

# 2003 BCSECCOM 587

COR#03/121

## Order

**Robert Pierre Lamblin and Leonard William Friesen**

**Sections 162 and 171 of the *Securities Act*, RSBC 1996, c. 418**

### **Introduction**

- ¶ 1 On May 26, 2003 we issued sanctions against Robert Pierre Lamblin for his role in the affairs of Canadian Global Investment Corporation, the Langley-based mutual fund dealer that sold “speculative, illiquid and highly risky” securities to conservative clients. At the same time, we reconsidered the sanctions we had issued earlier against Leonard Friesen for his role in selling some of the high-risk securities to conservative clients while he was a salesperson at Canadian Global Investment. See 2003 BCSECCOM 365.
- ¶ 2 This decision deals with the remaining aspect of our sanctions decision that was deferred pending further information from Lamblin and Friesen.
- ¶ 3 Our decision should be read in conjunction with our findings and decision of November 8, 2002 (see: *Re Bilinski et al.* 2002 BCSECCOM 102) as well as our subsequent decisions on sanction. See: 2002 BCSECCOM 945 and 2003 BCSECCOM 365.

### **Lamblin**

- ¶ 4 In summary, we banned Lamblin from becoming or acting as an officer or director of any issuer, from trading in the securities markets and from registering under the Securities Act for 15 years. Should he seek registration after the ban, we also ordered that Lamblin be under strict supervision for one year.
- ¶ 5 At paragraphs 38 and 39 of our decision we stated that:
- ...we believe that allowing Lamblin to play any meaningful role in the capital markets would still pose a risk to investors.
- ¶ 6 We then deferred the issue of the administrative penalty until Lamblin provided further personal and financial information. He has now provided that information.
- ¶ 7 Lamblin’s liabilities exceed his assets and he states that he may potentially face more lawsuits related to his role in the Canadian Global Financial group.

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- ¶ 8 Furthermore, although Lamblin is presently working in the carpet industry, recent injuries affect his employment and will affect his ability to be gainfully employed in the future. In these circumstances, we conclude that Lamblin has no ability to pay, with no likely prospect to ever pay, a significant administrative penalty.
- ¶ 9 Regulatory orders made in the public interest under section 161(1) and 162 of the Act are for the protection of investors, and the efficiency of, and the public confidence in, capital markets generally. They are intended to be preventative, not punitive. To this end, we must consider whether an individual respondent's past conduct raises sufficient concern to warrant orders that will deter that individual from being involved in any future market misconduct.
- ¶ 10 Although we stated in our earlier decision that it would be in the public interest to impose the maximum administrative penalty against Lamblin, we have ultimately concluded that it is not necessary to do so. In addition to our findings and Lamblin's other personal circumstances, we took into account the fact that:
- Lamblin has no ability to pay, with no likely prospect to ever pay, the maximum administrative penalty, and
  - the 15 year prohibition orders under section 161 of the Act, effectively ban Lamblin, now 58 years old, from working in the securities industry for the rest of his working life.
- ¶ 11 All of these circumstances lead us to conclude that section 161 prohibition orders in effect against Lamblin are sufficient to protect the public interest. Accordingly, we will not impose an administrative penalty under section 162 against him.

### **Friesen**

- ¶ 12 On November 8, 2002, we banned Friesen from trading for two years, prohibited him from becoming a registrant for two years, and until he meets certain proficiency requirements, and ordered him to pay a \$20,000 penalty.
- ¶ 13 At Friesen's request, we agreed to reconsider these sanctions at the same time we considered sanctions against Lamblin.
- ¶ 14 Friesen argued, in letters dated December 10, 2002, March 21, 2003, and at the hearing on May 12, 2003, that he simply could not afford to pay the administrative penalty and that the Commission should not treat him any differently than Donald Gordon-Carmichael, a fellow salesperson at Canadian Global Investment.
- ¶ 15 In considering Friesen's application, it is useful to briefly refer to our November 8 decision. At paragraphs 31 and 35 we stated:

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Although Gordon-Carmichael and Friesen must take responsibility for their failure to meet their duties as registered salespersons, we must not consider their misconduct in isolation. Both were entitled to receive competent guidance and effective supervision from the mutual fund dealer's trading director and compliance officers. They did not receive any.

