

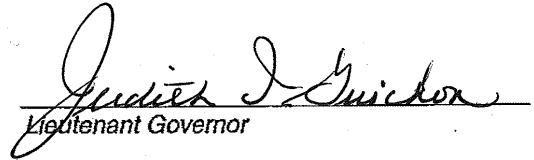
PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 284

, Approved and Ordered

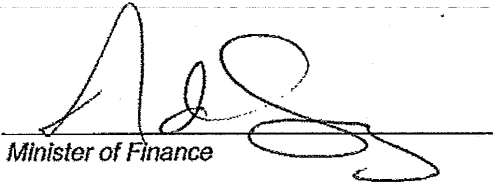
May 23, 2014

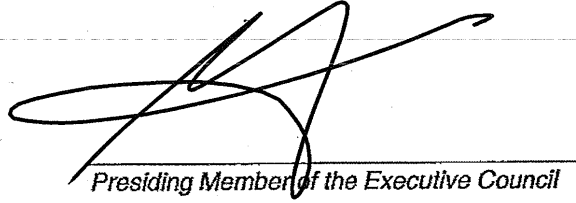

Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

- (a) sections 120 and 135 of the Finance Statutes Amendment Act, 2011, S.B.C. 2011, c. 29, is brought into force, and
- (b) Securities Regulation, B.C. Reg. 196/97, is amended as set out in the attached Schedule.


Minister of Finance


Presiding Member of the Executive Council

(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, RSBC 1996, c. 418, s. 183

Other: _____

December 2, 2013

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R/302/2013/21

SCHEDULE

1 Part 3 is repealed and the following substituted:

PART 3 – CLAIMS UNDER SECTION 15.1 OF THE ACT

Definitions

7.1 In this Part,

“eligible applicant” means a person who

- (a) suffered pecuniary loss as a direct result of misconduct that resulted in an order for which the commission gave notice under section 7.2,
- (b) did not directly or indirectly engage in the misconduct that resulted in the order, and
- (c) has not been denied a claim under section 7.4 (6);

“order” means an order made under section 155.1 (b), 157 (1) (b) or 161 (1) (g) of the Act.

Notification procedure

- 7.2 (1) If the commission receives money from an order, for the purpose of giving notice under section 15.1 (1) of the Act, the commission must
- (a) issue a press release, and
 - (b) post a notice on the commission’s website.
- (2) A notice under subsection (1) (b) must be posted until the earlier of
- (a) 3 years from the date that the notice is first posted, and
 - (b) the date on which all money received under the order has been paid out under this Part.
- (3) A press release and a notice under subsection (1) must include the following:
- (a) a description of the misconduct that resulted in the order;
 - (b) the name of each party to the proceeding that resulted in the order;
 - (c) the amount of money received by the commission from the order;
 - (d) a statement that a claim for the money can be made by applying to the commission.
- (4) If, after the commission has posted a notice under subsection (1) (b), the commission receives additional money under the order, the commission must post on its website the total amount of money received under the order.

Claims application

- 7.3 (1) An application for a payment under section 15.1 of the Act must be in the required form.
- (2) If a person has made an application under section 15.1 of the Act and the information provided in the application changes in a material respect so that the

information provided is false or misleading, the person must report the change to the commission promptly.

Adjudication of claims

- 7.4 (1) If the commission determines that an applicant is an eligible applicant in respect of an order, the commission may make a payment to the eligible applicant from money received from the order.
- (2) When determining the amount to be paid to an eligible applicant, the commission must consider the following:
- (a) the amount of money received from the order;
 - (b) the loss suffered by the eligible applicant;
 - (c) the losses suffered by all eligible applicants;
 - (d) any other information the commission considers appropriate in the circumstances.
- (3) When determining an applicant's loss for the purposes of this section, the commission must not include any amount claimed by the applicant in respect of a loss of opportunity, including interest on any loss, and must consider the following:
- (a) whether the applicant received or is entitled to receive compensation from other sources for the loss arising from the misconduct that resulted in the order;
 - (b) whether the applicant benefitted from the misconduct that resulted in the order;
 - (c) the results of any hedging or other risk limitation transactions made by the applicant.
- (4) The commission may prorate payments among eligible applicants if, having considered the matters under subsection (2), the commission determines that the money the commission received from the order is insufficient to pay the claims of all eligible applicants.
- (5) A prorated payment made to an eligible applicant must be determined in accordance with the following formula:

$$\frac{A \times B}{C}$$

where

A = the amount of money the commission received under the order,

B = the loss suffered by the eligible applicant, and

C = the losses suffered by all eligible applicants.

- (6) The commission may deny an applicant's claim if the applicant
- (a) fails to comply with section 7.3 (2), or
 - (b) makes a statement or provides information to the commission that, in a material respect and at the time and in the light of the circumstances in which it is made, is false or misleading, or omits facts from the statement or information necessary to make that statement or information not false or misleading.

Opportunity to be heard

7.5 Except for a decision to prorate payments under section 7.4 (4), the commission must not deny all or part of a claim without giving the applicant an opportunity to be heard.

Advance payments

7.6 The commission may make a payment to an eligible applicant, including a partial or installment payment, before the period described in section 15.1 (5) of the Act has expired.