VANCOUVER
AUG 31 2018
REGISTRY

Court No. B090404
Estate No. 11-252532
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY OF
HORIZON FX INVESTMENTS INCORPORATED

NOTICE OF APPLICATION

Name of applicant: E. Sands & Associates Inc. (the "**Trustee**")

To: John Roberts and his counsel

And to: The Represented Respondents and their counsel

And to: The Superintendent of Bankruptcy

And To: The Creditors

TAKE NOTICE that an application will be made by the Trustee to Mr. Justice G.C. Weatherill at the courthouse at 800 Smithe Street, Vancouver, British Columbia on Tuesday, September 11, 2018 at 9:30 am for the orders set out in Part 1 below.

1. ORDERS SOUGHT

(a) An Order in the form attached hereto as Schedule "A", directing the Trustee to make a final, pro rata, distribution of the remaining funds realized by the Trustee in the Estates of Horizon FX Limited Partnership, HFX Management Services Inc., Horizon FX Investments Incorporated and Cem Ali as provided in the Trustee's Report to the Court of October 3rd, 2017 (the "**October Report**") as revised by the Trustee's report of August 29th, 2018 (the "**August Report**" and together with the October Report the "**Trustee's Reports**") subject to adjustments as provided in the Trustee's Reports and approving the Trustee's fees and disbursements and authorizing its discharge; and;

(b) Such further and other relief as this Court may deem appropriate.

2. FACTUAL BASIS

(a) The LP was formed in 2006 as a vehicle for the investment of third party funds in Razor FX, Inc. ("**Razor**"). Razor purported to be a foreign exchange trading company, but was in fact a Ponzi scheme.

(b) On September 11, 2006, the Limited Partnership issued an offering memorandum, pursuant to which units in the Limited Partnership ("**LP Units**") were sold.

(c) Prior to October 18, 2007, Investors received LP Units in exchange for their investments. On October 18, 2007, the British Columbia Securities Commission issued a Cease Trade Order (the "**CTO**") in respect of the Limited Partnership, with the result that the Limited Partnership could not lawfully issue LP Units to Investors in respect of funds advanced after the issue of the CTO.

(d) Between September 2006 and December 2007, the Limited Partnership received funds from over 900 investors, totalling approximately $34 million USD.

(e) On February 11, 2009, the Bankrupts filed a Notice of Intention to Make a Proposal pursuant to section 50.4(1) of the BIA.

(f) On August 12, 2009, the Bankrupts filed a joint proposal (the "**Joint Proposal**") pursuant to the BIA. In connection with the filing of the Joint Proposal, the Bankrupts filed a joint statement of affairs, including liabilities totalling $33,750,041.69, and included the claims of the investor Respondents (the "**Represented Respondents**").

(g) The Trustee received approximately 700 proofs of claim.

(h) At a meeting of creditors held on September 1, 2009, the Joint Proposal was not accepted by the creditors and the Bankrupts were deemed to have made an assignment in bankruptcy. The Trustee is the trustee in bankruptcy of the Bankrupts.

(i) In connection with their bankruptcies, the Bankrupts filed individual statements of affairs, each including the claims of the Represented Respondents, and sworn by Cem Ali to be a full, true and complete statement of the relevant Bankrupt's affairs as at the date of swearing.

(j) The Trustee allowed the claims of Investors (including the Petitioner and the Represented Respondents) on the basis that they were creditors of each of the Bankrupts, for the reasons set out in the Trustee's report to court dated March 13, 2012, including on the basis that the Investors had claims against the Bankrupts pursuant to the Securities Act (the "**Securities Act Ground**").

(k) On July 21, 2011, the Petitioner commenced these proceedings, seeking the disallowance of the claims of the Represented Respondents either in whole or in part. By Order dated July 20, 2012, this Court appointed H.C. Ritchie Clark, Q.C. ("**Representative Counsel**") as counsel to represent the Represented Respondents.

(l) On May 31, 2013, this Court upheld the decision of the Trustee to allow the claims of the Represented Respondents on the Securities Act Ground (the "**May 2013 Judgment**"). On April 2, 2014, the British Columbia Court of Appeal reversed the May 2013 Judgment, and on October 30, 2014, the Supreme Court of Canada denied the application of the Represented Respondents for leave to appeal the British Columbia Court of Appeal's decision.

(m) On June 5, 2015, Representative Counsel wrote to the Trustee and its counsel advising that it is the position of the Represented Respondents that:

(i) the purchase of LP Units is, at law, the purchase of an equity interest in the Limited Partnership; and

(ii) the claims of all Investors (including the Petitioner) are equity claims, as that term is understood in the bankruptcy process and as defined in the BIA,

and asking that the Trustee either value all Investor claims as equity claims or seek directions from the Court in that regard.

(n) On or around June 25, 2015, the inspectors of the bankruptcy estate of the Limited Partnership resolved to direct the Trustee to apply for directions as to, inter alia, the treatment of claims of Investors.

(o) On July 16, 2015, the Court directed that counsel for the Petitioner, counsel for the Trustee and Representative Counsel agree on the appropriate form of directions to be sought by the Trustee in these proceedings in respect of the nature and classification of the Investor Claims.

(p) On November 7, 2016 Mr. Justice Burnyeat directed that the Trustee determine the amount available for distribution in the estates of Horizon FX Investments Incorporated, HFX Management Services Inc., Horizon FX Investments Limited Partnership and Cem Ali and then set down an application to approve a pro rata distribution to proven creditors in the Estate of Horizon Investments Limited Partnership. His Lordship further directed that any party that takes the view that it should be paid in priority to other proven creditors must file materials in response to the Trustee's application and serve the same at least 21 days before the hearing of the Trustee's application.

