



**IN THE MATTER OF THE FINANCIAL INSTITUTIONS ACT
R.S.B.C. 1996, C. 141**

AND

**FIRST SWISS PRIVATE TRUST COMPANY AG (Switzerland),
DESMOND NOEL MICHAEL, CHARLES MILLER (Duncan, BC),
EMANU-EL MICHAEL, ROBERT LANGNER, and ROBERT LAMBLIN**

ORDERS UNDER SECTIONS 244(2) AND 238, AND

**NOTICE OF RIGHT OF HEARING OR APPEAL
UNDER SECTIONS 238(2) AND 242**

UPON REVIEWING THE SUBMISSIONS AND EXHIBITS OF STAFF, it appears to the Superintendent of Financial Institutions (the "Superintendent") that:

1. On May 21, 2010 and 26, staff of the Superintendent of Financial Institutions, (the "Superintendent") reviewed *Vancouver Sun* newspaper articles of those dates indicating that a Swiss corporation First Swiss Private Trust Company AG ("FSPT") may be operating in British Columbia. The articles went on to state that:
 - (a) The Chief Executive Officer was Desmond Michael of Surrey, British Columbia, and its Compliance Officer was Charles Miller of Duncan, British Columbia.
 - (b) A British Columbia resident had invested \$50,000 with FSPT in 2009 on the understanding that he would receive a 0.5% shareholder interest in the company and a return of \$750,000.
 - (c) The investor was also told he would be given a one-time payment of \$150,000 or \$50,000 per year for life.

Superintendent of Financial Institutions

**Mailing Address:
1200 – 13450 102 Avenue
Surrey, BC V3T 5X3
Telephone: 604 953-5300
Facsimile: 604 953-5301**

**Web Address:
www.ficombc.ca**

- (d) Glen Matthew, who was also involved with FSPT, was putting together a bond issue for FSPT.
- (e) The investor had not received any shares or return on his investment.
- 2. FSPT is not registered to do business in British Columbia.
- 3. FSPT is a registered company in Switzerland with the following information:
 - Address: Baarerstrasse 79
 - 6304 train
 - Entry into Commercial Register: March 9, 1968
 - FSPT's registered directors are: Stefan Bodmer and Werner Stoffel
- 4. It appears that a corporate change took place in 2007.
- 5. It is likely that FSPT was a dormant Swiss corporation that was purchased from its original owner and reinstated.
- 6. FSPT is neither authorized to conduct trust business in Canada by the Federal Office of the Superintendent of Financial Institutions, nor in British Columbia by the Financial Institutions Commission ("FICOM").
- 7. On May 25, 2010 a staff Investigator conducted an internet search and determined there was a website for FSPT, <http://fspt.ch>.
- 8. The registered owner of the website is Michael Emanu-El, with an address of 14 Rue de Rhone, CH-1211 Genève 1, Switzerland. The website contains the following information:
 - (a) The FSPT home page indicates the company was established in 1968 and is a licensed Swiss Trust Company based in Geneva.
 - (b) Under the heading "Main Services!", it states:
 - "First Swiss Private Trust Co is complete independence from the major institutions. Personal service and strict privacy will define all aspects of your relationship with First Swiss."*
 - (c) The website contained a link to a "Business card: Vitenkarte" which is a picture of a business card with the title "First Swiss Private Trust Company

AG” in the name of “Desmond (Des) Michael, Chairman”, with a telephone number of +41 44 586 4968, and an email address of michael@fspt.ch, and a website of www.fspt.ch.

- (d) The sidebar contained a heading called “Contacts” that redirected traffic to <http://fspt.ch/team.html>, however the page is no longer valid.
- (e) Google cache reveals that as of May 15, 2010, the link <http://fspt.info/team.html> previously listed the following team members:
- Charles Miller, Director and Compliance Officer. Department: Due Diligence and Risk Management, Investor Relations and Corporate Governance. Email: cdm@fspt.ch.
 - Desmond Michael, Director and Chief Executive Officer. Department: Head of Wealth Management, Global Assets Management and Investment Banking. Email: michael@fspt.ch.
 - [REDACTED], Regional Operations Officer, Middle East and Europe. Department: Head of Project Development. Email: [REDACTED].
9. Charles Miller has a LinkedIn webpage where he lists himself as a Co-Founder of FSPT and also as the owner of Duncan Valley Timber Ltd. in Duncan, British Columbia. Charles Miller has a listed residential address is [REDACTED], Duncan, British Columbia.
10. Desmond Noel Michael has a listed address of [REDACTED], Surrey, British Columbia.
11. On May 26, 2010, staff investigators attended the address of [REDACTED], Surrey, British Columbia, and determined that it was a UPS store. Box #408 was rented beginning in 2007 to Emanu-El Michael, Joanna Blagg, and Desmond Michael. Emanu-El Michael signed the rental agreement on June 18, 2007 and used as identification a CIBC VISA credit card and an International Driving Permit. The customer address was on Salt Spring Island, British Columbia which is not owned by any of the persons on the contract. The telephone number for the renters was [REDACTED] which is not an active line.

