



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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**IN THE MATTER OF THE *COMMODITY FUTURES ACT*  
R.S.O. 1990, CH. C.20, AS AMENDED**

**- AND -**

**IN THE MATTER OF FAWAD UL HAQ KHAN and  
KHAN TRADING ASSOCIATES INC. carrying on business as MONEY PLUS**

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

Staff of the Ontario Securities Commission (the "Commission") makes the following allegations:

**I. OVERVIEW**

1. This proceeding relates to unregistered trading and advising in commodity futures by Fawad Ul Haq Khan ("Khan") and Khan Trading Associates Inc. carrying on business as Money Plus ("KTA"), in breach of the *Commodity Futures Act*, R.S.O. 1990, Ch. C.20, as amended ("*CFA*") and in a manner that was contrary to the public interest.

2. Staff allege that the Respondents' course of conduct commenced in June 2006 and was ongoing as late as July 2012 (the "Material Time").

**II. THE RESPONDENTS**

3. KTA is an Ontario company incorporated on November 3, 2010 under the *Canada Business Corporations Act*, R.S.C., 1985, c. C-44.

4. Khan is an individual residing in Mississauga, Ontario, and is one of two directors of KTA. Khan's brother is the other director of KTA.

5. Neither Khan nor KTA have ever been registered with the Commission in any capacity.

### **III. UNREGISTERED ADVISING AND TRADING**

#### **The Trading School**

6. Khan operates a trading school located in Mississauga, Ontario. Through radio and newspaper advertisements, as well as the Money Plus website, Khan offers to teach the public how to trade commodity futures contracts (the "contracts"), including foreign exchange and indices. After teaching students trading strategies, Khan directs and assists his students to open trading accounts at specific brokerage firms where, unbeknownst to his students, he and/or KTA receive referral fees for trades made in the accounts being referred.

7. After his students open trading accounts, Khan advises his students, and in some cases, trades on behalf of his students, without being registered, contrary to Ontario commodity futures law and contrary to the public interest.

#### **The Brokerages**

8. On April 7, 2006, Khan entered into a "Consulting Agreement for Foreign Consultant" with Global Futures Exchange & Trading Co., Inc. ("Global Futures"), an introducing brokerage firm based in California, U.S.A. Khan referred approximately 600 accounts (the "Referred Accounts") to Global Futures and the majority of these accounts realized a loss over the lifetime of the account. The Consulting Agreement was terminated by Global Futures effective June 30, 2011.

9. Between June 2006 and March 2011, Khan received approximately \$345,000 in referral fees from Global Futures. Further, between June 2006 and June 2011, in excess of \$5 million was deposited into the Referred Accounts and aggregate net losses from trading totalled in excess of \$3 million.

10. On February 4, 2011, KTA entered into a “Cooperation (Brokerage) Agreement” with Mirus Futures, LLC (“Mirus”), a brokerage firm based in Illinois, U.S.A. Mirus terminated the agreement on April 5, 2012. Between September 2011 and April 2012, Khan referred approximately 60 accounts to Mirus and KTA received referral fees from Mirus totalling approximately \$25,000.

11. In or about September 2011, KTA entered into a Referring Agreement with Forex Capital Markets Ltd. (“FXCM”), located in London, United Kingdom. As of July 2012, Khan was still acting in this capacity and being compensated by FXCM for referring clients to them. Khan referred at least 19 accounts to Mirus and KTA received referral fees from Mirus.

### **Unregistered Advising**

12. Khan and KTA have been providing trading advice to their students, including advising students with respect to which particular contracts to buy or sell, and at which prices to do so. Khan and LTA have also been advising by exercising discretionary trading authority in the accounts of others in a number of cases (see “Unregistered Trading” below).

13. Further, Khan has instructed and invited students to follow and copy his trading. Some students follow Khan’s trading live via an audio link he provides online while others trade in person at the trading school.