(q) Mr Justice Burnyeat also directed that the Trustee bring an application to the court for resolution of the issue of whether Mr. Roberts is entitled to be paid in priority to other creditors or investors in the bankruptcies of Cem Ali, and Horizon FX Incorporated (the "**Roberts Claim**") to be heard together with the Trustee's application for a Pro Rata distribution in the estate of Horizon FX Limited Partnership.

(r) Mr. Justice Burnyeat also directed that the Trustee serve counsel for Mr. Roberts and the Represented Respondents and their counsel, and post all materials filed in respect of the applications referred to herein its website as quickly as is practicable after their receipt.

(s) In November of 2017 the Trustee, with the approval of the inspectors settled the Roberts Claim.

(t) The Trustee brought an application herein on December 15, 2017 to approve the distribution as contemplated by the October report and to approve the fees and disbursement of the Trustee and its counsel and to authorize the Trustee's discharge following the distribution.

(u) Mr. Justice GC Weatherill made the orders sought but subject to the receipt of a positive comment letter from Superintendent of Bankruptcy (the "**Superintendent**"). In the event that the Trustee did not receive a positive comment letter from the Superintendent Mr. Justice Weatherill directed that the Trustee's discharge be postponed pending a resolution of any adverse comments of the Superintendent.

(v) On July 10, 2018 the Superintendent issue a comment letter that was critical of the Trustee's conduct in seeking the December 15, 2017 Order without first receiving the Superintendent's comments. The Superintendent also said that while it believed that a 5% reduction as offered by the Trustee was reasonable, it nonetheless required a taxation of the Trustee's fees and hence this application.

(w) It is expedient for the Trustee to tax its fees and disbursements, and make a final distribution in all of the Estates herein, following the taxation. This matter has been delayed by many months and the creditors are anxious to receive their final distribution.

3. LEGAL BASIS

(a) Section 34(1) of the *Bankruptcy and Insolvency Act* ("**BIA**") provides:

> "A trustee may apply to the court for directions in relation to any matter affecting the administration of the estate of a bankrupt and the court shall give in writing such directions, if any, as to it appear proper in the circumstances."

(b) Subsection 41(1) of the BIA provides that when a trustee has completed its duties it may apply for its discharge. Subsection 41(2) of the BIA gives the court the discretion to discharge a Trustee before full administration. All the Trustee is trying to achieve in these complicated estate is a discharge and taxation that will allow it to make a final distribution to the creditors. It is just and convenient to do this. The Superintendent has made its comments and while they appear to be critical of the Trustee's strategy, at the end of the day, they are not critical of the Trustee's fees and disbursement which are completely reasonable.

(c) The Inherent Jurisdiction of this Honourable Court.

4. MATERIAL TO BE RELIED ON

(a) The Trustee's Report to the Court dated August 29th, 2018 (the "**August Report**");

(b) Trustee's Report to the dated October 3rd, 2017 (the "**October Report**")

(c) Trustee's Report to the Court dated March 13, 2012.

(d) 5th Affidavit of Blake Elyea sworn July 12, 2012.

(e) 1st Affidavit of Lisa Lewis sworn July 8, 2015.

(f) 1st Affidavit of Tracy Wang sworn October 31, 2016.

The Trustee estimates that the application will take 30 minutes.

This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this Notice of Application, you must, within 21 days of the date set for the hearing of this matter,

(a) file an Application Response in Form 33,

(b) file the original of every affidavit, and of every other document, that

  (i) you intend to refer to at the hearing of this application, and

  (ii) has not already been filed in the proceeding, and

(c) service on the applicant 2 copies of the following, and on every other party of record one copy of the following:

  (i) a copy of the filed Application Response;

  (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;

(iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Dated: August 30, 2018

Signature of John F. Grieve, Q.C.
Lawyer for the Trustee

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs ..... of Part 1 of this Notice of Application

☐ with the following variations and additional terms:

.....

.....

.....

Date:

.....

Signature of ☐ Judge ☐ Master

The Solicitors for the Trustee are Fasken Martineau DuMoulin LLP, whose office address and address for delivery is 550 Burrard Street, Suite 2900, Vancouver, BC V6C 0A3 Telephone: +1 604 631 3131 Facsimile: +1 604 631 3232. (Reference: John Grieve/243309.00005)

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts

SCHEDULE "A"

Court No. B090404
Estate No. 11-252532
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IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY OF
HORIZON FX INVESTMENTS INCORPORATED

ORDER MADE AFTER APPLICATION

BEFORE	THE HONOURABLE JUSTICE G.C. WEATHERILL	September , 2018

ON THE APPLICATION OF E. Sands & Associates Inc. (the "**Trustee**") coming on for hearing at Vancouver on September 11, 2018 and on hearing John Grieve Q.C., counsel for the Trustee and those other counsel listed in Schedule "A" hereto, and no one else appearing although duly served;

THIS COURT ORDERS AND DECLARES that:

The Trustee is hereby authorized and directed to make an final pro rata distribution to creditors in the Estates of Cem Ali, Horizon FX Incorporated, FX Management Services Inc., and Horizon FX Limited Partnership (the "**LP**") on the basis articulated in the Trustee's Report dated October 3rd, 2017 as amended by the Trustee's Report dated August 29th, 2018 (the "**Trustee's Reports**") and approves the Trustee's fees and disbursements as articulated in the Trustee's Reports and authorizes the Trustee's

discharge following such distribution and the filing with the Court by the Trustee of a final certificate detailing the distribution made and the Trustee shall thereafter have no further liability with respect to this distribution;

THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

_____

Signature of John F. Grieve, Q.C.
Lawyer for E. Sands & Associates Inc.