12. On May 31, 2010, a staff Investigator met with the investor mentioned in the Vancouver Sun articles. He was introduced to FSPT by Al Nikiforuk in British Columbia as a good investment and Al Nikiforuk arranged the investment. The investor provided the following documents which arose from his dealings with FSPT:

- (a) Promissory Note: Executed on May 7, 2009 between FSPT and the investor which provides that the investor is providing funds (\$50,000 up to \$100,000) to FSPT so that a new subsidiary of FSPT entitled "First Swiss Private Trust Company AG - Canada can be formed and in return the investor will receive by election "either collecting interest, payable at ten percent (10%) per annum effective for a twelve (12) month participation and initial principal, or exercise an option to convert the proceeds into one-half (.5) percent to one percent (1%) ownership of First Swiss Private Trust Company AG – Canada shares."

The note is issued on letterhead with the following company name: First Swiss Private Trust Company AG – Canada.

FSPT is listed as having the following address: 408 – 800 15355 24 Avenue, White Rock, BC, Canada, V4A 2H9.

The note is signed by Desmond N. Michael as Chairman of the Board of FSPT and an "Acknowledgement of Non-Solicitation" was signed by Al Nikiforuk on May 7, 2009 as witness to the investors alleged advisor/consultant role to FSPT.

- (b) Bank Wire Instructions: Issued on FSPT letterhead indicating the company was established in 1968, address 408 – 800 15355 24 Avenue, White Rock, British Columbia, Canada, V4A 2H9, email address michael@fspt.ch, telephone (778) 240-9385 (which is a British Columbia telephone number), website www.fspt.ch. The document indicates that Canadian wire transfers were to be made into an HSBC bank account at branch 016-10680 (located in White Rock, British Columbia) in the name of Desmond Noel Michael.

The wire instructions note that Desmond Noel Michael is the principal signatory for the bank account for FSPT and a Canadian passport and International Drivers License were used as identification for the account.

- (c) Business card: For "Desmond Michael, Chairman" which showed an address of PHONTHAN VILLAGE, SISATTANAK DISTRICT, VIENTIANE, LAO, P.D.R. (Lao, People's Democratic Republic.)
 - (d) FSPT International Chamber of Commerce Non-Circumvention and Non-Disclosure Working Agreement. The agreement was signed by the investor (May 7, 2009) as well as the following persons:
 - a) Des Michael- as FSPT President of the board of directors.
Address: White Rock, British Columbia (the UPS box)
 - b) Ronald Langner – as FSPT Corporate Secretary
Address: Coquitlam, British Columbia
 - c) Robert Lamblin – as FSPT Director
Address: Mission, British Columbia
 - d) Allen Nikiforuk, as Excelsior Housing Concepts President
Address: Duncan, British Columbia
 - (e) Letter dated July 11, 2009, from Ronald Langner, Principal of PriMeridia Development International Inc., to Des Michael as Chairman of FSPT, indicating that his company, was no longer involved with FSPT.
13. Between June 21, 2010 and July 6, 2010 staff investigators have attempted to contact MacDonald, Langner, Lamblin, Miller and Nikiforuk at known telephone numbers or email or addresses without receiving responses to messages.

The legislation

14. Section 31 of the *Financial Institutions Act* ("Act") states:

31 *A person must not use*

(a) *any of the words*

(i) *"trust" or "trustee",*

(ii) *"deposit" or "loan", or*

- (iii) *"insurance", "assurance" or "insurer", or*
- (b) *any other words in connection with the business of a person, in a way likely to*
- (c) *deceive or mislead the public about the ability of the person to undertake trust business, deposit business or insurance business, or*
- (d) *give a false impression that the person is a trust company or insurance company, as the case may be.*

15. Section 70 of the Act states:

- 70 *A corporation must not carry on trust business in British Columbia unless the corporation is*
- (a) *a trust company, an extraprovincial trust corporation or a credit union that has a business authorization to carry on trust business,*
 - (b) *a law corporation as defined in section 1 (1) of the Legal Profession Act,*
 - (c) *[Repealed 1998-9-100.]*
 - (d) *a corporation that is carrying on the business of a trustee in bankruptcy, receiver, receiver manager or liquidator and that is licensed as a trustee in bankruptcy under the Bankruptcy and Insolvency Act (Canada), or*
 - (e) *a corporation that is carrying on a prescribed trust business or class of trust business or a prescribed corporation or class of corporations that is carrying on a prescribed trust business or class of trust business.*

