

# 2004 BCSECCOM 544

## Notice of Hearing

**Alyn Richard Waage, Cary Alyn Waage and James Michael Webb**

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

- ¶ 1 A hearing (the Hearing) will be held to give Alyn Richard Waage (Alyn), Cary Alyn Waage (Cary) and James Michael Webb (Webb) an opportunity to be heard before the British Columbia Securities Commission considers whether it is in the public interest to make orders under sections 161, 162 and 174 of the *Securities Act*, RSBC 1996, c. 418, and such further and other orders that the Commission considers necessary.
- ¶ 2 The Commission will be asked to consider the following facts and allegations in making its determination:

#### **Overview**

1. This matter involves the individuals responsible for the Internet-based investment club that was the subject of the Commission decisions *Tri-west Investment Club, et al* 2001 BCSECCOM 1013 and 2001 BCSECCOM 1091.

#### **The Respondents:**

2. Alyn is a former resident of Alberta.
3. Cary is Alyn's son. He is also a former resident of Alberta.
4. Webb is a former resident of Mountain View, California.
5. Alyn, Cary and Webb are currently incarcerated in California.

#### **Summary of Activities**

6. The Tri-West Investment Club, by way of its website ([www.triwestinvest.com](http://www.triwestinvest.com)), purported to offer a high-yield investment program (the Tri-West Program) to residents of BC and elsewhere. Tri-West represented that the Tri-West Program paid a guaranteed return of 10% per month for a term of 1 year on a minimum investment of U.S. \$1,000. Tri-West also represented that after the 1-year term, the principal could be reinvested at a new rate of return, or returned to the investor.
7. The day-to-day operations and management of the Tri-West Program, according to its website, were conducted by Jason Kingsley (Kingsley), Mark Goldman (Goldman) and Alan Richards (Richards).

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8. In the *Tri-west Investment Club* decisions the Commission held that the Tri-West Program was an inherently dishonest scheme to distribute securities and perpetrated a fraud on residents of British Columbia, contrary to sections 34(1)(a), 57 and 61 of the Act.
9. The Commission further held in the *Tri-west Investment Club* decisions that the individuals holding themselves out as Kingsley, Goldman and Richards set up the Tri-West Program, traded in securities without registration, and perpetrated a fraud on persons in British Columbia, contrary to sections 34(1)(a) and 57 of the Act and ordered:
  - (a) under section 161(1)(c) of the Act that the exemptions described in sections 44 to 47, 74, 75, 98 and 99 of the Act do not apply to them;
  - (b) under section 161(1)(d)(i) of the Act that they resign any position any of them holds as a director or officer of any issuer;
  - (c) under section 161(1)(d)(ii) of the Act that they are prohibited from becoming or acting as a director or officer of any issuer;
  - (d) under section 161(1)(d)(iii) of the Act that they are prohibited from engaging in investor relations activities; and
  - (e) under section 162 of the Act that each of them pay an administrative penalty of \$100,000.
10. On March 21, 2002, May 5, 2003, and June 10, 2003, Cary, Alyn and Webb (the Respondents), each pled guilty in the United States District Court for the Eastern District of California to mail fraud and conspiracy to commit money laundering. Alyn and Webb also pled guilty to wire fraud. The Respondents have each admitted that:
  - (a) Alyn created the Tri-West Program;
  - (b) the Tri-West Program was a scheme to defraud investors by means of materially false and fraudulent misrepresentations;
  - (c) they fraudulently induced approximately 13,000 individuals to invest approximately \$58 million (U.S.) in the Tri-West Program by falsely representing that their investments would earn substantial profits in a “Bank Debenture Trading Program”;
  - (d) they operated the Tri-West Program as a vast Ponzi scheme;

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- (e) they used proceeds from the Tri-West Program to pay earlier investors and also to purchase millions of dollars of real estate in Mexico and Costa Rica, a yacht, a helicopter and numerous luxury vehicles;
- (f) they funneled proceeds of the Tri-West Program to foreign bank accounts and shell corporations to conceal their “ill-gotten gains”; and
- (g) they each used the fictitious names Kingsley, Goldman and Richards to dupe investors into believing that legitimate financiers were behind the Tri-West Program.

### **Breaches of the Act and Acts Contrary to the Public Interest**

11. Each of the Respondents breached:

- (a) section 34(1)(a) of the Act by trading in the securities of Tri-West without registration and without an applicable exemption from the registration requirements of the Act;
- (b) section 61 of the Act by distributing securities of Tri-West without a preliminary prospectus or prospectus; and
- (c) section 57 of the Act by perpetrating a fraud on residents in British Columbia and elsewhere.

12. The Respondents’ conduct as set out in this Notice of Hearing was contrary to the public interest.

- ¶ 3 Counsel may represent the Respondents at the Hearing, and make representations and lead evidence. The Respondents are requested to advise the Commission of their intention to attend the Hearing by informing the Commission Secretary at PO Box 10142, Pacific Centre, 701 West Georgia Street, Vancouver, BC V7Y 1L2 phone: (604) 899-6500; email: commsec@bcsc.bc.ca.
- ¶ 4 The Respondents or their counsel are required to attend at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on Wednesday, September 29, 2004, at 9:00 am if they wish to be heard before the Commission sets a date for the Hearing.

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

¶ 6 September 14, 2004

¶ 7 Brenda Leong  
A/Executive Director