

2002 BCSECCOM 923

COR#02/129

Ruling

Arthur Murray Smolensky

Section 161 of the *Securities Act*, RSBC 1996, c. 418

Panel Joyce C. Maykut, Q.C. Vice Chair

Date of Application October 31, 2002

Date of Ruling November 8, 2002

Appearing

Howard Shapray, Q.C. For Arthur Murray Smolensky
Brad Cramer

Joseph A. Bernardo For Commission staff

Application to Adjourn

- ¶ 1 On September 11, 2002, Commission staff issued a notice of hearing under section 161 of the Act against Arthur Smolensky. Commission staff have asked the Commission to fix a date for the hearing.
- ¶ 2 Counsel for Smolensky states that he intends to file a petition in the Supreme Court of British Columbia in this matter. He says it will show that the Commission is without jurisdiction to proceed in the section 161 hearing. He bases his argument on a settlement entered into between Smolensky and the then Canadian Venture Exchange concerning the same facts that give rise to the section 161 notice of hearing. He asks that the hearing date not be fixed until after the petition is heard.
- ¶ 3 In my view, it is not in the public interest to adjourn the section 161 hearing pending the resolution of a petition that Smolensky intends to file. I direct the parties to fix a date for this hearing with the Secretary of the Commission. If the parties cannot agree on a date for the hearing, the matter can be brought back before the Commission.

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¶ 4 November 8, 2002

Joyce C. Maykut, Q.C.
Vice Chair