

2012 BCSECCOM 210

**Mark Aaron McLeary, Timothy John McLeary,
Robert Hainey, Jerry Williams and Erik John Benson**

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

Ruling

Background

- ¶ 1 On July 29, 2009, the executive director issued a Notice of Hearing and on August 8, 2011 amended the Notice of Hearing to make allegations against various respondents.
- ¶ 2 On May 23, 2012, the executive director entered into a settlement agreement with one of the respondents, Malkeet Singh Bains (Bains), and issued a notice of discontinuance against Bains.
- ¶ 3 On May 24, 2012, the executive director issued a Further Amended Notice of Hearing. The executive director also informed the respondents that Bains would testify at the hearing.
- ¶ 4 On June 4, 2012, the respondent Mark McLeary applied for disclosure of documents in the executive director's possession relating to the settlement with Bains (the Bains Settlement). The respondents Hainey and Williams do not intend to attend the hearing in person.

Order

- ¶ 5 The commission orders that the executive director disclose to Mark McLeary, Timothy McLeary and Erik Benson written records of any communication between the executive director and Bains or his counsel, regarding the Bains Settlement, that are not subject to solicitor-client privilege (Settlement Material), by 4 pm, June 5, 2012.
- ¶ 6 Disclosure of the Settlement Material will be subject to the following conditions:
 - 1. Mark McLeary, Timothy McLeary and Erik Benson
 - (a) can use the Settlement Material only for the purpose of responding to the allegations in the Further Amended Notice of Hearing, in a proceeding before the Commission, and for no other purpose;
 - (b) will not disclose the Settlement Material to any other person, except their legal counsel;

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- (c) will return all copies of the Settlement Materials to counsel for the executive director or confirm that they have been destroyed, after the Commission proceeding and all related appeals are concluded.

¶ 7 June 4, 2012

Bradley Doney
Commissioner

Don Rowlatt
Commissioner

Suzanne K. Wiltshire
Commissioner