

**DECISION OF A PANEL APPOINTED PURSUANT TO *THE FINANCIAL AND CONSUMERS AFFAIRS
AUTHORITY OF SASKATCHEWAN ACT***

In the Matter of
THE SECURITIES ACT, 1988

and

In the Matter of
AIDAN TRADING
and
CATALYST CM LIMITED, and
PETER JENSEN

Hearing held: **March 15, 2019**

Panel: **Howard Crofts (Chairperson), The Honourable John Klebuc, Q.C. and Peter
Carton (the “Panel”)**

Appearances: **Dallas Smith (Counsel for Staff of the Financial and Consumer Affairs
Authority of Saskatchewan)**

**No one appeared on behalf of the Respondents, Catalyst CM Limited and
Peter Jensen**

Date of Decision: **March 25, 2019**

WHEREAS by way of Statement of Allegations dated November 23, 2018, the Staff of the Financial and Consumer Affairs Authority (FCAA) identified actions by Aidan Trading, Catalyst CM Limited and Peter Jensen (the Respondents) that contravened s. 27(2) of *The Securities Act of Saskatchewan, 1988, c. 542-2* (“the Act”).

AND WHEREAS, pursuant to section 17 of *The Financial and Consumer Affairs Authority of Saskatchewan Act* (FCAA Act) the Chairperson of the Financial and Consumer Affairs Authority of Saskatchewan (the Authority) appointed a Hearing Panel comprised of Messrs. Howard Crofts, (Chairperson), Peter Carton and The Honourable John Klebuc, Q.C. for the purpose of conducting a hearing during which FCAA Staff and the Respondents could present evidence and make submissions regarding the matters raised in the Statement of Allegations;

AND WHEREAS, by virtue of subsection 17 (7) of the FCAA Act, the decision or action of the Hearing Panel in relation to this matter is a decision of the Authority;

AND WHEREAS by Order Setting Hearing Date, dated November 30, 2018, the Hearing Panel ordered the hearing be conducted in regard to the allegations raised in the Statement of Allegations by Staff of the FCAA and that the hearing shall be held at the Authority's Hearing Room, 7th Floor, 1919 Saskatchewan Drive, Regina, Saskatchewan, commencing at 9:00 AM (CST) on Friday, March 15, 2019 or such dates and times as may be determined by the Hearing Panel.

PRELIMINARY MATTERS:

The affidavits of service and sending filed in these proceedings with FCAA Staff and the Registrar of FCAA satisfied the Hearing Panel that the Respondents received proper notice of the proceeding at their respective last known email addresses and were aware of the time and place of the Hearing. Accordingly, the Chairperson determined the hearing to be duly constituted notwithstanding the absence of Aidan Trading, Catalyst CM Limited, Peter Jensen, or anyone appearing on their behalf.

THE HEARING:

1. On behalf of the Authority, FCAA Staff presented the Statement of Allegations dated November 23, 2018 that alleges that the Respondents:
 - (a) “engaged in the business of advising another as to the investing in or the buying or selling of securities or derivatives in Saskatchewan”, and
 - (b) “from time to time from in or around July 2017 to in or around March 2018, Aidan Trading, Catalyst and Jensen acted as dealers as defined in the Act by engaging in the business of trading in securities or derivatives or holding themselves out as engaging in the business of trading in securities or derivatives in Saskatchewan”,these activities in violation of section 27(2) of *The Securities Act, 1988*.
2. In the Statement of Allegations, FCAA Staff asked the 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 the Respondents;

(b) Pursuant to subsection 134(1)(d) of the Act, the Respondents shall cease trading in securities or derivatives in Saskatchewan;

(c) Pursuant to sub-section 134(1)(d.1) of the Act, the Respondents shall cease acquiring securities or derivatives for and on behalf of residents of Saskatchewan;

(d) Pursuant to sub-section 134(1)(e) of the Act, Jensen and Aidan Trading shall cease giving advice respecting any securities, trades or derivatives;

(e) Pursuant to section 135.1 of the Act, the Respondents shall pay an administrative penalty to the Financial and Consumer Affairs Authority of Saskatchewan, in the amount of \$25,000; and

(f) Pursuant to section 161 of the Act, the Respondents shall pay the costs of or relating to the hearing in this matter.