16. Section 244 of the Act provides in part:

- 244(1) *In this section, "committing an act or pursuing a course of conduct" includes failing or neglecting to perform an act or failing or neglecting to pursue a course of conduct.*
- (2) *If, in the opinion of the commission, a person is committing an act or pursuing a course of conduct that*
- (a) *does not comply with this Act, the regulations or the Company Act as it applies for the purposes of this Act,*
 - ...
 - (c) *might reasonably be expected to result in a state of affairs not in compliance with this Act or the regulations, with the Company Act as it applies for the purposes of this Act or, in the case of an extraprovincial corporation, with the Business Corporations Act,*
 - ...

then, the commission may

- (f) order the person to*
 - (i) cease doing the act,*
 - (ii) cease pursuing the course of conduct, or*
 - (iii) do anything that the commission considers to be necessary to remedy the situation, or...*

17. I find that the persons holding themselves out as directors and officers of FCPT during the time in question are controlling minds of FSPT, namely:
 - (a) Desmond Noel Michael (variously named as chairman or president of the board of directors and chief executive officer);
 - (b) Ronald Langner (as FSPT Corporate Secretary);
 - (c) Charles Miller (as a Director and the Compliance Officer)
 - (d) Robert Lamblin (as a FSPT Director), (collectively, the FSPT Principals).
18. Based on the location of the HSBC branch receiving the funds, business letterhead, business cards, mailing address, telephone numbers and location of controlling minds, FSPT is conducting or purporting to be conducting trust business in British Columbia, contrary to section 70 of the *Act*.
19. Furthermore, FSPT is operating in a manner that could deceive or mislead the public into believing that FSPT is authorized to conduct trust business in British Columbia since it has solicited investment from British Columbia residents under its corporate name to further Canadian trust business in the formation of a Canadian trust company, contrary to section 31 of the *Act*.
20. I find that the FSPT Principals, in controlling the actions of FSPT in British Columbia, are committing or pursuing a course of conduct which, pursuant to Section 244(2)(c) of the *Act* might reasonably be expected to result in a state of affairs not in compliance with the *Act*.
21. I find that Emanu-El Michael, as registered owner of the FSPT website and procurer and continued renter of the White Rock mail box for FSPT, is facilitating and assisting in the contraventions of the *Act* by FSPT and its principals, and as such he is committing or pursuing a course of conduct which, pursuant to Section

244(2)(c) of the *Act* might reasonably be expected to result in a state of affairs not in compliance with the *Act*.

22. I further agree with Staff that it would take approximately 2 months to schedule a hearing into this matter and approximately 9 witnesses would be required to provide evidence to be considered at the hearing. As a result, a summary order to cease and desist is warranted pursuant to section 238(1)(b) of the *Act* against FSPT and the FSPT Principals and Emanu-El Michael in order to protect the public interest and maintain confidence in the integrity of financial institutions in the Province of British Columbia.

WHEREAS the Financial Institutions Commission has delegated to the Superintendent the powers and duties under section 244 of the *Act* in the Instrument of Delegation executed December 18, 2009;

NOW THEREFORE the Superintendent orders pursuant to Sections 244(2)(a),(c) and (f), and 238 of the *Act* that:

- 1) First Swiss Private Trust Company AG cease using the term "trust" in its business name, marketing, and business activities in British Columbia;
- 2) First Swiss Private Trust Company AG cease conducting trust business in British Columbia;
- 3) Desmond Noel Michael, Ronald Langner, Charles Miller, and Robert Lamblin cease conducting business activities in British Columbia, including those associated with First Swiss Private Trust AG, in such a manner which might reasonably lead to a corporation conducting trust business in British Columbia; and that each of them direct First Swiss Private Trust Company AG to cease conducting trust business in British Columbia and using the term "trust" in its business activities in British Columbia; and
- 4) Emanu-El Michael cease facilitating First Swiss Private Trust Company AG's trust business activities and use of the term "trust" in its business, including that he no longer maintain a post office box for use by First Swiss Private Trust Company AG and cease marketing of First Swiss Private Trust AG through his website.

TAKE NOTICE THAT First Swiss Private Trust Company AG, Desmond Noel Michael, Ronald Langner, Charles Miller, Robert Lamblin, and Emanu-El Michael may each request a hearing before the Superintendent under section 238(2)(a) of the *Act* or appeal to the Financial Services Tribunal under section 238(2)(b) of the *Act*.

Dated at the
City of Surrey,
Province of British Columbia
this 6th day of July, 2010.



Carolyn Rogers
Superintendent of Financial Institutions
Province of British Columbia

TO:

First Swiss Private Trust Company AG (Switzerland)

[REDACTED]

Surrey, British Columbia

Desmond Noel Michael

[REDACTED]

Surrey, British Columbia

Charles Miller

[REDACTED]

Duncan, British Columbia

Emanu-El Michael

[REDACTED]

Surrey, British Columbia

Robert Pierre Lamblin

[REDACTED]

Mission, British Columbia

Ronald Langner

[REDACTED]

Coquitlam, British Columbia

[REDACTED]