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IN THE MATTER OF §
DIGITALY INVEST AND FXSMART- § Order No. ENF-21-CDO-1832
ROBOTS

Digitally Invest

Service by certified mail, return receipt requested, addressed to (1) 1241 N. Olive Drive, West Hollywood, California 90069; (2) 70 Gracechurch St. London, United Kingdom EC3V 0HR; and (3) N. Fairfax Ave, West Hollywood, CA 90046.

FxSmart-Robots

Service by certified mail, return receipt requested, addressed to (1) 1241 N. Olive Drive, West Hollywood, California 90069; (2) 70 Gracechurch St. London, United Kingdom EC3V 0HR; and (3) N. Fairfax Ave, West Hollywood, CA 90046.

EMERGENCY CEASE AND DESIST ORDER

This is your OFFICIAL NOTICE of the issuance by the Securities Commissioner of the State of Texas (the "**Securities Commissioner**") of an EMERGENCY CEASE AND DESIST ORDER pursuant to Section 23-2 of The Securities Act, Tex. Rev. Civ. Stat. Ann. arts. 581-1-581-45 (the "**Securities Act**").

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

FINDINGS OF FACT

1. Digitally Invest [sic] ("**Respondent Digitally Invest**") can be served by certified mail, return receipt requested, addressed to (1) 1241 N. Olive Drive, West Hollywood, California 90069; (2) 70 Gracechurch St. London, United Kingdom EC3V 0HR; and (3) N. Fairfax Ave, West Hollywood, CA 90046.
2. FxSmart-Robots ("**Respondent FxSmart-Robots**") can be served by certified mail return receipt requested, addressed to (1) 1241 N. Olive Drive, West

Hollywood, California 90069; (2) 70 Gracechurch St. London, United Kingdom EC3V 0HR; and (3) N. Fairfax Ave, West Hollywood, CA 90046.

THE PUBLIC SOLICITATION OF INVESTMENT PLANS

3. Respondent Digitaly Invest maintains a website publicly accessible at <https://digitalyinvest.com> (the "**Digitaly Invest Website**").
4. Respondent FxSmart-Robots maintains a website publicly accessible at <https://fxsmart-robots.online/> (the "**FxSmart-Robots Website**").
5. The Digitaly Invest Website and FxSmart-Robots Website (the "**Online Investment Platforms**") represent Respondents Digitaly Invest and FxSmart-Robots (the "**Respondents**"), respectively, specialize in forex, spot metals, CFD indexes, CFD commodities, oil and gas products, and precious metals.
6. The Online Investment Platforms are publicly soliciting investments in investment plans tied to binary options and forex, as well as other assets and products.
7. The Online Investment Platforms refer to their investment plans as the Starter, Professional, VIP, Platinum, Gold, and Diamond Plans (collectively the "**Investment Plans**") and describe them as follows:
 - A. Investors can purchase an investment in the Starter Plan for a minimum of \$300 and a maximum of \$500. The Starter Plan purportedly features forex minors. It purportedly pays a guaranteed 5% return.
 - B. Investors can purchase an investment in the Professional Plan for a minimum of \$600 and a maximum of \$1,000. The Professional Plan purportedly features forex minors and forex majors. It purportedly pays a guaranteed 10% return.
 - C. Investors can purchase an investment in the VIP Plan for a minimum of \$1,100 and a maximum of \$3,000. The VIP Plan purportedly features forex minors, forex majors, and binary options. It purportedly pays a guaranteed 15% return.
 - D. Investors can purchase an investment in the Platinum Plan for a minimum of \$3,100 and a maximum of \$5,100. The Platinum Plan purportedly features forex majors, forex minors, binary options, and CFO indexes. It purportedly pays a guaranteed 22% return.
 - E. Investors can purchase an investment in the Gold Plan for a minimum of \$5,100 and a maximum of \$20,000. The Gold Plan purportedly features forex majors, forex minors, binary options, and gold. It purportedly pays a guaranteed 30% return.

- F. Investors can purchase an investment in the Diamond Plan for a minimum of \$21,000 and a maximum of \$500,000. The Diamond Plan purportedly features forex majors, forex minors, binary options, gold, CFO indexes, and CFO commodities. It purportedly pays a guaranteed 40% return.