BY THE COURT

_____

REGISTRAR

Schedule "A"

List of Counsel

Name		Party
Ritchie Clark		Represented Respondents
John Shewfelt		John Roberts

Court No. B090404
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IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY OF HORIZON FX INVESTMENTS INCORPORATED

ORDER MADE AFTER APPLICATION

FASKEN MARTINEAU DuMOULIN LLP
Barristers & Solicitors
2900 - 550 Burrard Street
Vancouver, B.C., V6C 0A3
604 631 3131

Counsel: John F. Grieve, Q.C.
Matter No: 243309.00005

Court No. B090404
Estate No. 11-252532
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY OF
HORIZON FX INVESTMENTS INCORPORATED

TRUSTEE'S REPORT TO THE COURT

AUGUST 29, 2018

I. Purpose of Report

This report is a continuation of the Trustee's Report to the Court dated October 3, 2017 and the Trustee's Amended Affidavit in Support of Remuneration (**"Amended Affidavit"**) sworn on December 12, 2017.

In November 2017, the trustee made an application to Court to resolve the final substantive issue in the administration of the bankruptcy estates of Horizon FX Investments Limited Partnership (**"Horizon LP"**), Horizon FX Investments Incorporated (**"Horizon Inc."**), HFX Management Services Inc. (**"HFX"**), and Cem Ali (**"Ali"**) (collectively the **"Estates"**) which was the treatment of the claim of John Roberts (**"Roberts"**) and a determination as to whether it would be a priority claim in the estates of Horizon Inc. and Ali and if so, how his claim would be satisfied from the estates of Horizon Inc. and Ali. As this was the final issue to be determined, the trustee also made an application to Court for approval of the Final Statements of Receipts and Disbursements (**"SRD"**) in order that the final distribution to creditors could be made in a timely manner and without a further application to Court.

With the approval of the Inspectors, a settlement was reached with Roberts prior to the December 15, 2017 hearing and, therefore, the only matter to be heard at that time was the taxation of the trustee's and the estate solicitor's fees and disbursements in order that the administration of the Estates could be concluded and a final distribution in each of the Estates could be made without making a further application to Court and further increasing the costs of administration.

On December 15, 2017, this honourable Court granted an Order passing and approving the accounts of the trustee subject to any adverse comments issued by the Office of the Superintendent of Bankruptcy (**"OSB"**) under Section 152 of the *Bankruptcy and Insolvency Act* (**"BIA"**). On July 10, 2018, the OSB issued its adverse letter of comment and directed the trustee to have its account taxed by the Court as per Rule 60 of the BIA.

The purpose of this report is to provide the Court with a summary of the events and the trustee's administration of the Estates that have occurred since the December 15, 2017 Order.

II. Estate Administration Since December 15, 2017 Court Order

Complaint filed by Inspector George Costa

- On February 22, 2018, George Costa, an Inspector of the Estates, filed a complaint with the OSB. The trustee provided supporting documentation requested by the OSB and addressed the concerns raised by the Inspector.
- On April 13, 2018, the OSB advised the trustee that the complaint had been reviewed and that there were satisfactory answers to the complaint. No further action would result of the complaint at that time. A copy of their response is attached as Exhibit "A."

- The additional time spent on these tasks that was not accounted for in the estimated Time to Close on Exhibit "C" of the Amended Affidavit are as follows:

TITLE	HOURS	RATE	VALUE
Trustee	5.0	$ 250 - 400	$ 2,000
Estate Administrator	1.9	100 - 250	475
Subtotal	6.9		$ 2,475

Fees of Special Counsel Ritchie Clark

- In preparing for the December 15, 2017 hearing, the trustee emailed Ritchie Clark, Special Counsel of the estate of Horizon LP, on November 28, 2017 and again on December 11, 2017 to request that he provide the trustee with his final bill in order that we could enter the appropriate amount into the Final SRD as no invoice had been received from Mr. Clark since September 2015. In these emails, the trustee advised Mr. Clark that remaining fees of $60,000 had been estimated and included on the Final SRD and that the trustee was proceeding to taxation at the December 15, 2017 hearing. This estimate was based on past invoices received from Mr. Clark in the administration of the estate, and if any invoices were different a timely adjustment could be made to reflect the difference before the Court application.
- As no response was received from Mr. Clark, the trustee assumed that the estimated amounts were correct, and that Mr. Clark had no objection to the amounts that would be presented to Court. A Court date was set for this matter and in an effort to be efficient and reduce the costs of administration, we proceeded with the application.
- Mr. Clark subsequently provided our office with his final invoices showing that the total amount due was $18,363.93 which was a surprise due to the insignificant amount as compared to the trustee's estimated amount.
- On April 6, 2018, Mr. Clark's remaining fees were taxed in the amount of $18,363.93 and the trustee paid these fees to Mr. Clark on April 9, 2018.

