

# 2007 BCSECCOM 116

## Amended Notice of Hearing

^ Edward Bernard Johnson

^

### 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 the Respondent<sup>^</sup> under sections 161, 162 and 174 of the *Securities Act*, RSBC 1996, c. 418, based on the following allegations:

#### **Background**

1. Stanley Steven Ross (Ross) and Edward Bernard Johnson (Johnson) were British Columbia residents at all relevant times.
2. From 1984 to 1997, Ross was registered under the Act to trade securities in British Columbia.
3. On July 19, 1999, the Executive Director issued an order against Ross (the Order), which was in effect until July 19, 2006. Among other things, the Order stated that, under section 161(1)(c) of the Act, the exemptions set out in that paragraph of the Order did not apply to Ross for seven years, except for an 18-month period to allow him to dispose, under certain conditions, of securities he then held.
4. Fortune Capital Management Inc. (Fortune) is a British Columbia company. Ross is the sole director, officer, and owner of Fortune.
5. Johnson is a registered representative with Golden Capital Securities Limited in Vancouver, British Columbia.

#### **Misconduct**

##### ***Unregistered trading***

6. Between 2000 and 2004, Ross traded in securities in accounts held in:
  - (a) ^
  - (b) the name of a third party (the Nominee) at a securities dealer in British Columbia (the Nominee Account<sup>^</sup>)

in breach of section 34 of the Act.

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7. Between 2001 and 2004, Ross, either personally or through Fortune, traded securities of a company listed on the Over-the-Counter Bulletin Board in the United States in breach of section 34 of the Act.

### *Allowing trading through nominee account*

8. Johnson was the registered representative for ^ the Nominee Account^ (the Johnson Nominee Account).
9. Johnson allowed Ross to trade in the Johnson Nominee Account, in breach of IDA By-Law No. 29.1 and IDA Regulation 1300.1(b).

### *False or misleading statements*

10. Commission investigators at compelled interviews on November 2, 2004 (the November Interview) and on January 20, 2005 (the January Interview) asked Johnson about Ross' trading in securities.
11. Johnson made false statements:
  - (a) during both the November and January Interviews, in that he deposed that he did not know that the Nominee had allowed Ross to trade in the Johnson Nominee Account; and
  - (b) during the January Interview, in that he deposed that Ross did not, to Johnson's knowledge, conduct any of the trades in the Johnson Nominee Account.
12. Johnson made statements in evidence, which was also information given under section 144(1) of the Act to an investigator appointed under the Act, that, in a material respect and at the time and in light of the circumstances under which they were made, were false or misleading, contrary to section 168.1 of the Act.

### *Conduct Contrary to the Public Interest*

13. The Respondent's conduct as set out in this Notice was contrary to the public interest.

### **Hearing Process**

- ¶ 2 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.

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- ¶ 3 The Respondent<sup>^</sup> or <sup>^</sup> his counsel <sup>^</sup> is required to attend at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on Wednesday, August 30, 2006, at 11:00 am if they wish to be heard before the Commission sets a date for the Hearing.
- ¶ 4 If the Respondent<sup>^</sup> or <sup>^</sup> 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<sup>^</sup> may be made in <sup>^</sup> his absence.
- ¶ 5 March 9, 2007
- ¶ 6 Brenda M. Leong  
Executive Director