

JOHN MORGAN
SECURITIES COMMISSIONER

RONAK V. PATEL
DEPUTY SECURITIES COMMISSIONER

Mail: P.O. BOX 13167
AUSTIN, TEXAS 78711-3167

Phone: (512) 305-8300
Facsimile: (512) 305-8310



Texas State Securities Board

208 E. 10th Street, 5th Floor
Austin, Texas 78701-2407
www.ssb.texas.gov

BETH ANN BLACKWOOD
CHAIR

E. WALLY KINNEY
MEMBER

DAVID A. APPLEBY
MEMBER

ALAN WALDROP
MEMBER

MIGUEL ROMANO, JR.
MEMBER

SOAH DOCKET 312-16-3856

IN THE MATTER OF §
DAVID DEL CASTILLO AKA DAVID CASTILLO § IN THE STATE OFFICE OF
AKA DAVID M. HUARACHA AKA DAVID OMAR §
HUARACHA, NOW DOING BUSINESS AS § ADMINISTRATIVE HEARINGS
INTERNATIONAL FOREX FUND §

TO: David Del Castillo
2811 La Frontera, Apt. 2611
Austin, Texas 78278

NOTICE OF HEARING

This is your OFFICIAL NOTICE that a hearing will be held at the State Office of Administrative Hearings, in the William P. Clements Building, 300 W. 15th Street, 4th Floor, Austin, Texas 78701, before an Honorable Administrative Law Judge on the 4th day of May, 2016, at 9:00 A.M., for the purpose of determining whether to affirm, modify or set aside Emergency Cease and Desist Order No. ENF-16-CDO-1744.

This hearing will be held pursuant to The Securities Act, TEX. REV. CIV. STAT. ANN. arts. 581-1 to 581-43 (West 2010 & Supp. 2015) (the "Texas Securities Act"); the Rules and Regulations of the State Securities Board, 7 Tex. Admin. Code Chapter 101 §§ 2001.001 to 2001.902 (West 2010 & Supp. 2015); and the Rules of Practice and Procedure of the State Office of Administrative Hearings, 1 Tex. Admin. Code Chapter 155 (Supp. 2015) ("SOAH Rules").

Legal authority and jurisdiction for this matter exist under Sections 23-2 and 24 of the Texas Securities Act, Section 2003.021(b) of the Texas Government Code and Section 155.51 of the SOAH Rules.

IF YOU FAIL TO ATTEND THE HEARING, THE FACTUAL ALLEGATIONS IN THIS NOTICE COULD BE DEEMED ADMITTED, AND THE SECURITIES COMMISSIONER MAY DISPOSE OF THIS CASE WITHOUT A HEARING AND MAY GRANT THE RELIEF SOUGHT IN THIS NOTICE.

BACKGROUND

1. On March 30, 2016, the Securities Commissioner entered Emergency Cease and Desist Order No. ENF-16-CDO-1744 (the "**Emergency Cease and Desist Order**"). A true and correct copy of the Emergency Cease and Desist Order is attached as Staff's Exhibit No. 1, and it is fully incorporated herein.
2. The Emergency Cease and Desist Order ordered DAVID DEL CASTILLO AKA DAVID CASTILLO AKA DAVID M. HUARACHA AKA DAVID OMAR HUARACHA, NOW DOING BUSINESS AS INTERNATIONAL FOREX FUND to immediately cease and desist from:
 - a. Offering for sale and selling any security in Texas until the security is registered with the Securities Commissioner or is offered for sale pursuant to an exemption from registration under the Texas Securities Act.
 - b. Acting as a securities dealer, agent, investment adviser or investment adviser representative until Respondent is registered with the Securities Commissioner or is acting pursuant to an exemption from registration under the Texas Securities Act.
 - c. Engaging in any fraud in connection with the offer for sale of any security in Texas.
 - d. Offering securities in Texas through an offer containing a statement that is materially misleading or otherwise likely to deceive the public.
3. Respondent requested a hearing to challenge the Emergency Cease and Desist Order. The request was received on April 25, 2016. A true and correct copy of the request is attached as Staff's Exhibit No. 2.
4. Section 23-2.D requires that all hearings be held no later than the 10th day after the date the Securities Commissioner receives the request for a hearing unless the parties agree to a later hearing date. The parties have not agreed to a later hearing date.
5. A hearing has now been set at the State Office of Administrative Hearings for May 4, 2016.
6. At the hearing, the Enforcement Division will present evidence supporting the Emergency Cease and Desist Order and request that the Honorable Administrative Law Judge enter a Proposal for Decision that affirms the Emergency Cease and Desist Order in its entirety.

