

2002 BCSECCOM 922

Temporary Order and Notice of Hearing

Eric Wayne Nelson and Alicia Nelson

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

¶ 1 A hearing (the Hearing) will be held to give Eric Wayne Nelson (Eric Nelson) and Alicia Nelson (Alicia Nelson), (collectively the Respondents), an opportunity to be heard before the British Columbia Securities Commission considers whether it is in the public interest to make the following orders:

1. under section 161(1)(b) of the *Securities Act*, RSBC 1996, c. 418, that the Respondents cease trading in, or be prohibited from purchasing any securities or exchange contracts;
2. under section 161(1)(c) of the Act, that any or all of the exemptions described in sections 44-47, 74, 75, 98 or 99, do not apply to the Respondents;
3. under section 161(1)(d) of the Act, that the Respondents resign any position they each hold as a director or officer of any issuer, and that they each be prohibited from becoming or acting as a director or officer of any issuer;
4. under section 161(1)(d) of the Act, that the Respondents be prohibited from engaging in investor relations activities;
5. under section 162 of the Act, that the Respondents each pay an administrative penalty;
6. under section 174 of the Act, that the Respondents each pay prescribed fees or charges for the costs of or related to the hearing; and
7. any other orders as may be appropriate in the circumstances.

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

The Parties

8. The Respondents were residents of British Columbia at all relevant times. Alicia Nelson is the spouse of Eric Nelson.

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9. Neither of the Respondents has ever been registered in any capacity under the Act.
10. During the period from at least May 2001 forward, Eric Nelson solicited money from residents of British Columbia (the Investors) that he represented would be used to trade in securities for the Investors. Eric Nelson purported to have skill and experience trading options that he would use to earn profits that would then be split between him and the Investors.
11. The Investors gave money to the Respondents on the strength of these representations. This money was deposited to an investment account jointly held by the Respondents.
12. Certain representations made by Eric Nelson to the Investors were untrue. The Respondents used some of the money they received from Investors for their own purposes, not investment. Furthermore, Eric Nelson had no particular skill or experience trading options. In the result, all of the money provided by the Investors that was invested was lost due to the incompetent and reckless trading of Eric Nelson.
13. The Respondents have refused or neglected to repay the original capital when asked to do so by the Investors. They have also refused or neglected to make agreed monthly income payments to the Investors.

Breaches of the Act

14. During the relevant period, Eric Nelson did the following:
 - (a) traded in securities for individuals in British Columbia without being registered in accordance with the requirements of the Act, and without an exemption from the registration requirements of the Act, contrary to section 34(1)(a) of the Act; and
 - (b) acted as an advisor to individuals in British Columbia without being registered in accordance with the requirements of the Act, and without an exemption from the registration requirements of the Act, contrary to section 34(1)(c) of the Act.
15. During the relevant period, Eric Nelson, while intending to trade in a security, made statements that he knew, or ought reasonably to have known, were misrepresentations, contrary to section 50(1)(d) of the Act.

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16. During the relevant period, the Respondents directly or indirectly engaged in or participated in a transaction or series of transactions relating to a trade in or acquisition of a security when they knew or ought reasonably to have known that the transaction or series of transactions perpetrated a fraud on persons in British Columbia, contrary to section 57 of the Act.

Public Interest

17. It would be contrary to the public interest, as set out in section 161 of the Act, to allow Eric and Alicia Nelson to continue to operate in the capital markets of British Columbia.

18. Eric Nelson repaid a small amount of money to Investors using funds from later Investors. He has stated that he intends to take steps to repay the Investors, with the help of friends. Eric Nelson may presently be engaging in securities trading or advising activity with the purpose of repaying the Investors with money from new investors.

- ¶ 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 (the Temporary Order) that:
1. under section 161(1)(b) of the Act, that the Respondents cease trading in, or are prohibited from purchasing any securities or exchange contracts;
 2. under section 161(1)(c) of the Act, that any or all of the exemptions described in sections 44-47, 74, 75, 98 or 99, do not apply to the Respondents;
 3. under section 161(1)(d) of the Act, that the Respondents resign any position they hold as a director or officer of any issuer, and that they are prohibited from becoming or acting as a director or officer of any issuer; and
 4. under section 161(1)(d) of the Act, that the Respondents are prohibited from engaging in investor relations activities;

for a period expiring on November 13, 2002.

- ¶ 5 The Hearing will be held at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, BC, on Wednesday, November 13, 2002, at 9:00 am.

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- ¶ 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 investigation in this matter; 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 V7Y 1L2, phone: (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 October 29, 2002
- ¶ 10 Stephen J. Wilson
Executive Director