THE REFERRAL PROGRAMS

8. Respondents are recruiting sales agents through referral programs to attract new investors.
9. Respondents are promising to pay commissions to sales agents equal to 10% of the principal investment of new investors.

THE PHONY ADDRESSES

10. The Digitaly Invest Website represents Respondent Digitaly Invest maintains offices at 1241 N. Olive Drive, West Hollywood, California 90069, and N. Fairfax Ave, West Hollywood, CA 90046.
11. The former address is not a real physical address, and the latter address does not contain a street number.

THE USE OF FAKE TESTIMONIALS

12. The Online Investment Platforms are publishing testimonials purporting to portray images of satisfied clients.
13. The names of the clients identified in the Digitaly Invest Website are the same as the names of the clients identified in the FxSmart-Robots Website.
14. The text of the testimonials set forth in the Digitaly Invest Website is nearly identical to the text of the testimonials set forth in the FxSmart-Robots Website.
15. The images of the clients set forth in the Digitaly Invest Website are the same as the images of the clients set forth in the FxSmart-Robots Website.
16. The images of clients include stock photographs of models available for purchase on the internet.

GUARANTEES OF PROFITABILITY

17. Respondents guarantee profits, fixed rates of return, and claim there are no risks associated with the Investment Plans.

REGISTRATION VIOLATIONS

18. Respondents have not been registered with the Securities Commissioner as dealers or agents at any time material hereto.
19. The Investment Plans have not been registered by qualification, notification, or coordination, and no permit has been granted for their sale in Texas.

FRAUD AND FAILURE TO DISCLOSE INFORMATION RELATING TO PRINCIPALS

20. In connection with the offer of the Investment Plans, Respondent Digitaly Invest is intentionally failing to disclose the identity of its principals and their business repute and qualifications, and this information constitutes a material fact.
21. In connection with the offer of the Investment Plans, Respondent FxSmart-Robots is intentionally failing to disclose the identity of its principals and their business repute and qualifications, and this information constitutes a material fact.

FRAUD AND THE FAILURE TO DISCLOSE
INFORMATION RELATING TO BUSINESS OPERATIONS

22. In connection with the offer of the Investment Plans, Respondents are intentionally failing to disclose their strategies for generating the represented rates of return, and this information constitutes a material fact.
23. In connection with the offer of the Investment Plans, Respondents are intentionally failing to disclose their assets, liabilities, or other financial information that demonstrate their ability to pay fixed returns to investors, and this information constitutes a material fact.

FRAUD AND DECEIT AND
THE PHYSICAL LOCATION OF RESPONDENT DIGITAL INVEST

24. Respondent Digitaly Invest is representing it maintains offices at 1241 N. Olive Drive, West Hollywood, California 90069, and N. Fairfax Ave, West Hollywood, CA 90046. These representations constitute fraudulent, misleading and deceptive statements as follows:
 - A. In connection with the offer of the Investment Plans, Respondent Digitaly Invest is representing it maintains offices at 1241 N. Olive Drive, West Hollywood, California 90069. This statement is a misrepresentation of a relevant fact because this address is fictitious and is not a real physical address.
 - B. Respondent Digitaly Invest is representing its address is N. Fairfax Ave, West Hollywood, CA 90046. This statement is materially misleading or

otherwise likely to deceive the public because Respondent Digitally Invest is not providing a street number for this physical address.

FRAUD THE CONCEALMENT OF RISKS ASSOCIATED WITH BINARY OPTIONS

25. In connection with the offer of the Investment Plans, Respondents are intentionally failing to disclose the following risks associated with binary options, and the following risks constitute material facts:
- A. Traders may lose the entirety of their original investment when they fail to correctly wager on the market's direction and price at the time of expiration;
 - B. Fluctuations in markets may negatively impact the profitability of a binary option;
 - C. Traders must wait until the option expiration date before they can take their profits and losses, and as such, the illiquidity of the investment may negatively impact the ability to trade for a profit; and
 - D. Binary options platforms are thinly regulated, and the lack of regulation may negatively impact the ability to trade the investments securely.

