

# 2012 BCSECCOM 299

**Rashida Samji, Arvindbhai Bakorbhai Patel (aka Arvin Patel)  
and Samji & Assoc. Holdings Inc.**

***Securities Act, RSBC 1996, c. 418***

## **Application**

<b>Panel</b>	Brent W. Aitken Shelley C. Williams	Vice Chair Commissioner
<b>Hearing</b>	July 25, 2012	
<b>Date of ruling and decision</b>	July 25, 2012	
<b>Appearing</b>		
Sean K. Boyle	For Arvin Patel	
Kristine Mactaggart Wright Joyce Johner	For the Executive Director	
Scott Marescaux	For MNP Ltd.	
Preston Parsons	For Samji investors	

## **Ruling and Decision**

- ¶ 1 On January 31, 2012 the Chair of the Commission issued an investigation order under section 142(1) of the *Securities Act*, RSBC 1996, c. 418 based on suspicion of an illegal distribution by Rashida Samji, Samji & Assoc. Holdings Inc. and Arvindbhai Bakorbhai Patel.
- ¶ 2 On the same day, the Commission Chair made an order under section 151(2) of the Act freezing five accounts at four financial institutions. One of the accounts was Patel's – an account at a branch of Coast Capital Savings.
- ¶ 3 On February 20, 2012, a Commission Panel made orders revoking the freeze order made by the Commission Chair against the Coast Capital account and issued new freeze orders against Patel's Coast Capital retirement accounts and his brokerage account at Mackie.

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- ¶ 4 On April 3, 2012, Patel and the executive director entered into a settlement agreement in which Patel admitted that he made an illegal distribution, made misrepresentations and, by recommending that his clients invest in Samji's investment scheme, engaged in conduct contrary to the public interest.
- ¶ 5 At a hearing on June 12, 2012, the same Panel that made the February 20 freeze orders heard an application by Patel seeking the revocation of those orders against his Coast Capital retirement accounts and his Mackie brokerage account.
- ¶ 6 At the hearing the Panel heard submissions from MNP Ltd., a receiver appointed under section 152 of the Act, and from counsel seeking to have a class action certified on behalf of the investors in the investment scheme alleged in the Samji notice of hearing.
- ¶ 7 MNP said it was premature to revoke or vary the freeze order because it had not completed its forensic analysis to determine whether funds from the Samji investment scheme could be traced into Patel accounts. MNP suggested that the Panel leave the freeze order in place for 30 days, when the parties would appear before it to report on progress.
- ¶ 8 Counsel for the investors' class action agreed it was premature to revoke the freeze orders, but asked for a delay of 21 days before the revocation became effective to give him time to apply for a *Mareva* injunction to protect the claims of investors.
- ¶ 9 On June 19, the Panel revoked the freeze order against Patel's Mackie brokerage account. In doing so, it said,
- “17 . . . The purpose of a freeze order is only to preserve assets for potential claims, be they regulatory or civil. It is for the court to resolve the matter of how any assets subject to the freeze order ought to be distributed and to instruct the receiver as to the management of the assets in the meantime.
- 18 It is also for the court to determine, in due course when it has the evidence, whether the receiver has established any claims on the assets in Patel's accounts . . . .”
- ¶ 10 Today we heard an application by the executive director that we order, under section 173(a) and section 144, that Patel and Coast Capital produce records relevant to the issue of the source of the funds in Patel's Coast Capital retirement accounts.

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- ¶ 11 We also heard submissions from MNP and the Samji investors' counsel about the timing of various events in the proceedings before the courts.
- ¶ 12 We deny the executive director's application.
- ¶ 13 We have concluded that it is now time for the courts to be the exclusive forum to deal with the Patel assets and that it would not be prejudicial to the public interest to revoke the freeze order. In order to give the parties the opportunity to take whatever steps they think appropriate in light of the revocation, the order is not effective until Friday, July 27, 2012.
- ¶ 14 We order, under section 171 of the Act, that the order under section 151(1) made by the Commission on February 20, 2012, and varied on June 19, 2012, is revoked, effective as of 9:00 am on Friday, July 27, 2012.
- ¶ 15 July 25, 2012
- ¶ 16 **For the Commission**

Brent W. Aitken  
Vice Chair

Shelley C. Williams  
Commissioner