



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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## IN THE MATTER OF VIRGINIA TAN

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

Staff of the Ontario Securities Commission (“Staff”) allege:

#### I. OVERVIEW

1. On April 13, 2017, Virginia Tan (“Tan” or the “Respondent”) entered into a Settlement Agreement (the “Settlement Agreement”) with the British Columbia Securities Commission (the “BCSC”).
2. Tan is subject to an order made by the BCSC dated April 13, 2017 (the “BCSC Order”) that imposes sanctions, conditions, restrictions or requirements upon her.
3. Staff are seeking an inter-jurisdictional enforcement order reciprocating the BCSC Order, pursuant to paragraphs 4 and 5 of subsection 127(10) of the Ontario *Securities Act*, R.S.O. 1990, c. S.5 (the “Act”).

#### II. THE BCSC PROCEEDINGS

##### Agreed Statement of Facts

4. In the Settlement Agreement, Tan agreed with the following facts:

*Background*

5. Tan is a resident of British Columbia, and is the sole proprietor of Letan Investments Management (“Letan”). She has never been registered under the British Columbia *Securities Act*, RSBC 1996, c 418 (the “BC Act”).
6. For several years prior to 2011 (the “Factoring Period”), Tan operated a business through Letan that involved making short-term, high interest loans to individuals and small businesses that were unable to obtain traditional financing from financial institutions.
7. To finance her business, Tan raised funds from investors and issued promissory notes to them.
8. During the Factoring Period, Tan told investors that:
  - (a) her business of making short-term, high interest loans was called “factoring”;
  - (b) she required funds from investors to make the short-term loans; and
  - (c) she would pass on the interest she received on these short-term loans to the investors.
9. By 2011, Tan had discontinued her factoring business. However, she continued to raise funds from investors.

*Misconduct*

10. From 2011 to 2015 (the “Material Period”), Tan raised at least \$30 million from investors. Tan raised these funds mostly from investors who had initially invested with her during the Factoring Period, and agreed to invest additional funds.
11. Tan issued promissory notes to the investors, which provided terms ranging from one month to two years and annualized rates of return of 16% to 21%.

12. Tan raised funds directly from investors. In addition, a few of her early investors acted as her agents in raising funds from other investors. Tan paid ongoing commissions to these agents representing a percentage of the amounts invested by their investors. From time to time, the agents assisted Tan by transferring investors' funds to her and by preparing interest cheques payable to investors. However, Tan signed all the promissory notes and cheques issued to the investors.
13. Many investors renewed their investment with Tan when their promissory notes matured. When investors renewed their investment, Tan issued them a new promissory note even though they did not provide any new funds.
14. Tan gave the investors a cover letter with each promissory note. Although Tan was no longer in the business of making short-term loans, she continued to use wording in her cover letters that was similar to the wording she had used during the Factoring Period. The cover letters did not specify how Tan could use investors' funds, but stated that:
  - (a) the investments were "Re: short-term financing"; and
  - (b) investors' funds would be used "to/for investment purposes" or "to finance short term investments."
15. Tan did not inform the investors that:
  - (a) she had discontinued her factoring business and was no longer in the business of making short term loans; and
  - (b) she was not earning income from any other business.
16. Tan explored other business opportunities, and some investors were aware of this fact. However, none of these opportunities ever came to fruition.
17. During the Material Period, since Tan earned no business income, she made interest and principal payments to investors with funds raised from other investors. Tan also commingled a relatively small amount of her personal funds with investor funds in her bank accounts, and used these accounts to make payments to investors.

18. Tan was ultimately unable to raise sufficient new funds from investors, or to inject enough of her own funds, to continue making the interest payments owing under the promissory notes. By late 2015, Tan was insolvent and she ceased to make further interest payments to investors.
19. During the Material Period, the total amount that Tan raised from investors was approximately equal to the total value of her principal and interest payments to investors. However, many individual investors suffered substantial losses as a result of their investment with Tan.
20. Several investors commenced law suits against Tan. In April 2016, one of the investors petitioned Tan into bankruptcy and she remains an undischarged bankrupt.
21. Tan's assets vested in the court appointed trustee when she was forced into bankruptcy. The trustee is charged with liquidating those assets, and distributing the proceeds to the investors. Tan's only current source of income is her Canada Pension Plan and other old age benefits.

#### *Fraud*

22. By failing to inform investors that she had no factoring business and was not earning income from any other business, and by using other investors' funds to pay the investors' purported returns, Tan perpetrated a fraud on the investors contrary to section 57(b) of the BC Act.

#### *Settlement Payment*

23. Pursuant to the Settlement Agreement, Tan agreed to pay \$3 million to the BCSC in settlement of the BCSC proceedings. The BCSC will take steps to collect this sum once Tan has paid the amounts owing to investors.

#### **The BCSC Order**

24. The BCSC Order imposed the following sanctions, conditions, restrictions or requirements upon Tan under sections 161(1)(b) and 161(1)(d) of the BC Act:

- (i) Tan cease trading in, and is permanently prohibited from purchasing, any securities or exchange contracts;
- (ii) Tan resign any positions she holds as, and is permanently prohibited from becoming or acting as, a director or officer of any issuer or registrant;
- (iii) Tan is permanently prohibited from becoming or acting as a registrant or promoter;
- (iv) Tan is permanently prohibited from acting in a management or consultative capacity in connection with activities in the securities market; and
- (v) Tan is permanently prohibited from engaging in investor relations activities.

### **Consent to Regulatory Orders**

25. Tan consents to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the Orders set out in paragraph 3 of the Settlement Agreement.

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

26. The Respondent is subject to an order of the BCSC that imposes sanctions, conditions, restrictions or requirements upon her.
27. Pursuant to paragraphs 4 and 5, respectively, 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, or an agreement with a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that a person or company is to be made subject to sanctions, conditions, restrictions or requirements may form the basis for an order in the public interest made under subsection 127(1) of the Act.

28. Staff allege that it is in the public interest to make an order against the Respondent.
29. 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 17<sup>th</sup> day of July, 2017.