EVIDENCE PRESENTED TO THE PANEL:

3. [REDACTED], an investigator who works in the Securities Division of the FCAA testified before the Panel. His testimony summarized his investigation into the business activities of the Respondents and their interactions with a Saskatchewan resident identified in the Statement of Allegations as Investor 1.

4. The evidence presented by [REDACTED] included information provided by Investor 1 who contacted the Securities Division of the FCAA and reported that he had been contacted approximately every three or four months by telephone between July 2017 and February 2018 by Respondent Jenkins and on these occasions, Jensen solicited Investor 1 to open a trading account with Aidan and invest in heating oil options.

5. Staff provided a visual presentation of screenshots of the Aidan website (www.aidantrading.com) that was in operation during the time of their investigation. The screenshots displayed the following:

(a) the home page of Aidan's website showed its functionalities to view Aidan's products and services (the trading platform, education, the Company, Accounts, Risk, Contact, Login and APPLY ONLINE).

(b) the "Products" tab on the website described Aidan's multi-product offerings, including foreign exchange options (Forex), contracts for difference (CFD) and Forex Spot Trading.

(c) the “Platform” tab on the website identified Aidan’s trading platform, named CatalystPro that described the functionalities of the trading platform.

(d) the “Company” tab on the website described Aidan’s corporate history and services and stated that the Company “offer a trading facility on a wide range of financial instruments ranging from foreign exchange, foreign exchange options, to Contracts for Difference (CFDs) on stocks.”

6. [REDACTED] testified that when the “Accounts” tab on the website was clicked on, a page opened that detailed the information in the customer account application section and a “please click here” option which would open a 20-page Customer Account Application to create a trading account with Catalyst on its trading platform.
7. The website presentation identified that if one was on the Aidan Trading website and clicked on the Customer tab, one would be directed to Catalyst to open a trading account, thereby linking Aidan and Catalyst with one-another or one in the same.
8. On February 28, 2018 at 8:04:15 pm Saskatchewan time, Investor 1 received an email from Aidan Trading – Peter Jensen (via an email from nancy@aidantrading.com) with the subject line “Aidan Trading- Peter Jensen” promoting the services offered by Aidan and inviting Investor 1 to visit the Aidan website, contact an Aidan specialist if he had questions or concerns and directing him to an “online form” to apply to open an account with Aidan.
9. On February 28, 2018 at 8:15:31 pm Saskatchewan time, Investor 1 received a second email, this time from Catalyst (via an email from ACCT@cat-cm.online) with the subject line “Catalyst CM New Account Documentation” and a message “For your records, see account documentation attached to this email.” The attachment to the email was a Catalyst Customer Account Application which had been populated with some of Investor 1’s personal information in the 20-page application form. Page 19 of the application was an “Authorization of Independent Introducing Broker and Indemnification of Catalyst Limited” form dated February 28, 2018 for Investor 1’s signature appointing Peter Jensen as his “Independent Introducing Broker” authorizing Jensen to conduct business with Catalyst on Investor 1’s behalf.
10. During conversations between July 2017 and February 2018 Jenson gave Investor 1 examples of how if he had invested with Aidan in heating oil options and bitcoin he would have profited by significant sums of money compared to the suggested original investment amounts. Subsequently Investor 1 determining by his own research and calculations that the investment returns that Jenkins claimed Investor 1 would have achieved could not have been achieved.

