

NOV 01 2019



NO.
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF
SECTION 152 OF THE *SECURITIES ACT*, RSBC 1996, C. 418

BETWEEN:

BRITISH COLUMBIA SECURITIES COMMISSION

PETITIONER

AND:

EINSTEIN CAPITAL PARTNERS LTD.
EINSTEIN EXCHANGE INC.
EINSTEIN LAW CORPORATION
MICHAEL ONGUN GOKTURK

RESPONDENTS

PETITION TO THE COURT

WITHOUT NOTICE to the Respondents

This proceeding is brought for the relief set out in Part 1 below by the British Columbia Securities Commission.

If you intend to respond to this Petition, you or your lawyer must

- a) file a Response to Petition in Form 67 in the above-named registry of this court within the time for Response to Petition described below, and
- b) serve on the Petitioner
 - i. 2 copies of the filed Response to Petition; and
 - ii. 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the Response to Petition within the time for response.

Time for Response to Petition

A Response to Petition must be filed and served on the Petitioner,

- a) if you were served with the Petition anywhere in Canada, within 21 days after that service,
- b) if you were served with the Petition anywhere in the United States of America, within 35 days after that service
- c) if you were served with the Petition anywhere else, within 49 days after that service, or
- d) if the time for Response has been set by order of the court, within that time.

The address of the Registry is: 800 Smithe Street, Vancouver, British Columbia.

The ADDRESS FOR SERVICE of the Petitioner is: c/o Lawson Lundell LLP, 1600 – 925 West Georgia Street, Vancouver, British Columbia V6C 3L2 (Attention William L. Roberts)

Fax number for delivery is: N/A

Email address for delivery is: wroberts@lawsonlundell.com

The name and office address of the Petitioner's solicitor is: Lawson Lundell LLP, 1600 - 925 West Georgia Street, Vancouver, British Columbia, V6C 3L2 (Attention: William L. Roberts).

CLAIM OF PETITIONER

Part 1: ORDERS SOUGHT

1. An Order appointing a receiver in the form attached as Schedule "A".

Part 2: FACTUAL BASIS

Parties

2. The Petitioner (the "**Commission**") is a British Columbia corporation continued pursuant to the *Securities Act*, R.S.B.C. 1996, chapter 418 (the "*Act*"), having an address for delivery in these proceedings at 1600 - 925 West Georgia Street, Vancouver, British Columbia.
3. The Respondent Einstein Exchange Inc. ("**Einstein Exchange**") is a British Columbia Corporation with a registered address at 1500 – 1055 West Georgia Street, P.O. Box 11117, Vancouver, B.C. V6C 4N7 [sic]. Einstein Exchange operates an online trading platform to facilitate the purchase and sale of cryptocurrencies between investors.
4. The Respondent Einstein Capital Partners Ltd. ("**Einstein Capital**") is a British Columbia corporation with a registered address at 1500 – 1055 West Georgia Street, P.O.

Box 11117, Vancouver, B.C. V6E 4N7. Einstein Capital supports the business operations of Einstein Exchange.

5. The Respondent Einstein Law Corporation (“**Einstein Law**”) is a British Columbia corporation with a registered address at 1500 – 1055 West Georgia Street, P.O. Box 11117, Vancouver, B.C. V6E 4N7. Einstein Law provides consulting services to lawyers and corporations on digital currency related matters.
6. The Respondent Michael Ongun Gokturk (“**Gokturk**”) is a businessperson with a last known address of 717 West Pender Street, 3rd floor, Vancouver, B.C. V6C 2X6. Mr. Gokturk is the sole director of each of Einstein Exchange, Einstein Capital, and Einstein Law.
7. The Commission received multiple complaints raising concerns about access to and use of funds at Einstein Exchange. The Commission is actively investigating those complaints. Einstein Exchange failed to respond to two requests for information associated with that investigation.
8. On October 31, 2019, counsel for Einstein advised the commission that, among other things, it planned to shut down Einstein Exchange “due to lack of profit”, but that it had sufficient crypto assets to satisfy withdrawal requests from customers that have made deposits at Einstein Exchange. Counsel refused to provide information to the Commission about where the cryptocurrencies are stored, and subsequently withdrew from representation of Einstein.
9. As of November 1, 2019, Einstein Exchange’s office is closed and the Commission has not been able to reach Michael Gokturk.
10. The Commission understands that the customer account payable balance owing to Einstein Exchange’s clients is in excess of \$16 million.