¶ 16 In considering Gordon-Carmichael and Friesen's contribution to the overall prejudice suffered by investors in this case, we have also taken into account the following:

- each sold a small portion of the exempt securities, compared to Bilinski and Lamblin.
- neither was involved in the management of the issuers whose securities they sold.
- neither was involved in the management of the mutual fund dealer or its parent company Canadian Global Financial.

¶ 17 In light of our findings and these factors, we prohibited Gordon-Carmichael from trading for two years and from becoming a registrant under the Act until he meets certain proficiency requirements. Should Gordon-Carmichael seek registration after the two-year ban, we also ordered that he be under strict supervision for one year.

¶ 18 As for the administrative penalty, we concluded at paragraph 39 that:

In light of the serious harm caused to investors by Gordon-Carmichael's conduct, we would ordinarily impose an administrative penalty, equivalent, at least to the commissions he earned on these transactions. However, we are of the view it is not appropriate to do so considering his age, limited financial resources, lack of employment and realistic prospects of obtaining employment.

¶ 19 On May 26, 2003, we agreed to vary the initial sanction orders made against Friesen.

¶ 20 In doing so, we stated in paragraphs 43 and 44 that:

In our earlier sanctions decision, we considered it appropriate to deal with Friesen and Gordon-Carmichael together when considering what orders were necessary in the public interest. That has not changed. Paragraphs 26

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to 44 of our November 2002 decision, which we do not intend to repeat here, describe the factors we considered.

What has changed is that Friesen now recognizes and acknowledges that the exempt securities were unsuitable investments for his clients and that he breached a Commission order. He also acknowledges that he simply followed the direction and promotional sales practices of his mentors, Bilinski and Lamblin, because as a novice he had no other experience and no one else to rely upon. Furthermore, he says that despite currently working as a truck driver, he still is having difficulty dealing with the financial devastation he suffered as a result of his involvement with the Canadian Financial group of companies. He says he is simply unable to pay the \$20,000 penalty.

- ¶ 21 We determined that it was not contrary to the public interest to vary our original sanction order against Friesen, to reflect these changed circumstances.
- ¶ 22 As a consequence, we varied the order prohibiting Friesen from becoming registered under the Act for at least two years, by adding the condition that, should Friesen seek registration after the ban, he be under strict supervision for one year. With this additional condition of strict supervision, we expect Friesen to receive the kind of competent guidance and effective supervision that he did not receive at Canadian Global Investment.
- ¶ 23 In paragraphs 45 and 46 of our May 26, 2003 decision we also concluded that we would be prepared to reconsider the \$20,000 administrative penalty against Friesen if he, like Gordon-Carmichael, is able to produce evidence showing that he has no ability to pay, with no likely prospect of ever being able to pay, a penalty.
- ¶ 24 We deferred our consideration of the administrative penalty until Friesen provided further information. He has now provided that information. The information shows that, while Friesen is in reduced financial circumstances because of his involvement in the Canadian Global Financial affair, he has not demonstrated an inability to ever pay an administrative penalty.
- ¶ 25 We recognize that Friesen has lost his securities related job and over \$100,000 by investing in the Canadian Global Financial Group securities. We also recognize that he has had to refinance his mortgage to save his home and that his wife has had to return to work to keep the family afloat financially. Friesen is presently working and his income appears to be increasing. He does not appear to be facing bankruptcy and it appears that, over time, he will be able to pay an administrative

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penalty. Furthermore, Friesen will be able to work in the securities industry in less than two years.

- ¶ 26 We believe that a reduced administrative penalty, in addition to the restrictions on Friesen re-entering the securities industry for two years, is sufficient to deter Friesen from any market misconduct in the future.
- ¶ 27 Accordingly, we have determined that it is not contrary to the public interest to reduce the amount of Friesen's administrative penalty and allow him a significant period of time in which to pay it.
- ¶ 28 Therefore, we vary, under section 171 of the Act, our order made on November 8, 2002 and direct Friesen to pay \$5,000 under section 162 of the Act instead of \$20,000. We further order that the \$5,000 is payable by the earlier of September 1, 2008 or the date on which Friesen obtains registration under the Act.
- ¶ 29 August 25, 2003

Joyce C. Maykut, Q.C.  
Vice Chair

John K. Graf  
Commissioner

Roy Wares  
Commissioner