CONTACT INFORMATION

Joseph Rotunda
State Bar No. 24029808
Director, Enforcement Division
State Securities Board
208 E. 10th Street, 5th Floor
Austin, Texas 78756
Telephone: 512-305-8392
Facsimile: 512-305-8398
Email: jrotunda@ssb.texas.gov

Docketing Office
State Office of Administrative Hearings
300 W. 15th Street, Suite 504
Telephone: 512-475-3445
Facsimile: 512-475-4994

SECURITIES COMMISSIONER'S REPRESENTATIVE

Pursuant to Section 105.8 of the Board Rules, all documents filed by any party, other than business records and transcripts, and all documents issued by the Administrative Law Judge must be contemporaneously served upon the Securities Commissioner's Representative as identified below:

Marlene Sparkman
Securities Commissioner's Representative
State Securities Board
208 E. 10th Street, 5th Floor
Austin, Texas 78701
(512) 305-8300
(512) 305-8336 (fax)

Pursuant to Section 105.13 of the Board Rules, the Staff respectfully requests that the Office order that all costs charged to the State Securities Board by any court reporting service in this matter be assessed against the Respondent.

You are invited to appear personally, with, without, or through counsel, and to present any and all evidence relating to the matters set forth in this Notice.

Signed this, the 27th day of April, 2016.



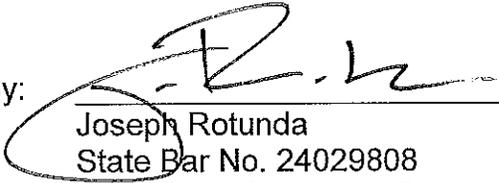
Joseph Rotunda
Director, Enforcement Division
Texas Securities Board
208 E. 10th Street, 5th Floor
Austin, Texas 78701
Texas Bar No. 24029808
Telephone: 512-305-8392
Facsimile: 512-305-8398
Email: jrotunda@ssb.state.tx.us

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of this Notice of Hearing have been served in the manner set forth below on DAVID DEL CASTILLO AKA DAVID CASTILLO AKA DAVID M. HUARACHA AKA DAVID OMAR HUARACHA, NOW DOING BUSINESS AS INTERNATIONAL FOREX FUND, and the SECURITIES COMMISSIONER'S REPRESENTATIVE on this the 27th day of April, 2016.

To: Respondent via electronic mail to 7637704@gmail.com and via certified mail to David Del Castillo, 2811 La Frontera, Apt. 2611, Austin, Texas 78278.

To: Marlene Sparkman, the Securities Commissioner's Representative, via hand delivery at 208 E. 10th Street, 5th floor, Austin, Texas 78701.

By: 

Joseph Rotunda
State Bar No. 24029808
Director, Enforcement Division
State Securities Board
208 E. 10th Street, 5th Floor
Austin, Texas 78701
Telephone: 512-305-8392
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Austin, Texas 78701-2407
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IN THE MATTER OF
DAVID DEL CASTILLO AKA DAVID CASTILLO
AKA DAVID M. HUARACHA AKA DAVID OMAR
HUARACHA, NOW DOING BUSINESS AS
INTERNATIONAL FOREX FUND

§
§
§ Order No. **INF-16-CDO-1744**
§
§

TO: David Del Castillo
2811 La Frontera, Apt. 2611
Austin, Texas 78278

EMERGENCY CEASE AND DESIST ORDER

This is your OFFICIAL NOTICE of the issuance by the Securities Commissioner of the State of Texas ("**Securities Commissioner**") of an EMERGENCY CEASE AND DESIST ORDER pursuant to Section 23-2 of The Securities Act, Tex. Rev. Civ. Stat. Ann. arts. 581-1 to 581-44 (West 2010 & Supp. 2015) (the "**Texas Securities Act**").

