

2007 BCSECCOM 677

Peter Krag-Hansen Investment Dealers Association of Canada

Section 28 of the *Securities Act*, RSBC 1996, c. 418

Hearing and Review

Panel	Brent W. Aitken David J. Smith Suzanne K. Wiltshire	Vice Chair Commissioner Commissioner
Submissions completed	September 25, 2007	
Date of Decision	November 9, 2007	
Submissions filed by Peter Krag-Hansen	For himself	
Paul Smith	For the Investment Dealers Association of Canada	

Decision

- ¶ 1 This is a hearing and review under section 28 of the *Securities Act*, RSBC 1996, c. 418 of a decision of a hearing panel of the Pacific District Council of the Investment Dealers Association of Canada.
- ¶ 2 The IDA panel's decision was to refuse Peter Krag-Hansen's request for an exemption from the requirement to successfully complete the Partners, Directors and Officers course and examination, as set out in IDA Policy 6 *Proficiency and Education*. We refer to this as the PDO requirement.

Facts

- ¶ 3 Krag-Hansen was a registrant with investment dealers in Vancouver for about 20 years, 15 years as an officer. He retired for health reasons in 2002. He decided to return to the industry and in 2005 obtained employment with a Quebec-based firm. His job is to establish an office for the firm in Vancouver.

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- ¶ 4 In connection with his application for registration in British Columbia, Krag-Hansen applied in October 2005 to the IDA for exemptions from the usual proficiency requirements, including the PDO requirement, based on his experience. On October 25, 2005 the IDA Pacific District Member Regulation Committee granted the exemption, which carried an expiry date of January 21, 2006. This was the latest date on which Krag-Hansen could apply for registration and still have the benefit of the exemption.
- ¶ 5 His firm applied for his registration as a registered representative in December 2005. Through an oversight, the application did not include his application for registration as an officer.
- ¶ 6 This oversight was not corrected until August 2006, when the firm applied for his registration as an officer. The exemption earlier granted had expired the previous January. Had the firm applied for Krag-Hansen's registration as an officer before the exemption expired, Krag-Hansen would have had the benefit of it and none of what has led to this application would have occurred.
- ¶ 7 Krag-Hansen asked the IDA to extend the exemption to his application for registration as an officer. The matter went to the IDA Pacific District's Registration Committee which, on October 24, 2006, refused the exemption because it "did not find the request demonstrated equivalency."
- ¶ 8 Krag-Hansen appealed the Committee's decision to a review panel of the Pacific District Council. He appeared before the panel in person, putting forth his case for the exemption and answering the panel's questions.
- ¶ 9 On December 1, 2006, the panel refused Krag-Hansen's request for the exemption. The panel said:

"The panel recognizes that a delay on the part of the applicant's current employer to request registration as an officer of the company may have been the reason for the course exemption to expire.

"However, the panel found that according to the applicant's description of his duties, which include recruiting other advisors, a broad knowledge of current securities regulations is required. The applicant was given exemptions for the both [*sic*] CSC and CPH despite several years' absence from the industry, exemptions the panel felt were quite generous on the part of the regulator. Also, the panel recognizes the fact that while the PDO is being completed, the applicant's ability to conduct business as he described to the panel will not be adversely affected."

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Analysis

¶ 10 On a hearing and review under section 28 of the Act, the Commission may confirm or vary the decision under review, or make another decision it considers proper: section 165(4).

¶ 11 The Commission's standard for reviewing decisions of a self regulatory body like the IDA is set out in section 5.9(a) of BC Policy 15-601 as follows:

5.9(a) The Commission does not provide parties with a second opinion on a matter decided by an SRO. If the decision under review is reasonable and was made in accordance with the law, the evidence, and the public interest, the Commission is generally reluctant to interfere simply because it might have made a different decision in the circumstances. For this reason, generally, the person requesting the review presents a case for having the decision revoked or varied and the SRO responds to that case.

In these circumstances, the Commission generally confirms the decision of the SRO, unless

- the SRO has made an error in law
- the SRO has overlooked material evidence
- new and compelling evidence is presented to the Commission or
- the Commission's view of the public interest is different from the SRO's

¶ 12 Krag-Hansen says it is unfair that he be denied the exemption simply because of an administrative error, and so we should reverse the panel's decision. The IDA says that the panel's decision does not involve any of the factors listed in Policy 15-601 that would lead the Commission to interfere in an IDA decision, and so we should confirm the panel's decision.

¶ 13 We agree with the IDA. We find that none of the factors identified in Policy 15-601 that would be a basis for interfering in an IDA decision are present in this case. In the circumstances of this case, the IDA decided that it was appropriate that Krag-Hansen not be exempted from the PDO requirement. Proficiency matters are squarely within the expertise of the IDA and there is nothing to suggest the panel's decision was contrary to the public interest.

¶ 14 It is troubling that the IDA led Krag-Hansen down the path somewhat by first granting the exemption and then taking it away. However, the IDA ultimately dealt with the issue on the basis of what it believed to be in the public interest, and we are not prepared to interfere with its decision.

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Decision

¶ 15 We therefore confirm the IDA panel's decision.

¶ 16 November 9, 2007

¶ 17 **For the Commission**

Brent W. Aitken
Vice Chair

David J. Smith
Commissioner

Suzanne K. Wiltshire
Commissioner