

# 2007 BCSECCOM 500

## Order

### Raymond Patrick Shaw

#### Section 161(6) of the *Securities Act*, RSBC 1996, c 418

##### Introduction

- ¶ 1 This is an application under section 161(6)(a) of the *Securities Act*, RSBC 1996, c. 418.
- ¶ 2 On June 4, 2007 the executive director sent notice of this application to Raymond Patrick Shaw. The application is based on Shaw's convictions under the *Criminal Code* described below.
- ¶ 3 Shaw's *Criminal Code* convictions are based on some of the same facts as those alleged in a notice of hearing the executive director issued in October 2004, *Terry James Minnie and Patrick Raymond Shaw* (2004 BCSECCOM 577). The commission adjourned those administrative proceedings pending completion of the criminal proceedings against Minnie and Shaw. The executive director says that if we make the orders she seeks in this application, she will discontinue the administrative proceedings.
- ¶ 4 In the notice, the executive director gave Shaw a deadline of July 12, 2007 to respond to the application. On Shaw's request, the commission extended the deadline to July 18.
- ¶ 5 On July 18 Shaw, who is not represented by counsel, applied to adjourn the October set date hearing in the administrative proceedings. On August 2 commission vice chair Brent Aitken wrote to Shaw as follows:

It appears that you may not understand that the *Minnie and Shaw* matter and the executive director's June 4 application are two separate proceedings. In light of this apparent misunderstanding, I am extending your time to file a response to the executive director's June 4 application to August 17, 2007.

- ¶ 6 Shaw has not filed a response to the application.

##### Background

- ¶ 7 Section 161(6)(a) says:

The commission . . . may, after providing an opportunity to be heard, make an order under [section 161(1)] in respect of a person if the person

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(a) has been convicted of a criminal offence arising from a transaction, business or course of conduct related to securities . . . .

¶ 8 The Act defines “security” in section 1(1):

In this Act

...

“security” includes

(d) a . . . note or other evidence of indebtedness

...

(l) an investment contract . . . .

¶ 9 On March 8, 2007 Shaw was convicted in the Supreme Court of British Columbia of one count of fraud and two counts of theft under sections 380(1)(a) and 334(a) of the *Criminal Code* and was sentenced to a conditional sentence of two years less a day followed by three years’ probation. During the term of his sentence he is prohibited from soliciting or raising funds in British Columbia for any purpose.

¶ 10 Shaw was involved in a fraud perpetrated by Terry James Minnie. Minnie invented an individual, Andrew Fuller, and recruited an individual to impersonate Fuller. Minnie represented that Fuller was the beneficiary of an estate of \$12 to 15 million but could not collect his legacy until he paid off various debts. Minnie persuaded people to advance funds for Fuller to use to pay off the debts, on the promise they would be repaid with returns exceeding 60% per annum.

¶ 11 We find these advances were securities as defined by the Act, because they were either evidences of indebtedness, or were investment contracts. The law interpreting the meaning of “investment contract” is well-known and clearly applies.

¶ 12 Shaw introduced potential investors to Minnie. At first, he was deceived by Minnie, but the court found that at some point in time Shaw continued to solicit funds on behalf of Minnie after Shaw knew or ought to have known that the scheme was fraudulent. His convictions were based on his participation in transactions that occurred after that point in time.

¶ 13 We therefore find that Shaw has been convicted of criminal offences for transactions related to securities.

¶ 14 The fraud resulted in investor losses of at least \$1.8 million. Investors introduced by Shaw lost over \$500,000 in the transactions that led to his convictions.

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¶ 15 The court found as an aggravating factor that Shaw solicited friends to invest even after he knew the police were concerned about the scheme. The court was of the opinion that the remorse Shaw expressed was genuine, and that Shaw does not represent a threat to the community.

### Orders

¶ 16 We have considered the authorities cited by the executive director. In our opinion, they support the orders the executive director seeks.

¶ 17 Shaw having been provided with an opportunity to be heard, and considering the public interest, we order

1. under section 161(1)(b) of the Act, that Shaw cease trading in, and is prohibited from trading and purchasing, any securities, except that Shaw may trade or purchase securities for his own account through a registrant, if he gives the registrant a copy of this decision;
2. under section 161(1)(d)(i) and (ii), that Shaw resign any position he holds as, and is prohibited from becoming, or acting as, a director or officer of any issuer, except an issuer all the securities of which are owned beneficially by him, his wife or his children; and
3. under section 161(1)(d)(iii), that Shaw not engage in any investor relations activities;

for 20 years from the date of this order.

¶ 18 August 21, 2007

¶ 19 **For the commission**

Brent W. Aitken  
Vice Chair

Kenneth G. Hanna  
Commissioner