Fees of Estate Solicitor

- Subsequent to the December 15, 2017 Court Order, the trustee issued payment to Fasken Martineau DuMoulin LLP (**"Fasken"**), the estate solicitor, for its remaining fees as taxed by the Court.
- There was a miscommunication between the trustee's and Fasken's offices in which the records of the invoices that were paid from the joint proposal were included on Fasken's records whereas they had been closed on the trustee's records. These amounts were included on the Final SRD on the bankruptcy estates on the belief that these were charges to the bankruptcy estates. This resulted in a double accounting error which was caught by Fasken's and the trustee's office. Fasken immediately refunded the overpayment and the amounts were updated on the trustee's Amended Final SRD prepared on April 20, 2018 and approved by the Inspectors on May 7, 2018.

Preparing two Amended Statements of Receipts and Disbursements

- The trustee prepared an Amended SRD on April 20, 2018 and subsequently held a Meeting of Inspectors on May 2, 2018 to approve the same. All of the Inspectors agreed to the Amended SRD and this was sent to the OSB on May 7, 2018. The Amended SRD and the Resolution of the Inspectors are attached as Exhibit "B."
- On June 6, 2018 the trustee called the OSB to inquire when a comment letter may be expected. At that time, the OSB advised that the comment letter was expected to be released at the end of the next week or the beginning of the following week.
- On June 21, 2018, the trustee received an email from the OSB advising that other priorities had come up that needed to be attended to and that the OSB would be able to resume working on it the week after next.
- On July 4, 2018, the trustee emailed the OSB to again inquire when a comment letter may be expected.
- On July 10, 2018, the OSB issued its adverse comment letter.
- As interest had only been accrued up to July 2018, the trustee prepared a Second Amended SRD to accrue for interest up to November 2018 to account for the expectation of additional interest into the account. This Second Amended SRD was submitted to the OSB on August 29, 2018 with the only change being to the amount of interest and bank charges. The Second Amended SRD is attached as Exhibit "C." The OSB has advised the trustee that no further comments will be made on the Second Amended SRD.
- The additional time spent on these tasks that was not accounted for in the estimated Time to Close on Exhibit "C" of the Amended Affidavit are as follows:

TITLE	HOURS	RATE	VALUE
Trustee	1.0	$ 250 - 400	$ 400
Estate Administrator	2.6	100 - 250	650
Subtotal	3.6		$ 1,050

Updating Creditor Addresses and Communications Regarding Status of Final Dividend

- In the trustee's Amended Affidavit the trustee anticipated and accounted for the fact that there would be some creditors who had moved since the time that they had filed their Proof of Claim and that there would be some updates required. This time was estimated and included in the estimated Time to Close. In this estate, the trustee estimated that 1.8 hours in Support Staff time amounting to $177 would be spent in updating creditor addresses.
- On January 11, 2018, the trustee posted a notice on its website and also mailed out a notice to all proven creditors requesting that they review their mailing address as posted on the trustee's website and only contact the trustee if they should require a change of address. To address any potential concerns over privacy, the trustee partially blocked the last names of the creditors prior to posting this list on the website.
- There were significantly more creditors with new addresses than originally anticipated. In total, the trustee has updated the address of 224 creditors. Of this amount, the trustee received returned mail from 63 creditors which required further investigations by the

trustee's office to attempt to contact the creditor and obtain a current mailing address. This involved attempting to contact the creditor by phone using the last known phone number and performing various searches online including, but not limited to, Canada411.ca and Facebook.

- In order to keep the creditors informed of the status of the final dividend, the trustee posted updates to the website on January 3, 2018, March 5, 2018 and July 24, 2018. The trustee also received several calls and emails from creditors inquiring when the final dividend would be issued.
- The additional time spent on these tasks that was not accounted for in the estimated Time to Close on Exhibit "C" of the Amended Affidavit are as follows:

TITLE	HOURS	RATE	VALUE
Trustee	1.6	$ 250 - 400	$ 640
Estate Administrator	6.5	100 - 250	1,410
Support Staff	29.4	< 100	2,352
Subtotal	37.5		$ 4,402

III. Summary of Trustee's Time from Date of Bankruptcy to Discharge of Trustee

Exhibit "C" of the trustee's Amended Affidavit summarizing the trustee's time from the date of bankruptcy together with the estimated costs to close this estate is as follows:

TITLE	HOURS	RATE	VALUE
Trustee	91.7	$ 250 - 400	$ 33,212.57
Estate Administrator	81.5	100 - 250	19,565.26
Support Staff	54.2	< 100	4,300.74
Subtotal	227.4		$ 57,078.57
TIME TO CLOSE:			
Trustee	14.4		$ 5,741.54
Estate Administrator	20.0		5,000.00
Support Staff	28.3		2,826.92
Subtotal	62.7		$ 13,568.46
Total Trustee Fees	290.1		$ 70,647.03
LESS: 5% Reduction in Total Trustee Fees			(3,532.35)
Total Trustee Fees after reduction and accounted for on the Final, Amended, and Second Amended SRD's			$ 67,114.68

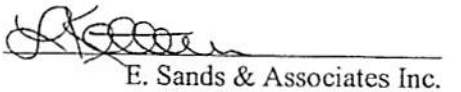
The total additional unanticipated fees incurred by the trustee since the Amended Affidavit was prepared in December 2017 and as summarized throughout this report is as follows:

TITLE	HOURS	RATE	VALUE
Trustee	7.6	$ 250 - 400	$ 3,040
Estate Administrator	11.0	100 - 250	2,535
Support Staff	29.4	< 100	2,352
Total	**48.0**		$ 7,927

The Trustee is not seeking an increase in its fees and is requesting that this honourable Court approve its fees in the amount of $67,114.68 as approved in the December 15, 2017 Court Order.

