

SFC recovers \$190 million for investors of collapsed hedge fund

6 May 2015

The Securities and Futures Commission (SFC) today resolved proceedings involving the Descartes Athena Fund SPC (the Athena Fund), paving the way for about 340 overseas investors allegedly defrauded by the collapsed private hedge fund to recoup part of their investments from distribution of \$191,360,215 of assets recovered by the SFC (Note 1).

This came after the SFC commenced urgent proceedings in April 2009 to freeze assets of the Athena Fund to protect the interests of its investors, alleging that the Athena Fund and its fund managers defrauded investors by issuing false documents purportedly from a major accounting firm and sending them false statements of account and subscription contracts, and that the assets of the Athena Fund had been dissipated.

The SFC's Executive Director of Enforcement, Mr Mark Steward, said: "The SFC alleges the Athena Fund was an outright fraud. Our action to have the assets frozen prevented them from disappearing into the perpetrators' pockets and will enable most investors to recover a substantial portion of their investments."

The other defendants in the SFC proceedings include the two operators of the Athena Fund and the related companies, namely Descartes Investment Management Limited, Descartes Global Asset Management Limited and Descartes Finance Limited (the Descartes Group) (Notes 2, 3 & 4).

The Court appointed Mr John Robert Lees and Mr Colum Bancroft (later Mr Mat Ng) as joint and several interim administrators of the Athena Fund and the Descartes Group (Note 5).

Following the initial action, the SFC traced that assets, namely securities, from the Athena Fund had been transferred to NBS Limited (NBS). The SFC then made a further application to the Court to freeze assets held by NBS up to the value of these securities.

NBS claimed to be a nominee of Bestmega Limited (Bestmega), an investor in the Athena Fund. NBS and Bestmega contended they were entitled to retain these securities because Bestmega was an investor in the Athena Fund. The SFC disagreed, countering that these securities were illegally transferred by the Athena Fund to Bestmega and that both NBS and Bestmega were liable to restore the Athena Fund to the original position before the alleged illegal transfer.

Subject to court approval in both Hong Kong and in the Cayman Islands where the Athena Fund is incorporated, the SFC has reached an agreement with NBS and Bestmega without any finding of illegality or admission by NBS/Bestmega.

Under the agreement, funds in the amount of \$191,360,215 will be paid to the Athena Fund for distribution by the court-appointed liquidators to all investors in the Athena Fund and the Descartes Group, including Bestmega/NBS.

End

Notes:

1. The Athena Fund is a segregated portfolio company incorporated in the Cayman Islands. Descartes Investment Management Limited was its investment manager and delegated all its functions and powers to Descartes Global Asset Management Limited which was the investment adviser of the Athena Fund. Descartes Finance Limited was the sole shareholder of Descartes Investment Management Limited.
2. Please see SFC's press releases dated [28 Apr 2009](#); [19 May 2009](#); [25 May 2009](#) and [21 August 2009](#).
3. Descartes Global Management Limited was licensed under the SFO to carry on Type 9 (asset management) regulated activity with the conditions that at all times it shall not hold client assets and cannot extend its services to the retail level.
4. The fund managers were not in Hong Kong and their whereabouts remain unknown.
5. The Athena Fund was subsequently wound up in its place of incorporation, the Cayman Islands, and Mr Lees, Mr Ng and Mr Chris Johnson were appointed as the Joint Official Liquidators of the Athena

Fund.

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