

PROVINCE OF BRITISH COLUMBIA
RULE OF THE BRITISH COLUMBIA SECURITIES COMMISSION

The British Columbia Securities Commission orders that, effective December 21, 2007, the *Securities Rules*, B.C. Reg. ~~197/94~~, is amended as set out in the attached Schedule.

194/97

DEPOSITED
NOV 29 2007
B.C. REG. 397/2007

26 Nov 2007
Date


British Columbia Securities Commission
BRENT ATKEN, ACTING CHAIR

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Securities Act, R.S.B.C. 1996, c. 418, s. 184

Other (specify): Securities Amendment Act, 2007, S.B.C. 2007, s. 47 - c 31

SCHEDULE

- 1 *Section 50 (1) (g) (ii) of the Securities Rules, B.C. Reg. 197/94^{194/97}, is amended by striking out “senior officers” and substituting “officers”.*
- 2 *Section 157 is amended*
- (a) *in subsection (2) (b) by striking out “senior officers” and substituting “officers”, and*
- (b) *in subsection (3) by striking out “senior officer” and substituting “officer”.*
- 3 *Section 161 is repealed.*
- 4 *Section 174 (2) is amended by striking out “senior officer” and substituting “officer”.*
- 5 *The following section is added:*

Limits on liability

- 184.4 For the purpose of section 136 (3) (b) of the Act, the amount is equal to triple the profit made by all persons, or the losses avoided by all persons, because of the misconduct.

- 6 *The following section is added to Part 18:*

Calculation of profit

- 187.1 (1) For the purpose of section 155 (5) of the Act, profit is to be determined as follows:
- (a) for a purchase of securities in contravention of section 57.2 (2) of the Act, the profit is the aggregate of the gains associated with all securities purchased in contravention of that section where, for the purpose of the calculation, the gain per security purchased is
- $$A - B$$
- where
- A equals, if the security was
- (i) subsequently sold before the 10th trading day immediately following general disclosure of the inside information, the price at which the security was sold, or
- (ii) not subsequently sold before the 10th trading day immediately following general disclosure of the inside information, the volume-weighted average market price of the security for the 10 trading days immediately following general disclosure of the inside information, and
- B equals the amount paid for the security by the person who contravened section 57.2 (2);

- (b) for a sale of securities in contravention of section 57.2 (2) of the Act, the profit is the aggregate of the gains associated with all securities sold in contravention of that section where, for the purpose of the calculation, the gain per security sold is

$$A - B$$

where

A equals the proceeds from the sale of the security, and

B equals, if the contravention was

- (i) a short sale and the short sale has been covered, the price at which the purchase covering the short sale was made,
 - (ii) a short sale and the short sale has not been covered, the volume-weighted average market price of the security for the 10 trading days immediately following general disclosure of the inside information, or
 - (ii) not a short sale, the volume-weighted average market price of the security over the 10 trading days immediately following general disclosure of the inside information;
- (c) for a purchase of securities in contravention of section 57.3 (3) (a) of the Act, the profit is the aggregate of the gains associated with all securities purchased in contravention of that section where, for the purpose of the calculation, the gain per security purchased is

$$A - B$$

where

A equals, if the security

- (i) was subsequently sold before the execution of the last trade that was the subject of the material order information, the price at which the security was sold, or
- (ii) was not subsequently sold before the execution of the last trade that was the subject of the material order information, the last price paid in the execution of the order that is the subject of the material order information, and

B equals the amount paid for the security by the person who contravened section 57.3 (3) (a);

- (d) for a sale of securities in contravention of section 57.3 (3) (a) of the Act, the profit is the aggregate of the gains associated with all securities sold in contravention of that section where, for the purpose of the calculation, the gain per security purchased is

$$A - B$$

where

A equals the proceeds from the sale of the security, and

B equals, if the contravention was

- (i) a short sale, and the short sale has been covered, the price at which the purchase covering the short sale was made,

- (ii) a short sale, and the short sale has not been covered, the last price paid in the execution of the order that is the subject of the material order information, or
 - (iii) not a short sale, the last price paid in the execution of the order that is the subject of the material order information;
- (e) for a contravention of
- (i) section 57.2 (3) or (4) of the Act,
 - (ii) section 57.2 (5) of the Act,
 - (iii) section 57.3 (4) of the Act, or
 - (iv) section 57.3 (5) of the Act,

the profit is

$A + B$

where

A equals the value of the consideration received by the person for providing the information or recommendation, and

B equals the aggregate profit of all persons who received the information or recommendation, calculated under paragraph (a), (b), (c), (d), or (f) (ii), (iii) or (iv), as applicable;

- (f) for a contravention of
- (i) section 57 of the Act,
 - (ii) section 57.2 (2) of the Act in connection with a related financial instrument,
 - (iii) section 57.3 (3) (a) in connection with an exchange contract,
 - (iv) section 57.3 (3) (b) of the Act, or
 - (v) a provision referred to in section 155 (5) of the Act that is not otherwise referred to in this subsection,

the amount determined by the court.

- (2) For the purpose of calculating profit under subsection (1) (a) to (d) or (f), the court may take into account the commissions paid by the person who contravened the Act in respect of the securities purchased or sold in relation to the contravention.