The Trustee notes that its counsel, Fasken, has advised that it has incurred additional time charges in the amount of approximately $4,600 dealing with matters arising from the Costa complaint and the negative comment letter from the OSB, but it is not seeking to recover these fees. Fasken has been advised by the OSB that it is satisfied with Fasken's fees as taxed on December 15, 2017 and is not objecting to those fees.

Dated at New Westminster, BC, this 29th day of August, 2018



E. Sands & Associates Inc.
Licensed Insolvency Trustee
Trustee of the Estate of
Horizon FX Investments Incorporated

Innovation, Science and Economic Development Canada
Office of the Superintendent of Bankruptcy Canada

Innovation, Sciences et Développement économique Canada
Bureau du surintendant des faillites Canada

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April 13, 2018

Reference number: 741199

Mr. George Costa
Via E-Mail
Georgecosta604@gmail.com

Dear Mr. Costa:

Subject: **In the matter of the bankruptcies of**
Horizon FX Investments Limited Partnership Estate #11-252531
Horizon FX Investments Incorporated Estate #11-252532
HFX Management Services Inc. Estate #11-252533
Cem Ali Estate #11-252534

The Office of the Superintendent of Bankruptcy (OSB) has reviewed your correspondence, received February 22, 2018 regarding the complaint filed against Deane Gurney, Licensed Insolvency Trustee (LIT).

Be advised that the role of the OSB is to supervise the administration of estates and matters to which the Bankruptcy and Insolvency Act (BIA) applies. This includes ensuring that each party to an insolvency proceeding understands and performs their respective duties as outlined in the BIA.

As per our discussion on February 27, 2018, it was agreed that the OSB would investigate regarding the taxation of Mr. Clark's Bill of Costs and inspector instructions to the LIT related to Mr. Robert's claim and enquire about the status of the replace cheque for inspector fees which was inadvertently lost. A copy of the LIT's response dated March 22, 2018 was sent to you under separate cover.

At the time of the complaint, you were aware that the Trustee Compliance Unit of the OSB was conducting their review of the final statement and had not issued a comment letter.

Mr. Clark's Bill of Costs
Rules 18, 19 and 20 of the BIA indicate:

> *18. All bills of costs for legal services, - other than those that do not exceed $2,500 in aggregate, excluding applicable federal and provincial taxes, must be taxed by the taxing officer.*
>
> *19. A bill of costs must describe, in a fair, reasonable and detailed manner, the nature of the legal services rendered.*
>
> *20. The bill of costs shall not be taxed unless the trustee is represented at the taxation or the bill of costs has been attached to is a declaration, signed by the trustee, stating that*

EXHIBIT A

(a) [Repealed SOR/2009-218, s.3)
(b) the services have been duly authorized and duly rendered; and
(c) the charges are reasonable in the trustee's opinion.

The LIT has confirmed that he did not have the taxed Bill of Costs from Mr. Clark when the final statement of receipts and disbursements was submitted to the courts and the OSB. It was his understanding that Mr. Clark accepted the fees outlined in the correspondence dated November 28, 2017. Mr. Grieve, the estate solicitor, sent an email to the inspectors on February 26, 2018 to clarify the status of Mr. Clark's Bill of Costs. A copy of the emails are included as an attachment to the LIT's response letter.

Pursuant to Subsection 152(1)(a)(iii) the LIT's final statement shall contain all moneys disbursed and expenses incurred by the LIT. In efforts to expedite the taxation the LIT proceeded to taxation in December 2017 without the taxed legal expenses of Mr. Clark and without the comment letter from the OSB. The LIT's fees and disbursements were taxed subject to the comment letter from the OSB.

The Senior Bankruptcy Analyst of the Trustee Compliance Unit advised they would not be issuing a comment letter until they received Mr. Clark's final taxed Bill of Costs, an adjustment regarding Mr. Grieve's fees and an amended final statement reflecting the final legal disbursements.

As indicated to you and the LIT, the filing of this complaint was not anticipated to delay the distribution to creditors. Based on the information contained in the LIT's response and our discussions the Trustee Compliance Unit, the LIT required the taxation of Mr. Clark's bill before proceeding with any adjustments to his final statement. The LIT confirmed that the bill was taxed on April 6, 2018 and they are waiting on confirmation that this is a final bill. After receipt of the confirmation, the LIT will make the necessary adjustments to the final statement and forward same to the OSB for comment. The LIT also plans to make an application to court for an amended order of taxation.

The Trustee Compliance Team will assess the timeliness of the administration and the LIT's overall compliance with the BIA when the amended final statement of receipt and disbursements is filed with the OSB. The Trustee Compliance Team will also assess at that time whether to provide any comments to the court.

John Roberts Claim

As you are aware, the LIT takes his instructions from the inspectors appointed to represent the creditors. We did not receive any contradictory evidence that would dispute the information contained in the LIT's response letter. The inspector minutes do not contain any instructions to settle the claim of Mr. Roberts.

It is the responsibility of the court to tax the fees and disbursements of the LIT. If any party has a concern regarding the fees they can file an objection pursuant to Subsection 152(5) and (6) of the BIA.