The Staff of the Enforcement Division of the Texas State Securities Board ("**the Securities Board**") has presented evidence sufficient for the Securities Commissioner to find that:

FINDINGS OF FACT

1. David Del Castillo aka David Castillo aka David M. Huaracha aka David Omar Huaracha, now doing business as International Forex Fund ("**Respondent**"), maintains a last known address at 2811 La Frontera, Apt. 2611, Austin, Texas 78278.
2. Respondent is advertising an investment program through craigslist.org, the Houston Chronicle's webpage and other online media accessible to the public.
3. The advertisement being carried on craigslist.org describes Respondent and the investment program as follows:
 - a. Respondent worked as a retail trader and private investment company, and is a licensed trader.

- b. Respondent has been trading since 1998. Trading was effectuated through the interbank market for forex and the Philadelphia Options Exchange.
 - c. Investors can expect a 3 percent return in one week.
 - d. Respondent charges a "50/50 split" on any profitable trade. The structure ensures that Respondent does not charge on any trade that is not profitable.
 - e. It directs potential investors to InternationalForexFund.com.
4. The webpage accessible at InternationalForexFund.com describes Respondent and the investment program as follows:
- a. Respondent, doing business as International Forex Fund, is a private investment company specializing in Forex.
 - b. Respondent has 17 years of experience as a "Licensed Foreign Currency Options Broker" on PHLX, and Respondent is a Licensed Foreign Currency Options Broker.
 - c. Respondent is offering managed forex accounts for private international clients.
 - d. Profits are "50/50 split on individual profitable trades."
5. Respondent is directing potential investors to execute a Managed Account Authorization - Limited Power of Attorney to authorize him to trade on their behalf. It provides as follows:
- a. Respondent is a "Licensed Foreign Currency Options Broker and Trading Agent."
 - b. Respondent is authorized to purchase, either short or long, foreign currencies, options, stock options, possibly on margin or otherwise.
 - c. Respondent is to receive a "50% commission" on each trade that produces a profit.
6. Investments in the trading program have not been registered by qualification, notification or coordination, and no permit has been granted for their sale in Texas.
7. Regulation D, Rule 506, promulgated under the Securities Act of 1933, authorizes issuers to engage in general solicitation when selling covered securities and preempts state securities registration laws provided that, among other things, all purchasers of the securities are accredited investors and issuers take reasonable steps to verify that such purchasers are accredited investors.

8. Respondent is offering investments in the trading program to purchasers who are not accredited investors. Respondent is not taking reasonable steps to verify that all purchasers are accredited investors.
9. Respondent has not been registered with the Securities Commissioner as a dealer, agent, investment adviser or investment adviser representative at any time material hereto.
10. Respondent has not been registered with the National Futures Association to engage in foreign currency options trading nor authorized to trade on NASDAQ PHLX LLC, formerly known as the Philadelphia Stock Exchange and commonly known as PHLX, at any time material hereto.
11. In connection with the offer of investments in the trading program, Respondent is intentionally failing to disclose the following material facts:
 - a. The performance history of the fund.
 - b. Respondent has previously filed voluntary petitions for bankruptcy on at least four occasions, including the following:
 - i. On or about February 1, 2004, Respondent filed a Voluntary Petition for bankruptcy in the United States District Court, Southern District of Texas, Case No. 04-31575 and the cause was dismissed on grounds inter alia that Respondent caused unreasonable delay thereby prejudicing creditors and failed to appear for creditors meetings;
 - ii. On or about October, 16, 2005, in Case No. 05-119282-fm, Respondent filed a Voluntary Petition for bankruptcy in the United States District Court, Western Division of Texas, listing \$5050.00 in assets and \$161,033.92 in liabilities and stating that he was unemployed and Respondent was granted a discharge on or about February 15, 2006;
 - iii. On or about July 29, 2011, Respondent filed a Voluntary Petition for bankruptcy in the United States Bankruptcy Court, Western Division of Texas, in Case No. 11-11886-hcm, and the matter was summarily dismissed for failure to meet with creditors; and
 - iv. On or about February 7, 2012, Respondent filed a Voluntary Petition for Bankruptcy in the United States Bankruptcy Court, Western District of Texas, in Case No. 12-10257CG. On March 8, 2012, Respondent's bankruptcy case was dismissed with prejudice.
 - c. On or about November 2, 2004, in Harris County, Texas, property jointly owned by Respondent and another, located at 10514 Knoll Bend Lane, Houston, Texas, was foreclosed on and sold due to default on a promissory note.

