



COMMISSION NEWS

ARIZONA CORPORATION COMMISSION, 1200 W. WASHINGTON, PHOENIX, AZ 85007

TO: EDITORS, NEWS DIRECTORS
FOR: IMMEDIATE RELEASE

DATE: March 6, 1998
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CORPORATION COMMISSION CHARGES INVESTMENT FRAUD IN FOREIGN CURRENCY TRADING PROGRAM

In an administrative notice filed by its Securities Division on February 6th, the Arizona Corporation Commission charged that **EASTERN VANGUARD FOREX LTD.**, a British Virgin Islands company operating from Portuguese Macao on the China coast, and its Phoenix-based agency **FOREX INVESTMENT SERVICES CORPORATION**, an Arizona corporation, have violated the Securities Act of Arizona by fraudulently offering and selling unregistered commodity investment contracts in the form of foreign currency leveraged trading accounts.

A San Francisco-based company, **TOKYO INTERNATIONAL INVESTMENT LTD.**, and its employee **WING MING TAM**, were charged with fraudulent practices in the trading program while managing the Phoenix FOREX office. A Director of EASTERN VANGUARD, **K. (DAVID) SHARMA**, and the two owners of FOREX INVESTMENT, **JEAN YUEN** and **TO FAI CHENG**, were also charged with fraudulent practices. Two former employees of FOREX INVESTMENT, **JAMES CHARLES SIMMONS, JR.** and **MICHAEL E. CHO**, were charged with fraudulent practices as well as offering or selling unregistered securities.

Utilizing a new Securities Act provision enacted in 1996, the Commission also charged another British Virgin Islands company, **EASTERN VANGUARD GROUP LIMITED** operating from Hong Kong, and two of its officers there, **SAMMY LEE CHUN WING** and **PETER SUEN SUK TAK**, with being controlling persons of EASTERN VANGUARD FOREX LTD. **GUO QUAN ZHANG**, an officer and director of TOKYO INTERNATIONAL, was also charged as a controlling person of FOREX INVESTMENT, along with YUEN, CHENG, TOKYO AND TAM. Under the new law, controlling persons are financially liable to the same extent for violations committed by the persons they controlled. Persons includes both individuals and entities.

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According to the notice, FOREX INVESTMENT opened at least 21 trading accounts with EASTERN VANGUARD FOREX for investors to conduct highly-leveraged “spot market” speculation in four foreign currencies—the German Mark, the Swiss Franc, the British Pound and the Japanese Yen. The foreign currency “spot market” is commonly referred to as the “Forex.” Leveraged trading allowed investors to speculate with a cash margin of less than 5% of the U. S. dollar price for the foreign currency. Buy or sell orders were allegedly entered at the Phoenix office of FOREX INVESTMENT for execution by EASTERN VANGUARD FOREX in Macao.

The notice alleges that FOREX INVESTMENT recruited “professional currency traders” who actually managed about 16 accounts for investors. It alleges these traders had insufficient training and experience in Forex trading, and most accounts suffered substantial losses. The notice charges that traders’ qualifications were fraudulently misrepresented and that investors were misled by the failure to disclose significant facts about the program. Over \$315,000 was allegedly lost, about three of every four dollars invested in the program.

The notice filing initiates an administrative proceeding in which the Securities Division is seeking a permanent cease and desist order by the Commission, along with restitution to investors and monetary fines. The companies and individuals named as respondents can request a hearing to contest the notice allegations.

The Division urges that before making any securities-related investment, the public should check out whether the security and its salesmen are registered with the Commission.

“Many kinds of speculative trading accounts are themselves securities subject to regulation under Arizona law,” said Director of Securities Michael Burton.

“Always check with us before investing in accounts that speculate in commodities or unusual ventures,” Burton added, “and watch out if the people offering the investment say they aren’t required to be registered by state or federal agencies.”

The Division can be reached at (602) 542-4242, by fax at (602) 594-7470 or by E-mail at accsec@ccsd.cc.state.az.us.

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BACKGROUND INFORMATION

Arizona Corporation Commission Docket File No. S-3177-I.

This is not the first public action taken by the Corporation Commission's Securities Division against an investment program involving Forex leveraged trading accounts. In April, 1996, the Corporation Commission and the U. S. Commodity Futures Trading Commission jointly filed a civil injunctive lawsuit in federal court in Pennsylvania against **AYM Financial Corporation (AYM)** and its principals, alleging registration and fraud violations of the federal Commodity Exchange Act, the Securities Act of Arizona and the Arizona Investment Management Act. The U. S. Securities and Exchange Commission also filed a companion civil lawsuit in the same court against AYM and its principals. [See "Dashed Dreams", *Barron's*, March 11, 1996; "Don't let this happen to you", *Futures*, April 2, 1996; "CFTC Files Anti-Fraud Complaint Vs AYM Financial Corp," *Dow Jones News Service*, April 2, 1996; Commodity Futures Trading Commission News Release #3898-96, April 2, 1996; Corporation Commission Press Release, April 4, 1996; "Local manager left out of futures fraud complaint", *Arizona Business Gazette*, April 11, 1996, p. 3.] The lawsuit alleged that New Jersey-based AYM offered fraudulent and unregistered Forex leveraged trading accounts to investors from its offices in various states, including a Phoenix branch office operated from January 1995 until February 1996. Although the lawsuit is still pending, the defendants have consented to injunctions against further violations of federal or state law.

In its April 2, 1996 article about AYM, *Futures* magazine warned that "if anyone offers you a deal to get into the spot currency markets – excluding via registered pools or funds – call your state securities commission to see if they are a registered broker/dealer. Don't send money."

Commodity investment contracts are securities regulated under the Securities Act of Arizona. This type of security includes "any account ...for the purchase or sale, primarily for speculation or investment purposes and not for use or consumption by the offeree or purchaser, of one or more commodities" This provision excludes transactions in which physical delivery of all the commodity is required by the contract or agreement *and* actually completed within 28 calendar days after full or part payment. Since commodities are defined under the Act to include "any foreign currency", Forex leveraged trading accounts are regulated securities in Arizona unless the currency is for the use or consumption of the offeree or purchaser, and/or the contract or agreement requires physical delivery of the currency within 28 calendar days after full or part payment.

Saturday, April 4, 1998:

National Investors' Town Meeting

Location:

ASU Downtown Center

502 E. Monroe Street (in the Mercado)

Time:

10:00am - 1:00pm.

Registration:

FREE

Program of Events:

Seminar at 10:00 am

Live broadcast 11:00am - 1:00pm.

Information: www.cc.state.az.us/securities

For registration: 542-4242.