Subsection 152(5) Notice of final dividend, etc. *– After the Superintendent has commented on the taxation of the trustee's accounts or advised the trustee that the Superintendent has no comments to make and the trustee's accounts have been taxed, the trustee shall sent, in the*

prescribed manner, to every creditor who claim has been proved, to the registrar, to the Superintendent and to the bankrupt

a) *A copy of the final statement of receipts and disbursements;*
b) *A coy of the dividend sheet; and*
c) *A notice, in the prescribed form, of the trustee's intention to pay a final dividend after the expiry of 15 days from the sending of the notice, statement and dividend sheet and to apply to the court for his or her discharge on a subsequent date that is not less than 30 days after the payment of the dividend.*

(6) ***Objections*** *– No interested person is entitled to object to the final statement and the dividend sheet unless, prior to the expiration of the fifteen days referred to in paragraph (5)(c), that person files notice of his objection with the registrar setting out his reasons therefore and services a copy of the notice on the trustee.*

Enquiry regarding the replacement cheque for inspectors fees
The LIT has outlined his position regarding this matter in his response letter. The OSB does not anticipate taking any further action in this matter.

In accordance with Section 5(3)(f) of the BIA, the OSB has a duty to receive and keep a record of all complaints from any creditor or other person interested in any estate and make such specific investigations with regard to such complaints as the Superintendent may determine. Therefore, a record of your complaint has been entered in our system and your concerns have been forwarded to the Trustee Compliance Team for review.

If you require additional information about the insolvency system, we invite you to visit the OSB website at http://osb.ic.gc.ca . Thank you for bringing your concerns to our attention.

Sincerely,

"Sandy Bridgeman"

Senior Bankruptcy Analyst, Office of the Superintendent of Bankruptcy Canada
Innovation, Science and Economic Development Canada /Government of Canada
Sandy.Bridgeman@canada.ca (204) 230-4276

cc: Deane Gurney (dgurney@sands-trustee.com) Licensed Insolvency Trustee, E. Sands & Associates Inc.

The above-mentioned provisions of the BIA are of a general nature only and not intended to constitute our advice for any specific situation. These provisions may or may not be applicable to your situation. Any information that we provide should not be construed as legal opinion. You may wish to seek legal counsel from an insolvency lawyer before considering or taking any action in court.

District of: British Columbia
Division No: 3 Vancouver
Court No: B090404
Estate No: 11-252532

FORM 12

Statement of Receipts and Disbursements

Final - First Amendment

(Section 152 of the Act)

In the matter of the Bankruptcy of Horizon FX Investments Incorporated of the City of Vancouver, in the Province of British Columbia

RECEIPTS		
Cash		
Cash in Bank	$1,148,034.18	$1,148,034.18
Miscellaneous		
Interest	$45,818.50	
Fraudulent preferences	$138,626.91	$184,445.41
Total Receipts:		$1,332,479.59
TOTAL NET RECEIPTS:		$1,332,479.59
DISBURSEMENTS		
Fees Paid		
Fees paid to the Official Receiver	$150.00	$150.00
Premiums		
Bond Premium	$24,389.00	$24,389.00
Notice of final dividend and trustee's application for discharge		
To creditors	$506.00	
Postage	$249.49	$755.49
Other notices and reports		
Notice to Creditors	$415.82	
Postage	$390.38	$806.20
Postage on general correspondence		
Postage	$810.01	$810.01
Inspector		
Fees- Mr. George Costa	$80.00	
Fees- Mr. Jonathan Brown	$80.00	
Fees- Mr. Lee Robson, MBA	$80.00	
Fees- Mr. Greg Doherty	$80.00	$320.00
Legal fees and legal services costs		
Solicitor to estate	$233,151.52	$233,151.52
Miscellaneous		
Courier	$18.76	
Bank Charges	$685.50	

EXHIBIT B

District of: British Columbia
Division No: 3 Vancouver
Court No: B090404
Estate No: 11-252532

FORM 12

Statement of Receipts and Disbursements

Final - First Amendment

(Section 152 of the Act)

In the matter of the Bankruptcy of Horizon FX Investments Incorporated of the City of Vancouver, in the Province of British Columbia

Meeting Facilities	$173.71	
Accounting fees	$756.67	
Photocopies	$2,869.35	$4,503.99
Software License Fee		
Software License Fee	$199.00	$199.00
Trustee's Remuneration		
Trustee's fees	$67,114.68	$67,114.68
Taxes		
HST paid on invoices	$13,607.48	
Goods and Services Tax - Disbursements and Extrajudicial Costs	$5,910.58	
Goods and Services Tax - Trustee Remuneration	$3,020.11	
Harmonized Sales Tax - Trustee Remuneration	$805.49	
GST paid on Software License Fee	$9.95	$23,353.61
TOTAL DISBURSEMENTS		$355,553.50
AMOUNT AVAILABLE FOR DISTRIBUTION		$976,926.09
Levy payable under section 147 of the Act	$48,846.28	
Preferred creditors:		
Proved Claims of	$119,470.35	
Interim Gross Dividend	$0.00	
less levy	$0.00	$0.00
Final Gross Dividend	$119,470.35	
less levy	$5,973.52	$113,496.83
Percentage of Gross Dividend	100.00%	
Unsecured creditors:		
Proved Claims of	$31,565,500.18	
Interim Gross Dividend	$0.00	
less levy	$0.00	$0.00
Final Gross Dividend	$857,455.23	
less levy	$42,872.76	$814,582.47
Percentage of Gross Dividend	2.72%	
TOTAL DIVIDEND AND LEVY		$976,925.58
Surplus (Deficit) - Undistributed Funds remitted to the Superintendent of Bankruptcy		$0.51

Notes:

1. A legal retainer valued at $79,286.79 on the Statement of Affairs was fully realized in the bankruptcy of Horizon FX Investments Limited Partnership as the legal action was commenced in the name of Horizon FX Investments Limited

District of: British Columbia
Division No: 3 Vancouver
Court No: B090404
Estate No: 11-252532

FORM 12

Statement of Receipts and Disbursements

Final - First Amendment

(Section 152 of the Act)

In the matter of the Bankruptcy of Horizon FX Investments Incorporated of the City of Vancouver, in the Province of British Columbia

Partnership.