- d. On or about May 1, 2012, in Williamson County, Texas, property jointly owned by Respondent and another, located at 140 Calcite Lane, Jarrell, Texas, was foreclosed on and sold due to default on a promissory note.
12. In connection with the offer of investments in the trading program, Respondent is knowingly misrepresenting the relevant fact that, in the prior six months, investors transferred funds to Respondent, their funds were deposited in Respondent's personal account and that most deposits were for amounts between \$5,000.00 and \$15,000.00.
13. Respondent is making an offer stating that he is a "Licensed Trader," a "Licensed Foreign Currency Options Broker and Trading Agent," and that he has been "[t]rading since 1998 in Forex interbank, and Philadelphia options exchange." These statements are materially misleading or otherwise likely to deceive the public because:
- Respondent has not been registered with the National Futures Association to engage in foreign currency options trading nor authorized to trade on NASDAQ PHLX LLC, formerly known as the Philadelphia Stock Exchange and commonly known as PHLX, at any time material hereto, and
 - Respondent is failing to disclose the agency or office that issued his license.

CONCLUSIONS OF LAW

- The above-described investment is a "security" as that term is defined by Section 4.A of the Texas Securities Act.
- Respondent is violating Section 12 of the Texas Securities Act by acting as a dealer, agent, investment adviser or investment adviser representative at a time when he is not duly registered with the Securities Commissioner.
- Respondent is violating Section 7 of the Texas Securities Act by offering for sale securities not duly registered with the Securities Commissioner.
- Respondent is engaging in fraud in connection with the offer for sale or sale of securities.
- Respondent is making an offer containing a statement that is materially misleading or otherwise likely to deceive the public.
- Respondent's conduct, acts, and practices threaten immediate and irreparable public harm.
- The foregoing violations constitute bases for the issuance of an Emergency Cease and Desist Order pursuant to Section 23-2 of the Texas Securities Act.

ORDER

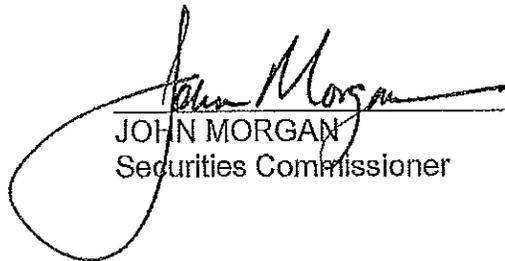
1. It is therefore ORDERED that Respondent immediately CEASE AND DESIST from offering for sale and selling any security in Texas until the security is registered with the Securities Commissioner or is offered for sale pursuant to an exemption from registration under the Texas Securities Act.
2. It is further ORDERED that Respondent CEASE AND DESIST from acting as a securities dealer, agent, investment adviser or investment adviser representative until Respondent is registered with the Securities Commissioner or is acting pursuant to an exemption from registration under the Texas Securities Act.
3. It is further ORDERED that Respondent immediately CEASE AND DESIST from engaging in any fraud in connection with the offer for sale of any security in Texas.
4. It is further ORDERED that Respondent immediately CEASE AND DESIST from offering securities in Texas through an offer containing a statement that is materially misleading or otherwise likely to deceive the public.

NOTICE

Pursuant to Section 23-2 of the Texas Securities Act, you may request a hearing before the 31st day after the date you were served with this Order. The request for a hearing must be in writing, directed to the Securities Commissioner, and state the grounds for the request to set aside or modify the Order. Failure to request a hearing will result in the Order becoming final and non-appealable.

You are advised under Section 29.D of the Texas Securities Act that any knowing violation of an order issued by the Securities Commissioner under the authority of Section 23-2 of the Texas Securities Act is a criminal offense punishable by a fine of not more than \$10,000, or imprisonment in the penitentiary for not more than ten years, or by both such fine and imprisonment.

SIGNED AND ENTERED by the Securities Commissioner this 30th day of March, 2016.


 JOHN MORGAN
 Securities Commissioner