Part 3: LEGAL BASIS

11. The Petitioner will rely on s. 152 of the *Securities Act*, R.S.B.C. 1996, c. 418, Rules 10-2 and 13-1(19) of the *Supreme Court Civil Rules*, s. 39 of the *Law and Equity Act*, R.S.B.C. 1996, c. 253, and the inherent jurisdiction of the Court.
12. Section 152 of the *Securities Act*, R.S.B.C. 1996, c. 418 states:

152 (1) If any of the circumstances referred to in section 151 (1) exist, the commission may apply to the Supreme Court for the appointment of a receiver, receiver manager or a trustee of all or any part of the property of the person.

(2) On an application under subsection (1), the court may, by order, appoint a receiver, receiver manager or a trustee of all or any part of the property of the person, if the court is satisfied that the appointment is in the best interests of

- (a) that person's creditors,
- (b) persons, any of whose property is in the possession or under the control of that person, or
- (c) the security holders of or subscribers to that person.

(3) The commission may make an application under this section without notice to any other person and, in that event, the court may make a temporary order under subsection (2) appointing a receiver, receiver manager or a trustee for a period not longer than 15 days.

(4) A receiver, receiver manager or trustee appointed under this section

(a) is the receiver, receiver manager or trustee of all or any part of the property belonging to the person or held by the person on behalf of or in trust for any other person, and

(b) may, if authorized by the court, wind up or manage the business and affairs of the person and may exercise powers necessary or incidental to the winding up or management.

(5) On an application under this section, the court may admit as evidence

(a) any hearsay evidence that the court considers reliable, or

(b) any oral or written statement, record or report the court considers relevant.

13. Section 151(1) states:

151 (1) The commission may make a direction under subsection (2) if

(a) it proposes to order an investigation in respect of a person under section 142 or during or after an investigation in respect of a person under section 142 or 147,

(b) it or the executive director proposes to make or has made an order under section 161 in respect of a person,

(c) criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against a person and the commission considers the proceedings to be connected with or to arise out of a security or exchange contract or a matter relating to trading in securities or exchange contracts, or out of any business conducted by the person,

(d) a person fails or neglects to comply with financial conditions applicable to the person under this Act, or

(e) it proposes to apply or has applied to the Supreme Court for an order under section 157, or the Supreme Court has made an order under section 157.

14. The appointment of a Receiver over the Receivership Funds is in the best interest of investors who suffered losses as a result of the Respondents' wrongful conduct.

Part 4: MATERIAL TO BE RELIED ON

15. Affidavit of Sammy Wu, sworn November 1, 2019.

The Petitioner estimates that the hearing of the Petition will take 30 minutes.

Dated at the City of Vancouver, in the Province of British Columbia, November 1, 2019.

Lawson Lundell LLP" (LUB)
Lawson Lundell LLP
Solicitors for the Petitioner

This Petition to the Court is filed by William L. Roberts, of the law firm of Lawson Lundell LLP, whose place of business and address for delivery is 1600 – 925 West Georgia Street, Vancouver, British Columbia V6C 3L2.

To be completed by the court only:

Order made

in the terms requested in paragraphs _____
of Part 1 of this Petition

with the following variations and additional terms:

Date:

Signature of Judge Master

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PETITION TO THE COURT



Barristers & Solicitors
1600 Cathedral Place
925 West Georgia Street
Vancouver, British Columbia
V6C 3L2

Phone: (604) 685-3456
Attention: William L. Roberts