

2005 BCSECCOM 195

Eric Wayne Nelson

Sections 161 and 162 of the *Securities Act*, RSBC 1996, c. 418

Panel	Adrienne Salvail-Lopez	Vice Chair
	Marc A. Foreman	Commissioner
	Robert J. Milbourne	Commissioner

Date of Findings March 26, 2004

Date of Decision March 31, 2005

Submissions Made by

Joyce M. Johner For the Executive Director

Decision

- ¶ 1 We released our findings in this matter on March 26, 2004 (2004 BCSECCOM 194). At that time, we advised that we would hear further submissions before issuing orders in respect of our findings.
- ¶ 2 The Executive Director made written submissions on May 20, 2004. Eric Wayne Nelson has neither made written submissions nor requested an opportunity to make oral submissions.
- ¶ 3 Our decision in this matter should be read in conjunction with our findings.
- ¶ 4 We found that Nelson acted as an adviser without being registered, contrary to section 34(1) of the *Securities Act*, RSBC 1996, c. 418.
- ¶ 5 Nelson began investing in 1999, after he heard a radio program about investing and sent away for the free tape that was offered. By late 1999, he had lost over \$25,000 of his and his wife's money.
- ¶ 6 Nelson then began investing for others. He solicited over \$550,000 from approximately ten people. Only a small proportion of this amount was repaid.
- ¶ 7 One of those people was Patricia Hill. At the time she met Nelson, Hill was in her 60s and living on her government pensions and the income from her investments. Nelson told her that he had been studying the market and knew more than financial advisers, and that he would make her a millionaire. She gave Nelson

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over \$95,000. She got back less than \$10,000. By the time she spoke with Commission staff in January 2003, Hill was living on her government pensions, a \$5000 RRSP, a monthly payment from her daughter, and the money she was able to earn from housecleaning and babysitting. She was looking for a job.

- ¶ 8 Another was Robert Witges. Witges was in his late 40s and disabled from an industrial injury. He had received a personal injury settlement that he invested in mutual funds, senior equities and bonds. He lived on a pension, supplemented by the income from his investments. Nelson told Witges substantially the same things he had told Hill, and convinced Witges to give him over \$400,000. Witges received back only a few thousand dollars.
- ¶ 9 The remaining eight investors gave Nelson approximately \$60,000. They received back only a small portion of that. The rest of their money was lost.
- ¶ 10 In making our decision, we are guided by the Commission's decision in *Re Eron Mortgage Corp.* [2000] 7 BCSC Weekly Summary 22. At page 24, the Commission sets out a non-exhaustive list of factors we usually consider when making orders against a person under sections 161(1) and 162 of the Act.
- ¶ 11 Applying the *Eron* criteria, Nelson's conduct is serious; he harmed investors and damaged the integrity of the capital markets in British Columbia. He held himself out as an adviser when he was not registered under the Act, though he knew that he should be registered and that he had no expertise. He preyed on several people, including a retired woman in her 60s and a disabled worker in his late 40s. Together, these investors lost over \$550,000. Nelson poses a risk to investors and markets in British Columbia. We must deter him from continuing, and others from commencing, conduct of this kind.
- ¶ 12 We consider it to be in the public interest to remove Nelson from the capital markets for a significant period and to impose on him an administrative penalty. Accordingly, we order:
1. under section 161(1)(b) of the Act, that Nelson cease trading in and be prohibited from purchasing any securities or exchange contracts for a period of 10 years, expiring on March 31, 2015;
 2. under section 161(1)(c) of the Act, that all of the exemptions described in the Act do not apply to Nelson for a period of 10 years, expiring on March 31, 2015;
 3. under section 161(1)(d)(i) of the Act, that Nelson resign any position he holds as a director or officer of any issuer;

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4. under section 161(1)(d)(ii) of the Act, that Nelson is prohibited from becoming or acting as a director or officer of any issuer for a period of 10 years, expiring on March 31, 2015;
 5. under section 161(1)(d)(iii) of the Act, that Nelson is prohibited from engaging in investor relations activities for a period of 10 years, expiring on March 31, 2015;
 6. under section 162 of the Act, that Nelson pay an administrative penalty of \$50,000; and
 7. under section 174 of the Act, that Nelson pay the costs of or related to the hearing.
- ¶ 13 We direct the Executive Director to make written submissions on costs, and to send a copy to Nelson at his last known address, by April 15, 2005. If Nelson wishes to make written submissions, we direct him to send them to the Secretary to the Commission, and to send a copy to the Executive Director, by April 29, 2005. If the parties wish to make oral submissions, we direct them to contact the Secretary to the Commission before May 6, 2005, to fix a date for the hearing of those submissions.
- ¶ 14 March 31, 2005
- ¶ 15 **For the Commission**

Adrienne Salvail-Lopez
Vice Chair

Marc A. Foreman
Commissioner

Robert J. Milbourne
Commissioner