2. Funds frozen by the British Columbia Securities Commission valued at $216,252.55 on the Statement of Affairs were realized in the total amount of $1,148,034.18 and are listed as "Cash in bank." $48,179.41 was recovered from an HSBC account, $19,960.77 CAD was recovered from an HSBC USD account, $13,287.81 was recovered from a Coast Capital Savings account, and $1,833.47 CAD was recovered from a Coast Capital Savings USD account. Also recovered from two Coast Capital Savings accounts in the name of Gempire Holdings Inc. was $99,089.24 and $65,153.22. These funds were determined to be an asset of Horizon FX Investments Incorporated as the funds were transferred from a Horizon FX Investments Incorporated bank account to the Gempire Holdings Inc. bank accounts. The Trustee also recovered $4,328.73 from an HSBC account and $4,398.53 CAD from an HSBC USD account which were in the name of Fortune FX Investments Inc. These funds were determined to be an asset of Horizon FX Investments Incorporated as the funds were transferred from a Horizon FX Investments Incorporated bank account to the Fortune FX Investments Inc. bank accounts.

3. An interest in a law suit was listed on the Statement of Affairs with no anticipated realizable value. This action was not pursued as Cem Ali, the debtor's principal, would not cooperate with the Trustee in agreeing to release privileged documents from the former lawyer.

4. Razor FX funds from the US Department of Justice listed on the Statement of Affairs were fully realized in the bankruptcy of Horizon FX Investments Limited Partnership.

5. Fraudulent preferences of $138,626.91 represent a portion of the funds recovered in a judgement granted against Cem Ali's parents for a 2007 Mercedes Benz S550 and a 2006 Range Rover that were transferred to them for no consideration prior to the date of bankruptcy. The total amount received from the judgement was $205,456.83. Of this amount, the total recovered from the Mercedes was $121,919.43 and the total amount recovered from the Range Rover was $83,537.40. It was determined that all funds used to purchase the Mercedes were funded from a Horizon FX Investments Incorporated bank account and, therefore, $121,919.43 has been realized in the bankruptcy of Horizon FX Investments Incorporated. It was determined that 20% of the funds used to purchase the Range Rover were funded from a Horizon FX Investments Incorporated bank account and the remaining 80% were funded from Cem Ali's bank account. $16,707.48, representing 20% of the $83,537.40 total recovered from the Range Rover, was realized in the bankruptcy of Horizon FX Investments Incorporated. The remaining $66,829.92, representing 80% of the total recovered from the Range Rover, was realized in the bankruptcy of Cem Ali.

6. The amount listed as a preferred creditor in this Statement of Receipts and Disbursements is the settlement amount reached between the estate and John Roberts. For presentation purposes and for proper accounting purposes, it has been listed as a preferred creditor on this Statement of Receipts and Disbursements. The amount declared as a preferred creditor is the amount that has been allocated for payment from this estate and does not reflect a preferred claim as stated under the Bankruptcy and Insolvency Act.

District of: British Columbia
Division No: 3 Vancouver
Court No: B090404
Estate No: 11-252532

FORM 12

Statement of Receipts and Disbursements

Final - First Amendment

(Section 152 of the Act)

In the matter of the Bankruptcy of Horizon FX Investments Incorporated of the City of Vancouver, in the Province of British Columbia

Dated at Surrey, British Columbia, this 20th day of April, 2018.

E. Sands & Associates Inc.
Trustee

Taxed at the amount of _____, this _____ day of _____, _____

Approved by the following inspector(s):

Mr. George Costa — 5-2-18 Date

Mr. Greg Doherty — May 2, 2018 Date

Mr. Jonathan Brown — 05/02/2018 Date

Mr. Lee Robson, MBA — May 2/2018 Date

Court No. B090404
Estate No. 11-252532
Vancouver Registry

IN THE MATTER OF THE BANKRUPTCY OF
HORIZON FX INVESTMENTS INCORPORATED

INSPECTOR'S RESOLUTION

BE IT RESOLVED THAT:

The Amended Statement of Receipts and Disbursements dated April 20, 2018, be approved / rejected **(please circle & initial)** by the Inspector.

DATED at Vancouver, British Columbia, this 2nd day of May, 2018

Jonathan Brown - Inspector

George Costa - Inspector

Greg Doherty - Inspector

Lee Robson - Inspector

REASONS FOR DISAPPROVAL:

District of: British Columbia
Division No: 3 Vancouver
Court No: B090404
Estate No 11-252532

FORM 12

Statement of Receipts and Disbursements

Final - Second Amendment

(Section 152 of the Act)

In the matter of the Bankruptcy of Horizon FX Investments Incorporated of the City of Vancouver, in the Province of British Columbia