14. Based on this conduct, Khan and KTA are acting as advisors without being registered in accordance with Ontario commodity futures law, in breach of subsection 22(1)(b) of the *CFA*.

### **Unregistered Trading**

15. Khan has exercised discretionary trading authority in approximately 25 of the accounts of his students by obtaining a Power of Attorney (“POA”) on the account or by opening a joint trading account with the individual(s). Where Khan had a POA, he made all of the trades in the accounts and entered into agreements entitling him to share in his students’ profits, but not in the losses.

16. Based on this conduct, Khan and KTA traded in contracts without being registered in accordance with Ontario commodity futures law, in breach of subsection 22(1)(a) of the *CFA*.

## **IV. CONDUCT CONTRARY TO THE PUBLIC INTEREST**

17. Khan and KTA have engaged in conduct contrary to the public interest by making statements that they knew or reasonably ought to have known were misleading or untrue while advising their students in commodity trading. In particular, Khan and KTA made the following misleading representations to their students, through advertisements, presentations and/or on Money Plus’ web site:

- (a) that they would make \$200 to \$500 per day, as long as they followed Khan’s advice, notwithstanding the fact that his students did not make such returns;
- (b) that Khan had a proven track record of generating high rates of return for his students, notwithstanding the fact that a large majority of his students sustained losses; and
- (c) that Khan was an expert in day trading, notwithstanding that he has no formal securities training and has never been registered with the Commission.

18. Khan also failed to disclose his compensation arrangements with various brokerages (including Global Futures, Mirus and FXCM) to his students. In particular, his students were not aware that whether their trades generated profits or losses, Khan received the same per-trade compensation. While his students were losing the majority of their funds, unbeknownst to them, Khan was receiving referral fees from the trades made in their accounts.

19. Further, on January 5, 2010, Staff obtained a written undertaking from Khan and Money Plus undertaking “not to receive commissions from the public or trade Derivatives/Forex/Futures/Options from the public unless registered as required and in compliance with the Commodities Futures Act”. Khan and KTA’s ongoing conduct is in contravention of the Undertaking.

## **V. MISLEADING THE COMMISSION**

20. Khan also made statements to Staff that in a material respect and at the time and in the light of the circumstances under which the statements were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading. In particular, Khan misled Staff about:

- (a) the nature of the compensation Khan was receiving from Global Futures: Khan denied receiving compensation based on the trading of the accounts he referred when in fact he was compensated in this manner;
- (b) the process of Khan’s students opening brokerage accounts: Khan stated that he was not involved in that process when in fact he was, and instructed students to make misrepresentations in their applications; and
- (c) Khan’s success rate: Khan advised Staff that his students were successful in their trading when in fact the large majority of them sustained losses.

21. Based on this conduct, Khan and KTA have violated subsection 55(1)(a) of the *CFA* and engaged in conduct contrary to the public interest.

**VI. CONDUCT CONTRARY TO ONTARIO COMMODITY FUTURES LAW AND CONTRARY TO THE PUBLIC INTEREST**

22. Staff allege that the foregoing conduct engaged in by the Respondents constituted breaches of Ontario commodity futures law and/or was contrary to the public interest. In particular:

- (a) The respondents engaged in unregistered trading and advising in commodity futures, in breach of sections 22(1)(a) and (b) of the *CFA* and contrary to the public interest;
- (b) The respondents made misrepresentations to Staff and misled the Commission, in breach of section 55(1)(a) of the *CFA* and contrary to the public interest; and
- (c) The respondents engaged in conduct contrary to the public interest by:
  - (i) making statements that they knew or reasonably ought to have known were misleading or untrue while advising in commodity trading;
  - (ii) failing to disclose the compensation arrangements with various brokerages to their students; and
  - (iii) engaging in conduct in contravention of the Undertaking.

23. The course of conduct engaged in by the Respondents as described herein compromised the integrity of Ontario's capital markets, was abusive to Ontario's capital markets and was contrary to the public interest.

24. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

Dated at Toronto this 19th day of December, 2012