

2006 BCSECCOM 223

Notice of Hearing

Bryan Orr

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

- ¶ 1 The Commission will hold a hearing at which the Executive Director will tender evidence, make submissions and apply for orders against Orr under sections 161, 162 and 174 of the *Securities Act*, RSBC 1996, c. 418.
- ¶ 2 The Executive Director alleges that the following conduct and activity was contrary to the public interest.

The Respondent

1. Orr was a registrant under the Act from December 20, 1994 until December 31, 2004.
2. Between October 24, 1995 and July 1, 2002 (the Material Time), Orr was employed first by DPM Securities Inc., then by The Height of Excellence Financial Planning Group Inc., and then by Assante Financial Management Ltd. as a mutual fund salesperson.

Misconduct

Unregistered advising

3. During the Material Time, Orr made discretionary purchases and sales of mutual funds on behalf of certain clients without first obtaining instructions from them. Orr acted as a portfolio manager without being registered to do so, contrary to section 34(1)(c) of the Act.

Unsuitable recommendations

4. During the Material Time, Orr:

- (a) recommended leveraged investment strategies; and
- (b) invested client funds in mutual funds,

that were unsuitable for his clients' needs, objectives and personal and financial circumstances, contrary to section 48 of the *Securities Rules B.C. Reg. 194/97*.

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Unfair dealing

5. During the Material Time, Orr failed to deal fairly, honestly and in good faith with his clients, contrary to section 14(2) of the Rules by, among other things:
- (a) advising certain of his clients to invest in leveraged investments which were too risky for them;
 - (b) providing excessively optimistic assurances to certain clients regarding the risk associated with their investments; and
 - (c) in certain cases helping arrange the loans he encouraged the clients to take out in order to make the investments, but failing to explain to the clients the risks associated with the loans.

Hearing Process

- ¶ 3 At the hearing, the Respondent may be represented by counsel, make submissions and tender evidence. The Respondent is requested to advise the Commission of his intention to attend the hearing by informing the Secretary to the Commission 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 Respondent or his counsel is required to attend at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on Monday, June 5, 2006, at 10:00 am if he wishes to be heard before the Commission sets a date for the hearing.
- ¶ 5 If the Respondent or his counsel do not appear at the hearing, the Executive Director will apply to have questions of liability and sanction heard at the same time. Determinations adverse to the Respondent may be made in his absence.
- ¶ 6 April 13, 2006
- ¶ 7 Brenda M. Leong
Executive Director