RECEIPTS		
Cash		
Cash in Bank	$1,148,034.18	$1,148,034.18
Miscellaneous		
Interest	$47,314.22	
Fraudulent preferences	$138,626.91	$185,941.13
Total Receipts:		**$1,333,975.31**
TOTAL NET RECEIPTS:		**$1,333,975.31**
DISBURSEMENTS		
Fees Paid		
Fees paid to the Official Receiver	$150.00	$150.00
Premiums		
Bond Premium	$24,389.00	$24,389.00
Notice of final dividend and trustee's application for discharge		
To creditors	$506.00	
Postage	$249.49	$755.49
Other notices and reports		
Notice to Creditors	$415.82	
Postage	$390.38	$806.20
Postage on general correspondence		
Postage	$810.01	$810.01
Inspector		
Fees- Mr. George Costa	$80.00	
Fees- Mr. Jonathan Brown	$80.00	
Fees- Mr. Lee Robson, MBA	$80.00	
Fees- Mr. Greg Doherty	$80.00	$320.00
Legal fees and legal services costs		
Solicitor to estate	$233,151.52	$233,151.52
Miscellaneous		
Courier	$18.76	
Bank Charges	$687.70	

EXHIBIT C

District of: British Columbia
Division No: 3 Vancouver
Court No: B090404
Estate No: 11-252532

FORM 12

Statement of Receipts and Disbursements

Final - Second Amendment

(Section 152 of the Act)

In the matter of the Bankruptcy of Horizon FX Investments Incorporated of the City of Vancouver, in the Province of British Columbia

Meeting Facilities	$173.71	
Accounting fees	$756.67	
Photocopies	$2,869.35	$4,506.19
Software License Fee		
Software License Fee	$199.00	$199.00
Trustee's Remuneration		
Trustee's fees	$67,114.68	$67,114.68
Taxes		
HST paid on invoices	$13,607.48	
Goods and Services Tax - Disbursements and Extrajudicial Costs	$5,910.58	
Goods and Services Tax - Trustee Remuneration	$3,020.11	
Harmonized Sales Tax - Trustee Remuneration	$805.49	
GST paid on Software License Fee	$9.95	$23,353.61
TOTAL DISBURSEMENTS		**$355,555.70**
AMOUNT AVAILABLE FOR DISTRIBUTION		**$978,419.61**
Levy payable under section 147 of the Act	$48,920.98	
Preferred creditors:		
Proved Claims of	$118,764.90	
Interim Gross Dividend	$0.00	
less levy	$0.00	$0.00
Final Gross Dividend	$118,764.90	
less levy	$5,938.24	$112,826.66
Percentage of Gross Dividend	100.00%	
Unsecured creditors:		
Proved Claims of	$31,565,500.18	
Interim Gross Dividend	$0.00	
less levy	$0.00	$0.00
Final Gross Dividend	$859,654.71	
less levy	$42,982.74	$816,671.97
Percentage of Gross Dividend	2.72%	
TOTAL DIVIDEND AND LEVY		**$978,419.61**
Surplus (Deficit) - Undistributed Funds remitted to the Superintendent of Bankruptcy		**$0.00**

Notes:

1. A legal retainer valued at $79,286.79 on the Statement of Affairs was fully realized in the bankruptcy of Horizon FX Investments Limited Partnership as the legal action was commenced in the name of Horizon FX Investments Limited

District of: British Columbia
Division No: 3 Vancouver
Court No: B090404
Estate No: 11-252532

FORM 12

Statement of Receipts and Disbursements

Final - Second Amendment

(Section 152 of the Act)

In the matter of the Bankruptcy of Horizon FX Investments Incorporated of the City of Vancouver, in the Province of British Columbia

Partnership.

2. Funds frozen by the British Columbia Securities Commission valued at $216,252.55 on the Statement of Affairs were realized in the total amount of $1,148,034.18 and are listed as "Cash in bank." $48,179.41 was recovered from an HSBC account, $19,960.77 CAD was recovered from an HSBC USD account, $13,287.81 was recovered from a Coast Capital Savings account, and $1,833.47 CAD was recovered from a Coast Capital Savings USD account. Also recovered from two Coast Capital Savings accounts in the name of Gempire Holdings Inc. was $990,892.24 and $65,153.22. These funds were determined to be an asset of Horizon FX Investments Incorporated as the funds were transferred from a Horizon FX Investments Incorporated bank account to the Gempire Holdings Inc. bank accounts. The Trustee also recovered $4,328.73 from an HSBC account and $4,398.53 CAD from an HSBC USD account which were in the name of Fortune FX Investments Inc. These funds were determined to be an asset of Horizon FX Investments Incorporated as the funds were transferred from a Horizon FX Investments Incorporated bank account to the Fortune FX Investments Inc. bank accounts.

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District of: British Columbia
Division No: 3 Vancouver
Court No: B090404
Estate No: 11-252532

FORM 12

Statement of Receipts and Disbursements

Final - Second Amendment

(Section 152 of the Act)

In the matter of the Bankruptcy of Horizon FX Investments Incorporated of the City of Vancouver, in the Province of British Columbia

Dated at New Westminster, British Columbia, this 29th day of August, 2018.

E. Sands & Associates Inc.
Trustee

Taxed at the amount of _____, this _____ day of _____, _____

_____

Approved by the following inspector(s):

_____ _____
Mr. George Costa Date

_____ _____
Mr. Greg Doherty Date

_____ _____
Mr. Jonathan Brown Date

_____ _____
Mr. Lee Robson, MBA Date

Court No. B090404
Vancouver Registry
Estate No. 11-252532

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY

IN THE MATTER OF THE BANKRUPTCY OF
HORIZON FX INVESTMENTS INCORPORATED

TRUSTEE'S REPORT TO THE COURT

AUGUST 29, 2018

E. SANDS & ASSOCIATES INC.
Licensed Insolvency Trustee
203 - 10366 136A Street
Surrey, BC V3T 5R3
Tel: (604) 583-5499