

2002 BCSECCOM 452

Temporary Order and Notice of Hearing

**Amr I. Elgindy (also known as Anthony Elgindy,
Tony Elgindy and Anthony Pacific), Mary Faith Elgindy,
Pacific Equity Investigations and Derrick W. Cleveland
(the Respondents)**

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

¶ 1

A hearing (the Hearing) will be held to give the Respondents an opportunity to be heard before the British Columbia Securities Commission (the Commission) considers whether it is in the public interest to make the following orders:

1. under section 161(1)(c) of the of the *Securities Act*, RSBC 1996, c. 418 (the Act), that any or all of the exemptions described in sections 44 to 47, 74, 75, 98 or 99 of the Act do not apply to the Respondents;
2. under section 161(1)(d) of the Act, that Amr I. Elgindy (Elgindy) and Derrick W. Cleveland (Cleveland) each be prohibited from becoming or acting as a director or officer of any issuer;
3. under section 161(1)(d) of the Act that Elgindy and Cleveland each be prohibited from engaging in investor relations activities;
4. under section 162 of the Act, that Elgindy and Cleveland each pay an administrative penalty;
5. under section 174 of the Act, that Elgindy and Cleveland pay the prescribed fees or charges of or related to the hearing; and
6. any other orders that may be appropriate in the circumstances.

¶ 2

The Commission will be asked to consider the following facts and allegations in making its determinations:

1. Elgindy is a resident of the United States and has never been registered under the Act. He has or controls at least one account with an investment dealer in British Columbia.

2002 BCSECCOM 452

2. Elgindy was registered as a trader with the National Association of Securities Dealers (NASD). In a decision dated December 28, 2001, a NASD Regulation, Inc. hearing panel found that Elgindy had made a series of high bids without intending to honor them and had disseminated recommendations without disclosing the firm's market maker status. For the bids, Elgindy was fined \$2,000 and suspended for one year. For the recommendations, he was fined \$1,000.
3. Mary Faith Elgindy is a resident of the United States and has never been registered under the Act. She is the spouse of Elgindy and she has or controls at least one account with an investment dealer in British Columbia.
4. Cleveland is a resident of the United States and has never been registered under the Act. He has or controls at least one account with an investment dealer in British Columbia.
5. Pacific Equity Investigations, a business based in San Diego California, operated a public investment website, a subscription based e-mail newsletter and subscription based investment website. Elgindy founded and at material times controlled the business.
6. On or about May 23, 2002, the United States District Court Eastern District of New York issued an indictment (the Indictment) which alleges the following:
 - (a) From approximately November 2000 to May 2002, Elgindy in conjunction with Cleveland and others, conducted a short selling scheme involving stock of certain publicly traded companies (the Companies) whose respective stock prices appeared to be vulnerable to the release of negative news.
 - (b) After Elgindy short sold the stock of the Companies, he engaged in manipulative activities designed to lower their respective prices. This included using Pacific Equity Investigations to spread negative, and some times false information about the Companies and encourage others to short sell the stocks, all with a view to maximizing Elgindy's gain from the scheme.
 - (c) Elgindy traded on non-public material information that he improperly obtained from certain special agents of the Federal Bureau of Investigation, who are also named in the Indictment.

2002 BCSECCOM 452

- (d) Elgindy short sold stock through brokerage accounts at Global Securities Corporation (Global Securities), in Vancouver, British Columbia and elsewhere.
 - (e) Elgindy, Cleveland and others have been charged with participating in an illegal scheme that:
 - (i) traded on material, non-public information that had been misappropriated from confidential law enforcement databases;
 - (ii) manipulated the securities markets; and
 - (iii) extorted stock from companies that feared being targets of the scheme.
 - (f) Elgindy and others have also been charged with obstructing a Grand Jury investigation of this scheme.
6. In conjunction with the Indictment the government of the United States commenced a civil forfeiture action which seeks to seize funds on deposit in accounts maintained by Elgindy, Mary Faith Elgindy, and Pacific Equity Investigations.
7. On May 20, 2002, pursuant to the forfeiture action, the United States District Court Eastern District of New York issued a Warrant of Arrest for Articles *in rem* (Warrant of Arrest) against Elgindy, Mary Faith Elgindy and Pacific Equity Investigations, in order to seize assets in Canada and the United States. Among the assets that are sought to be seized are funds on deposit at Global Securities, a registrant under the Act, the Bank of Montreal, and the Royal Bank.

¶ 3

The Executive Director considers the length of time to hold a hearing under section 161(1) of the Act could be prejudicial to the public interest.

¶ 4

The Executive Director, considering that it would be in the public interest to do so, orders under section 161(2) of the Act that the exemptions described in sections 44 to 47, 74, 75, 98 and 99 of the *Act* do not apply to the Respondents, pursuant to section 161(1)(c) of the *Act*, until June 5, 2002 (the Temporary Order).

¶ 5

The Hearing will be held at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, BC, on Wednesday, June 5, 2002, at 10:00 am.

2002 BCSECCOM 452

¶ 6

At the Hearing the staff of the Commission will bring the following applications:

1. that the matter be adjourned for 90 days to permit the conclusion of the proceedings related to the Information and Warrant of Arrest; and
2. that the Temporary Order be extended until such time as the Hearing is completed and a decision rendered.

¶ 7

The Respondents may be represented by counsel at the Hearing and may make representations and lead evidence. The Respondents are requested to advise the Commission of their intention to attend by contacting the Commission Secretary at PO Box 10142, Pacific Centre, 5th Floor, 701 West Georgia Street, Vancouver, BC, telephone: (604) 899-6500; email: commsec@bcsc.bc.ca.

¶ 8

Determinations may be made in this matter if the Respondents or their counsel do not appear at the Hearing.

¶ 9

May 24, 2002

Steve Wilson
Executive Director