

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

HVIZDZAK CAPITAL
MANAGEMENT, LLC; HIGH
STREET CAPITAL LLC; HIGH
STREET CAPITAL PARTNERS,
LLC; SHANE HVIZDZAK; and
SEAN HVIZDZAK,

Defendants.

No. 1: 20-cv-00154-SPB

**ORDER GRANTING TEMPORARY
RESTRAINING ORDER AND OTHER EMERGENCY RELIEF**

This cause comes before the Court upon Plaintiff Securities and Exchange Commission's ("Commission") emergency *ex parte* Motion for the following orders with respect to Defendants Hvizdzak Capital Management, LLC ("HCM"); High Street Capital LLC ("HSC"); High Street Capital Partners LLC ("HSCP"), Shane Hvizdzak ("Shane"), and Sean Hvizdzak ("Sean;" collectively, "Defendants"):

1. a Temporary Restraining Order;
2. an Order Freezing the Assets of Defendants;
3. an Order Requiring Sworn Accountings;
4. an Order Prohibiting Destruction of Documents;
5. an Order Requiring the Repatriation of Assets;
6. an Order Expediting Discovery; and
7. an Order to Show Cause Why a Preliminary Injunction Should Not be Granted.

The Court has considered the Commission's Complaint, its *ex parte* Motion for a Temporary Restraining Order and Other Relief and Memorandum of Law in Support thereof, and the declarations and exhibits filed in support of the Commission's motion.

Based on the foregoing, the Court finds that:

- (i) this Court has jurisdiction over the subject matter of this action, over Defendants, and venue lies in this District;
- (ii) the Commission has made a proper showing in support of the relief granted herein, as required by Section 20(b) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77t(b), and Section 21(d) of the Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78u(d), with evidence demonstrating a likelihood that the Commission will prove at trial that Defendants violated the Federal securities laws alleged in the Complaint, and, unless enjoined by order of this Court, Defendants would continue their unlawful conduct; and
- (iii) unless restrained and enjoined by this Court, Defendants may further dissipate, conceal, or transfer from the jurisdiction of this Court assets that could be subject to an order of disgorgement or an order to pay civil penalties in this action; and
- (iv) the Commission has demonstrated sufficient reason why a procedure other than by notice of motion is necessary. Defendants have recently dissipated assets, and it is appropriate for this Court to issue this Order *ex parte* so that prompt service on appropriate financial institutions can be made, thus preventing further dissipation of assets.

Accordingly, the Motion is **GRANTED**, and the Court hereby orders as follows:

I.

SHOW CAUSE HEARING

IT IS HEREBY ORDERED that Defendants show cause, if any, before the undersigned, at 11 o'clock a.m., on the 30th day of June, 2020, by Zoom Government hearing, to be facilitated by the Court through procedures given to the parties or their counsel after contacting Chambers at (814) 464-9630, why a Preliminary Injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure should not be granted against Defendants, as requested by the Commission.

II.

TEMPORARY RESTRAINING ORDER

IT IS FURTHER ORDERED that, pending determination of the Commission's request for a Preliminary Injunction, Defendants, and their respective directors, officers, agents, servants, employees, attorneys, representatives and those persons in active concert or participation with them, who receive actual notice of this Order, by personal service or otherwise, are hereby temporarily restrained and enjoined from violating:

A. Section 17(a) of the Securities Act

directly or indirectly, in the offer or sale of any securities, by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails,

- (a) employing any device, scheme or artifice to defraud;
 - (b) obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;
- or

(c). engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser;
in violation of Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a); and

B. Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder

directly or indirectly, in connection with the purchase or sale of any security, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange,

(a) employing any device, scheme or artifice to defraud;
(b) making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
(c) engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;
in violation of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

III.

ASSET FREEZE

IT IS FURTHER ORDERED that, pending determination of the Commission's request for a Preliminary Injunction:

A. Defendants and their agents, servants, employees, attorneys in-fact, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and each of them, shall hold and retain within their control, and otherwise prevent any disposition, transfer, pledge, encumbrance, assignment, dissipation,

concealment, or other disposal (except to the extent this Order requires any transfer to repatriate assets to the United States) whatsoever of any of their funds or other assets or things of value presently held by them, under their control, or over which they exercise actual or apparent investment or other authority, including, but not limited to, accounts over which any Defendant has signatory authority, in whatever form such assets may presently exist and wherever located; and

B. Any financial or brokerage institution or other person or entity holding any such funds or other assets, in the name, for the benefit or under the control of Defendants, directly or indirectly, including, but not limited to, accounts over which any Defendant has signatory authority, held jointly or singly, and wherever located, and which receives actual notice of this order by personal service, mail, email, facsimile, or otherwise, shall hold and retain within its control and prohibit the withdrawal, removal, transfer, disposition, pledge, encumbrance, assignment, set off, sale, liquidation, dissipation, concealment, or other disposal of any such funds or other assets (except to the extent this Order requires any transfer to repatriate assets to the United States), including, but not limited to, the following presently known bank and digital asset trading platform and custodial accounts:

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