

2011 BCSECCOM 202

**John Arthur Roche McLoughlin, MCL Ventures Inc.,
Blue Lighthouse Ltd. and Robert Douglas Collins**

Securities Act, RSBC 1996, c. 418

Hearing

Panel	Brent W. Aitken	Vice Chair
	Shelley C. Williams	Commissioner
	Suzanne K. Wiltshire	Commissioner

Submissions completed February 18, 2011

Date of Decision April 29, 2011

Appearing

Mila A. Pivnenko For the Executive Director

Michael Jolicoeur For John Arthur Roche McLoughlin and
MCL Ventures Inc.

Decision

(John Arthur Roche McLoughlin and MCL Ventures Inc.)

I Background

- ¶ 1 This is a hearing by way of written submissions under sections 161(1) and 162 of the *Securities Act*, RSBC 1996, c. 418.
- ¶ 2 On November 24, 2010 the executive director issued a notice of hearing (2010 BCSECCOM 639) alleging that John Arthur Roche McLoughlin, MCL Ventures Inc., Blue Lighthouse Ltd. and Robert Douglas Collins contravened the Act. This decision relates to the allegations against McLoughlin and MCL. A date has been set to hear the allegations against the other respondents (see 2010 BCSECCOM 694).
- ¶ 3 The notice of hearing alleges that:
- McLoughlin and MCL contravened sections 34(1) and 61(1) of the Act by raising \$312,000 through the sale of securities to 22 investors without being registered and without filing a prospectus, and

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- in so doing, McLoughlin contravened an order of the executive director issued February 28, 2001.
- ¶ 4 The executive director seeks orders against McLoughlin prohibiting him, for a period of 10 to 15 years, from trading in securities, from acting as a director or officer of any issuer, and from acting in various capacities in connection with the securities markets. The executive director also seeks an order that McLoughlin pay an administrative penalty of \$20,000.
- ¶ 5 The executive director seeks an order permanently cease-trading the securities of MCL, prohibiting MCL permanently from using the exemptions under the Act, and prohibiting it permanently from acting in various capacities in connection with the securities markets.
- ¶ 6 McLoughlin and MCL admit the allegations in the notice of hearing and consent to all of the orders the executive director seeks, except for the order that McLoughlin pay an administrative penalty. McLoughlin does not dispute any part of the executive director's submissions, except those relating to the administrative penalty.

IV Orders

- ¶ 7 McLoughlin says that a financial penalty “will impose an unmanageable burden on him as he is already on the brink of bankruptcy”, although he has provided no evidence of his financial affairs.
- ¶ 8 The executive director says an administrative penalty is appropriate as a result of these aggravating factors:
- McLoughlin previously contravened the Act by participating in an illegal distribution, admitted to having done so, and consented to orders prohibiting him from trading in securities, becoming or acting as a director or officer and any issuer, and engaging in investor relations activities,
 - those orders were still in force while he engaged in his admitted misconduct in this case,
 - Commission staff warned him twice that his conduct was in contravention of the orders, and
 - he continued his misconduct – the same type of misconduct that resulted in the orders against him.
- ¶ 9 In our opinion, the non-financial orders sought by the executive director, and consented to by McLoughlin and MCL, are appropriate in the circumstances, for the reasons cited in the executive director's submissions. Indeed, given the

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aggravating circumstances, permanent orders could be justified. Because McLoughlin and MCL have consented to the orders sought by the executive director, we will not go beyond them (we also note that McLoughlin is 85 years old).

- ¶ 10 We also agree with the executive director that an administrative penalty is appropriate in the circumstances, although in our opinion the amount should be higher than the executive director seeks.
- ¶ 11 McLoughlin not only engaged in the same misconduct for which he had been previously sanctioned, he did so in contravention of orders still in force against him – orders made for that misconduct, and to which he consented. He had to have known what he was doing, and had there been any doubt, it was removed when Commission staff warned him, twice, about his non-compliance with the February 2001 orders. McLoughlin has also failed to pay to the Commission the \$25,000 in penalties and costs he undertook to pay in connection with those orders.
- ¶ 12 Investors and market participants will have no confidence in the Commission's ability to take appropriate action against market misconduct if those who are subject to its orders can ignore them with impunity. Effective regulation is a foundation of market integrity. Those who refuse to comply with orders under the Act must therefore expect the Commission to respond appropriately. Our order for an administrative penalty is therefore for more than requested by the executive director.
- ¶ 13 Considering it to be in the public interest, we order

McLoughlin

1. under section 161(1)(b) of the Act, that McLoughlin cease trading in any securities except for his own account through one account with a registrant;
2. under section 161(1)(c), that none of the exemptions set out in the regulations apply to McLoughlin;
3. under section 161(1)(d)(i) and (ii), that McLoughlin resign any position he holds as, and is prohibited from becoming or acting as, a director or officer of any issuer, registrant, or investment fund manager;
4. under section 161(1)(d)(iii), that McLoughlin is prohibited from becoming or acting as a registrant, investment fund manager or promoter;

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5. under section 161(1)(d)(iv), that McLoughlin is prohibited from acting in a management or consultative capacity in connection with activities in the securities market;
6. under section 161(d)(v), that McLoughlin is prohibited from engaging in investor relations activities;
7. under section 162, that McLoughlin pay an administrative penalty of \$50,000;
8. the orders in paragraphs 1 through 6 remain in force until the later of April 29, 2026 and the date McLoughlin pays the amount described in paragraph 7;

MCL

9. under section 161(1)(b), that all persons cease trading permanently, and are prohibited permanently from purchasing, any securities of MCL;
10. under section 161(1)(c), that none of the exemptions set out in the regulations apply to MCL permanently;
11. under section 161(1)(d)(iii), that MCL is prohibited permanently from becoming or acting as a registrant, investment fund manager or promoter; and
12. under section 161(d)(v), that MCL is prohibited permanently from engaging in investor relations activities.

¶ 14 April 29, 2011

¶ 15 **For the Commission**

Brent W. Aitken
Vice Chair

Shelley C. Williams
Commissioner

Suzanne K. Wiltshire
Commissioner