

**IN THE MATTER OF THE *SECURITIES ACT*
R.S.O. 1990, c. S.5, as amended**

- and -

**EMPIRE CONSULTING INC. and
DESMOND CHAMBERS**

**STATEMENT OF ALLEGATIONS OF THE
ONTARIO SECURITIES COMMISSION**

Staff of the Ontario Securities Commission make the following allegations:

I. OVERVIEW

1. Desmond Chambers (“Chambers”) and his company, Empire Consulting Inc. (“Empire”), convinced 33 clients to participate in a “Debt Elimination Strategy” by which clients remortgaged their homes and provided the Respondents with funds to invest in a foreign exchange (“Forex”) trading program. The Respondents advised clients that:
 - a. they would receive returns of 2% to 6% per month plus projected trading profits; and
 - b. the profits would be used to pay down their mortgages and other debts.
2. The Respondents received approximately \$1.6 million from clients, misappropriated approximately \$300,000, refunded approximately \$692,000 and lost approximately \$469,000 in Forex trading.

II. THE RESPONDENTS

3. Empire is an Ontario company incorporated on September 1, 2005 by Chambers. Chambers operated Empire as a financial consulting firm.

4. Chambers is an individual residing at the material time in Ontario. Chambers was the directing and operating mind of Empire and was an officer and director of Empire.
5. Chambers was registered with the Ontario Securities Commission (the "Commission") as a mutual fund salesperson and limited market dealer from July 6, 1989 to December 31, 2003. Chambers is registered with the Financial Services Commission of Ontario as a life insurance and A & S agent.
6. Neither Empire nor Chambers was registered in any capacity with the Commission during the relevant period of April 2007 to October 2009 inclusive.

III. EMPIRE'S BUSINESS

7. From April 2007 to October 2009 inclusive, Chambers operated Empire as a financial consulting firm which provided tax consulting, investment planning and debt restructuring services to investors. The Respondents also offered and sold to clients investments in a Forex trading program.
8. The investments in a Forex trading program were part of the Respondents' "Debt Elimination Strategy" offered to clients. The "Debt Elimination Strategy" involved either new mortgages placed on clients' existing homes or lines of credit in order to provide monies to refinance clients' debts and provide clients with monies to invest.
9. From April 2007 to October 2009 inclusive, Empire received approximately \$1.6 million from approximately 32 Ontario residents and 1 Jamaican resident to invest in a Forex trading program.
10. The Respondents received clients' monies, set up clients' portfolios, placed monies in accounts in the name of Empire held with U.S. based foreign exchange trading brokers and traded in these accounts with clients' monies.
11. Some clients received portfolio statements and half-year and annual reports from the Respondents which contained misleading and untrue statements concerning growth rates, rates of return and valuations of clients' portfolios.

IV. ACTING AS AN ADVISER WITHOUT REGISTRATION

12. The Respondents received instructions from clients to actively manage all aspects of the clients' portfolios including buying, selling, trading and balancing the contents of clients' portfolios. For this service, Empire was paid an upfront fee and an annual management fee.
13. The Respondents advised clients that their portfolios would be invested in a Forex trading program through U.S. based Forex trading businesses. Some clients were also advised that their investments would be locked in for one year and that the principals of their investments were guaranteed.
14. The Respondents provided clients with five to seven year projections which assumed returns of 2% to 6% per month plus projected Forex trading profits in order to entice clients to restructure their debt and invest with Empire.
15. The Respondents acted as advisers to approximately 33 clients without being registered with the Commission contrary to subsection 25(3) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act").

V. UNREGISTERED TRADING

16. Chambers provided presentations to clients on Forex trading and encouraged clients to set up portfolio accounts with Empire.
17. From April 2007 to October 2009 inclusive, the Respondents received approximately \$1.6 million from approximately 33 clients for the purpose of investing in a Forex trading program. The Respondents pooled clients' monies and transferred some but not all clients' monies to U.S. based Forex trading accounts held in the name of Empire.
18. By accepting client monies on the basis that the Respondents would invest these monies for clients in a Forex trading program, the Respondents traded in securities, namely investment contracts, without being registered to trade in such securities contrary to subsection 25(1) of the Act.

VI. ILLEGAL DISTRIBUTION

19. From April 2007 to October 2009 inclusive, the Respondents distributed securities, namely investment contracts, without filing a preliminary prospectus and prospectus and obtaining

a receipt therefor from the Director and without an exemption to the prospectus requirement. Accordingly, the Respondents breached subsection 53(1) of the Act.

VII. MISLEADING INVESTORS AND FRAUDULENT CONDUCT

20. The Respondents advised some clients that their principals were guaranteed and locked in for one year.
21. The Respondents provided clients with tables showing that their investments were expected to compound at interest rates of 2% to 6% per month. The tables were misleading and intended to induce clients to invest with the Respondents.
22. From April 2007 to October 2009 inclusive, approximately 12 clients requested refunds and received approximately \$692,307 including one client who received \$438,622. Approximately 21 clients have not received back any monies notwithstanding their requests for refunds.
23. Some clients were paid back out of:
 - a. new monies received from new clients; and/or
 - b. clients' own principals.
24. The Respondents made numerous misrepresentations to clients both before and after clients invested including that:
 - a. portfolios had achieved specific rates of return on investment as specified on clients' statements;
 - b. principals were guaranteed and secure;
 - c. values of portfolios were increasing;
 - d. all clients' monies were being invested in a Forex trading program;
 - e. profits from the Forex trading program would be used to pay down clients' outstanding debts;
 - f. longtermtrading.com was serving as Empire's commodity trading adviser and making use of unique and distinct proprietary trading systems;

- g. Empire's "Debt Elimination Strategy" will eliminate debts in five to seven years while simultaneously building clients' retirement portfolios; and/or
 - h. Forex trading provides above average returns with less risk.
25. From April 2007 to April 2009 inclusive, approximately \$469,446 of clients' monies was lost in Forex trades through Empire's accounts held at three U.S. brokers. Notwithstanding these losses, clients were advised that their accounts were generating significant returns on their initial investments.
 26. Approximately \$300,000 of clients' monies were used by the Respondents for personal expenses including cash withdrawals, rent, vehicle lease payments, food, liquor, clothing and other miscellaneous items.
 27. The misrepresentations set out in paragraphs 20, 21, 23, 24 and 25 and/or the personal use of investor monies set out in paragraph 26 perpetrated a fraud on investors contrary to subsection 126.1(b) of the Act.

VIII. CONDUCT CONTRARY TO THE PUBLIC INTEREST

28. Neither of the Respondents were registered with the Commission during the relevant period. The Respondents have traded in securities and acted as advisers contrary to the public interest.
29. No prospectus receipts have been issued to qualify the sale of investment contracts contrary to the public interest.
30. The Respondents have made misrepresentations to clients and used \$300,000 of client monies for personal use contrary to the public interest.
31. As an officer and director of Empire, Chambers has authorized, permitted or acquiesced in breaches by Empire of s. 25, s. 53, s. 126.1 and s. 129.2 of the Act and in doing so was engaged in conduct contrary to the public interest.
32. Such additional allegations as Staff may advise and the Commission may permit.

DATED at Toronto, this 26th day of May, 2011