



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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**IN THE MATTER OF  
JEAN-SMAILLE GERMEIL and  
FPE TRADING**

**STATEMENT OF ALLEGATIONS  
(Subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990 c S.5)**

1. Staff of the Enforcement Branch (**Staff**) of the Ontario Securities Commission (the **Commission**) elect to proceed using the expedited procedure for inter-jurisdictional proceedings as set out in Rule 11(3) of the Commission's *Rules of Procedure*.
- A. ORDER SOUGHT**
2. Staff request that the Commission make the following inter-jurisdictional enforcement order, pursuant to paragraph 4 of subsection 127(10) of the Ontario *Securities Act*, RSO 1990 c S.5 (the **Act**):
    - (a) against Jean-Smaille Germeil (**Germeil**) that:
      - i. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Germeil cease permanently, other than securities or derivatives beneficially owned by him;
      - ii. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Germeil permanently;

- iii. pursuant to paragraph 7 of subsection 127(1) of the Act, Germeil resign any positions that he holds as a director or officer of any issuer;
  - iv. pursuant to paragraph 8 of subsection 127(1) of the Act, Germeil be prohibited permanently from becoming or acting as a director or officer of any issuer; and
  - v. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Germeil be prohibited permanently from becoming or acting as a registrant or promoter;
- (b) against FPE Trading that:
- i. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by FPE Trading cease permanently, other than securities or derivatives beneficially owned by it;
  - ii. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to FPE Trading permanently; and
  - iii. pursuant to paragraph 8.5 of subsection 127(1) of the Act, FPE Trading be prohibited permanently from becoming or acting as a registrant or promoter;
- (c) such other order or orders as the Commission considers appropriate.

## **B. FACTS**

Staff make the following allegations of fact:

3. Germeil and FPE Trading (together, the **Respondents**) are subject to an order of the Nova Scotia Securities Commission (the **NSSC**) dated May 27, 2019 (the **NSSC Order**) that imposes sanctions, conditions, restrictions or requirements upon them.

4. In its findings on liability dated March 27, 2019 (the **Findings**) a panel of the NSSC (the **NSSC Panel**) found that the Respondents acted as a dealer without registration and without any available exemption from doing so, contrary to subsection 31(1) of the *Nova Scotia Securities Act*, RSNS 1989, c 418, as amended (the **Nova Scotia Securities Act**).
5. The NSSC Panel also found that the Respondents engaged in an illegal distribution of securities and engaged in unfair practices, contrary to subsections 58(1) and 44A(2), respectively, of the *Nova Scotia Securities Act*.
6. The NSSC Panel further found that the Respondents made untrue and misleading statements, contrary to subsection 50(2) of the *Nova Scotia Securities Act*, and that their conduct was contrary to the public interest.

**(i) The NSSC Proceedings**

*Background*

7. The conduct for which the Respondents were sanctioned occurred between June 2013 and January 2015 (the **Material Time**).
8. During the Material Time, Germeil was a resident of Nova Scotia.
9. Germeil was not registered with the NSSC in any capacity during the Material Time.
10. On October 3, 2013, FPE Trading was registered as a partnership/business name with the Nova Scotia Registry of Joint Stock Companies (the **NS Registry**), and its business was noted as online currency trading. Germeil was listed as partner of FPE Trading, and during the Material Time, he was its directing mind. On December 4, 2014, the status of FPE Trading with the NS Registry was "revoked for non payment."

11. FPE Trading was not registered in any capacity, and it did not file a preliminary prospectus or prospectus with the NSSC during the Material Time, nor was it exempt from doing so.
12. During the Material Time, the Respondents solicited investments from three residents of Ontario and one resident of Nova Scotia (the **Investors**). Germeil promoted FPE Trading to the Investors as a foreign currency trading opportunity.