FRAUD AND THE CONCEALMENT OF THE RISKS ASSOCIATED WITH CONTRACTS FOR DIFFERENCE

26. In connection with the offer of the Investment Plans, Respondents are intentionally failing to disclose the following risks associated with investments tied to contracts for difference, and the following risks constitute materials facts:
- A. When using contracts for difference to short-sell, a position may dramatically increase an investor's contingent liability when the position closes;
 - B. Contracts for difference provide the ability to significantly increase an investor's leverage and exposure due to movements in the underlying asset's market;
 - C. A decrease in trading of the underlying asset can result in an existing contract becoming highly illiquid;
 - D. Contracts for difference traded on the over-the-counter market expose investors to the financial and business status of the counterparty;
 - E. Technical disruptions in a platform's operation may result in a delay in the execution and settlement of a transaction;

- F. The price of contracts for difference may fluctuate rapidly due to political and economic policies adopted by governments; and
- A. Trading of the underlying asset may be suspended or halted, affecting an investor's ability to open or close a position at the intended time and price.

**FRAUD AND THE CONCEALMENT
OF THE RISKS ASSOCIATED WITH FOREX TRADING**

27. In connection with the offer of the Investment Plans, Respondents are intentionally failing to disclose the following risks associated with investments tied to forex trading, and the following risks constitute material facts:
- A. Fluctuations in a country's interest rates may lead to fluctuations in a currency value, thereby negatively impacting the ability to close a trade for a profit;
 - B. Macroeconomic statistics, such as inflation, can have a significant impact on forex markets;
 - C. Stock, bond, commodity, and other capital markets have a strong influence on exchange rates;
 - D. International trade numbers, such as trade deficits and surpluses, play a vital role in forex markets;
 - E. Fluctuations in the foreign exchange rate between the time of placing a trade and the time of closing a trade may negatively impact the price of forex;
 - F. A system or technical failure in a platform executing trades may negatively impact the ability to close a trade for a profit;
 - G. Leveraging transactions on margin, once called, may lead to substantial losses in excess of initial investments; and
 - H. Political news can be important for forex traders, and unexpected news can negatively impact forex trading.

DECEPTIVE PRACTICES AND THE USE OF REFERRAL PROGRAMS

28. As described herein, Respondents are promising to pay commissions to sales agents who refer new investors. These representations are materially misleading or otherwise likely to deceive the public because Respondents are not disclosing the following information:

- A. Persons who offer and sell securities in Texas who are not registered as dealers or agents and who do not qualify for an exemption violate section 12 of the Securities Act; and
- B. Persons who offer and sell securities in Texas may be offering unregistered securities in violation of Section 7 of the Securities Act.

FRAUD AND THE FAKE TESTIMONIALS

- 29. In connection with the offer of Investment Plans, Respondents are publishing phony testimonials purportedly from satisfied clients, and the publication of these phony testimonials constitutes the misrepresentation of a relevant fact.

CONCLUSIONS OF LAW

- 1. The investments in the Investment Plans are “securities” as that term is defined in Section 4.A of the Securities Act.
- 2. Respondents are violating Section 7 of the Securities Act by offering securities for sale in Texas at a time when the securities are not registered with or permitted by the Securities Commissioner.
- 3. Respondents are violating Section 12 of the Securities Act by offering securities for sale in Texas without being registered pursuant to the provisions of Section 12 of the Securities Act.
- 4. Respondents are engaging in fraud in connection with the offer for sale of securities.
- 5. Respondents are making offers containing statements that are materially misleading or otherwise likely to deceive the public.
- 6. Respondents’ conduct, acts, and practices threaten immediate and irreparable harm.
- 7. The foregoing violations constitute bases for the issuance of an Emergency Cease and Desist Order pursuant to Section 23-2 of the Securities Act.

ORDER

- 1. It is therefore ORDERED that Respondents immediately CEASE AND DESIST from offering for sale 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 Respondents immediately CEASE AND DESIST from acting as securities dealers, agents, investment advisers, or investment adviser representatives in Texas until they are 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 Respondents 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 Respondents 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 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 Securities Act that any knowing violation of an order issued by the Securities Commissioner under the authority of Section 23-2 of the Securities Act is a criminal offense punishable by a fine of not more than \$10,000, or imprisonment in the penitentiary for two to ten years, or by both such fine and imprisonment.

SIGNED AND ENTERED by the Securities Commissioner this 14th day of March 2021.



TRAVIS J. ILES
Securities Commissioner