

# 2006 BCSECCOM 583

**John DeVries, David DeVries, Ernest Reed Grafke,  
Ralph Bromley and Wesley Campbell**

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

## **Application**

<b>Panel</b>	Brent W. Aitken Kenneth G. Hanna Suzanne K. Wiltshire	Vice Chair Commissioner Commissioner
<b>Date of application</b>	August 24, 2006	
<b>Date of final submissions</b>	October 5, 2006	
<b>Date of ruling</b>	October 13, 2006	
<b>Submissions filed by</b>		
Richard Butler Craig E. Jones	For the Attorney General of British Columbia	
Carey D. Veinotte	For John DeVries, David DeVries and Ernest Reed Grafke	
Lisa Ridgedale Douglas Muir	For the Executive Director	

## **Ruling**

### **Introduction**

- ¶ 1 This is an application by the Attorney General of British Columbia to defer our hearing of an interlocutory application of John DeVries, David DeVries and Ernest Reed Grafke. The Attorney General says it would be premature for us to hear the DeVries application and instead we should consider it at the hearing on the allegations.

### **Background**

- ¶ 2 On May 4, 2006 the Executive Director issued a notice of hearing under sections 161, 162 and 174 of the *Securities Act*, RSBC 1996, c. 418, alleging that the respondents contravened the Act by conducting an illegal distribution (contrary to sections 34(1) and 61(1)), making misrepresentations (contrary to section 50(1)(d)), perpetrating a fraud (contrary to sections 57 and 57.1) and engaging in an unfair practice (contrary to section 50(1)(e)).

## 2006 BCSECCOM 583

- ¶ 3 The DeVries and Grafke applied to set aside the allegations that they engaged in an unfair practice on the grounds that the allegations breached their rights under the *Canadian Charter of Rights and Freedoms*, and that section 50(4)(a) is impermissibly vague, contrary to the *Constitution Act, 1982*.
- ¶ 4 On August 14 the DeVries and Grafke gave the required notice to the Attorney General under the *Constitutional Question Act*, RSBC 1996, c. 68. The Attorney General's response was to bring this application. We received submissions from the DeVries, Grafke, the Attorney General, and the Executive Director. The Executive Director supports the Attorney General's position.

### **Ruling**

- ¶ 5 Having considered the submissions, we grant the Attorney General's application. We will therefore hear the issues the DeVries and Grafke raise in their application at the time of the hearing of the allegations.
- ¶ 6 October 13, 2006
- ¶ 7 **For the Commission**

Brent W. Aitken  
Vice Chair

Kenneth G. Hanna  
Commissioner

Suzanne K. Wiltshire  
Commissioner