky was registered as a dealing representative of the Registered Dealer while engaging in these trades, the securities traded by Kaminsky were not securities that the Registered Dealer was permitted to trade or underwrite. Therefore, Kaminsky has contravened section 2.1 of National Instrument 31-103 *Registration Requirements and Exemptions* (NI 31-103), as well as clause 27(2)(a) of the Act.
18. In carrying out the acts indicated in paragraphs 13 and 15, above, Kaminsky engaged in the business of advising residents of Saskatchewan as to the investing in securities. Kaminsky has never been registered as an “adviser”, pursuant to the Act, and therefore, contravened clause 27(2)(b) of the Act.
19. The trades by Kaminsky, referred to in paragraph 13, above, related to securities that had not previously been issued, and as such, related to distributions under the Act.
20. No preliminary prospectus relating to the distribution of the Investment Agreements was filed, and no receipts were issued for the same. No prospectus relating to the distribution of the Investment Agreements was filed and no receipts were issued for the same. Therefore, Kaminsky contravened subsection 58(1) of the Act.
21. Kaminsky did not file any reports pursuant to section 6.1 of National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106) claiming any of the exemptions in NI 45-106.

Relief Sought

22. Based on the above, Staff of the FCAA ask the hearing panel to consider whether it is in the public interest to make the following orders:
 - a. Pursuant to clause 134(1)(a) of the Act, all of the exemptions in Saskatchewan securities laws do not apply to Kaminsky;
 - b. Pursuant to clause 134(1)(d) of the Act, Kaminsky shall cease trading in any securities or exchange contracts in Saskatchewan;
 - c. Pursuant to clause 134(1)(d.1) of the Act, Kaminsky shall cease acquiring securities for and on behalf of residents of Saskatchewan;
 - d. Pursuant to clause 134(1)(e) of the Act, Kaminsky shall cease giving advice respecting securities, trades or exchange contracts in Saskatchewan;
 - e. Pursuant to clause 134(1)(h)(i) of the act, Kaminsky shall resign any position that she holds as director or officer of any issuer, registrant or investment fund manager;
 - f. Pursuant to clause 134(1)(h)(ii) of the Act, Kaminsky shall be prohibited from becoming or acting as a director or officer of any issuer, registrant or investment

fund manager;

- g. Pursuant to clause 134(1)(h)(iii) of the Act, Kaminsky shall not be employed by any issuer, registrant or investment fund manager in any capacity that would allow her to trade or advise in securities;
- h. Pursuant to clause 134(1)(h.1) of the Act, Kaminsky is prohibited from becoming or acting as a registrant, an investment fund manager or a promoter;
- i. Pursuant to section 135.1 of the Act, Kaminsky shall pay an administrative penalty to the Authority, in the amount of \$100,000.00;
- j. Pursuant to section 135.6 of the Act, Kaminsky shall pay financial compensation to each person or company found to have sustained financial loss as a result, in whole or in part, of Kaminsky's contraventions of the Act, in amounts to be determined; and
- k. Pursuant to section 161 of the Act, Kaminsky shall pay the costs of or relating to this hearing in this matter.

DATED at Regina, Saskatchewan, this 26 day of March, 2014.



Dean Murrison
Director,
Securities Division