#### **Investors AA, BB and CC**

- (a) Investors AA, BB and CC were residents of Ontario. During the Material Time, they collectively invested \$37,000 with the Respondents, for which they received no prospectus nor account opening documentation. Investors AA, BB and CC each received emails from the Respondents reflecting growth in their respective investments. After requesting a withdrawal of funds from their accounts, Investor AA and CC received \$9,500 and \$1,300, respectively, from the Respondents. Neither principal nor interest was returned to Investor BB.
- (b) The NSSC Panel found that Investors AA and CC's funds were comingled into personal bank accounts controlled by Germeil, and used by Germeil for day-to-day expenses without their consent or knowledge.

#### **Investor DD**

- (c) Investor DD was a resident of Nova Scotia. During the Material Time, Investor DD invested \$500 with the Respondents, and signed a contract with FPE Trading documenting the investment. Investor DD received no prospectus from the Respondents.
13. The NSSC Panel found that the Respondents engaged in unfair practices by, among other things, not discussing the risks associated with currency trading

with the investors, and telling one investor that the Respondents were regulated by the Investment Industry Regulatory Organization of Canada (IIROC) and the Canadian Investor Protection Fund (CIPF), when there was no evidence of this. Further, the NSSC Panel found that investors received communications from the Respondents containing representations of unrealistic returns, absent any details of the transactions or investments purportedly made on their behalf.

#### *NSSC Findings - Conclusions*

14. In its Findings, the NSSC Panel concluded that:

- (a) the Respondents acted as a dealer without being registered to do so and without an available exemption from the dealer registration requirement, contrary to subsection 31 (1) of the *Nova Scotia Securities Act*;
- (b) the Respondents distributed securities when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for them by the NSSC's Director and without an available exemption from the prospectus requirements, contrary to subsection 58(1) of the *Nova Scotia Securities Act*;
- (c) the Respondents engaged in unfair practices contrary to subsection 44A(2) of the *Nova Scotia Securities Act*;
- (d) the Respondents made untrue and misleading statements contrary to subsection 50(2) of the *Nova Scotia Securities Act*; and
- (e) the Respondents' conduct was contrary to the public interest and harmful to the integrity of the Nova Scotia capital markets.

#### **(ii) The NSSC Order**

15. The NSSC Order imposed the following sanctions, conditions, restrictions or requirements upon the Respondents:

- (a) pursuant to clause 134(1)(a) of the Nova Scotia *Securities Act*, the Respondents comply with and cease contravening Nova Scotia securities laws;
- (b) pursuant to clause 134(1)(b) of the Nova Scotia *Securities Act*, the Respondents permanently cease trading in securities of any issuer, other than securities beneficially owned by the Respondents;
- (c) pursuant to clause 134(1)(c) of the Nova Scotia *Securities Act*, any or all of the exemptions contained in Nova Scotia securities laws do not apply to the Respondents permanently;
- (d) pursuant to clause 134(1)(d) of the Nova Scotia *Securities Act*, Germeil be permanently prohibited from becoming or acting as a director or officer of an issuer;
- (e) pursuant to clause 134(1)(g) of the Nova Scotia *Securities Act*, the Respondents be permanently prohibited from becoming or acting as a registrant, investment fund manager, or promoter;
- (f) pursuant to clause 134(1)(h) of the Nova Scotia *Securities Act*, the Respondents be reprimanded;
- (g) pursuant to section 135 of the Nova Scotia *Securities Act*, the Respondents, jointly and severally, pay to the NSSC an administrative penalty of \$150,000; and
- (h) pursuant to section 135A of the Nova Scotia *Securities Act*, the Respondents, jointly and severally, pay costs in connection with the NSSC's investigation and conduct of its proceeding in the amount of \$15,000.

### **C. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION**

16. The Respondents are subject to an order of the NSSC imposing sanctions, conditions, restrictions or requirements upon them.

17. Pursuant to paragraph 4 of subsection 127(10) of the Act, an order made by a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on a person or company may form the basis for an order in the public interest made under subsection 127(1) of the Act.
18. Staff allege that it is in the public interest to make an order against the Respondents.
19. Staff reserve the right to amend these allegations and to make such further and other allegations as Staff deem fit and the Commission may permit.

**DATED** at Toronto this 16<sup>th</sup> day of July, 2019.

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