11. From the evidence presented by [REDACTED], Investor 1 did not open an account and did not invest any money with Jensen, Aidan or Catalyst.
12. [REDACTED] testified that neither Aidan Trading, Catalyst CM Limited or Peter Jensen were duly registered as advisors or dealers in Saskatchewan or anywhere in Canada. His investigation included searches of other jurisdictions across Canada and revealed Investor Alerts posted on the internet by securities commissions in British Columbia, Alberta and Ontario.
13. No evidence was presented by Respondents or by anyone on their behalf.

ANALYSIS OF THE EVIDENCE BY THE PANEL:

14. In the absence of any evidence presented by or on behalf of the Respondents, the Panel was left to consider only the evidence and testimony presented by FCAA Staff.
15. Based on the evidence presented by FCAA Staff, the Panel finds:
 - (a) The heating oil options and bitcoin investments that were discussed with and offered to Investor 1 (paragraph 10 above) by Jensen on behalf of Aidan are derivatives that are made available to investors who invest with the Respondents and accordingly, were offered to Investor 1.
 - (b) Derivatives are defined in *The Securities Act, 1988* in section 2(1) (o.1) and “heating oil options clearly fall under this definition as a derivative.
 - (c) “Bitcoin” was discussed with Investor 1 by Jensen. However, there is no clear evidence or testimony regarding what type of cryptocurrency offering or contract would have been used by Aidan, Catalyst or Jensen to invest in same. The Aidan website screenshot presentation mentions currency or “Forex Spot Trading” but there is no specific reference to the terms “bitcoin” or “cryptocurrency” on the website. Accordingly, it is not clear from the evidence what form of investment Jensen might have been referring to when bitcoin was discussed with Investor 1.

DECISION OF THE PANEL:

Based on its findings of fact, the applicable law and submissions by Counsel for FCAA, the Panel finds:

16. Given that the Respondents are not registered as dealers in Saskatchewan, the Panel concludes that the solicitous actions of the Respondents constitute advising and acting as a dealer to trade in securities in Saskatchewan, thereby violating sections 27(2)(b) and 27(2)(a) of

The Securities Act, 1988 respectively.

17. In coming to its decision regarding the definitions for acting as an advisor and as a dealer to trade in securities in Saskatchewan, the Panel considered the following previous decisions of the Financial and Consumer Affairs Authority of Saskatchewan:
 - (a) *In the Matter of RTG Direct Trading Group Ltd. and RTG Direct Trading Limited* (February 19, 2016),
 - (b) *In the Matter of EMO Resources et al* (October 17, 2016), and
 - (c) *In the Matter of I.W.F Incorporated also known as I.W.F. Inc. et al* (August 30, 2013).
18. The Panel further orders the following:
 - (a) Pursuant to clause 134(1)(a) of the Act, all of the exemptions in Saskatchewan securities laws do not apply to the Respondents;
 - (b) Pursuant to subsection 134(1) (d) of the Act, the Respondents shall cease trading in securities or derivatives in Saskatchewan;
 - (c) Pursuant to sub-section 134(1) (d.1) of the Act, the Respondents shall cease acquiring securities or derivatives for and on behalf of residents of Saskatchewan;
 - (d) Pursuant to sub-section 134(1)(e) of the Act, Jensen and Aidan Trading shall cease giving advice to any prospect resident in Saskatchewan respecting any securities, trades or derivatives; and
 - (e) Pursuant to section 135.1 of the Act, the Respondents shall pay an administrative penalty in the amount of \$25,000 to the Financial and Consumer Affairs Authority of Saskatchewan.
19. Consequential orders will be issued to accompany this decision. The monetary sanctions are within the range of sanctions granted in comparable circumstances based on the cases sited and reviewed by the Panel.

20. The Panel will issue its final and binding order on the costs in this matter if an application is made by FCAA Staff in this matter.
21. This is a unanimous decision of the Panel rendered on April 1, 2019.



Howard Crofts, Hearing Panel Chairperson



The Honourable John Klebuc, Panel Member



Peter Carton, Panel Member