

# 2011 BCSECCOM 421

## Notice of Hearing

### Gibraltar Global Securities Inc.

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

¶ 1 The British Columbia Securities Commission (the BCSC) will hold a hearing (the Hearing) at which the Executive Director will tender evidence, make submissions and apply for orders against Gibraltar Global Securities Inc. (Gibraltar) under sections 161, 162 and 174 of the *Securities Act*, RSBC 1996, c. 418, based on the following facts:

#### **Background**

1. Gibraltar is a company registered in the Bahamas.
2. Gibraltar is not registered as a corporation in British Columbia and is not registered in any capacity under the Act.
3. Gibraltar provides offshore securities brokerage, investment management and advisory services. It solicits for clients through its website and represents that clients can trade through its website and that their account information will be kept in the strictest confidence under the laws of the Bahamas.

#### **Gibraltar's BC connection**

4. In 2008, a BCSC investigator learned from a British Columbia resident that he held an account with Gibraltar. This information led the BCSC to be concerned that Gibraltar may have been trading and advising in securities without being registered.
5. On January 22, 2009, the BCSC wrote to the Securities Commission of the Bahamas (the SCB) to request its assistance in obtaining the names and contact information (2009 Request) of:
  - Gibraltar's principals, including all its beneficial owners;
  - employees of Gibraltar; and
  - all British Columbia residents who ever held accounts with Gibraltar, either directly or beneficially.
6. Gibraltar refused to provide the requested information to the SCB.
7. On December 14, 2009, the BCSC sent a letter to Gibraltar asking that it provide the following information:

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- names and contact information of all British Columbia residents that have ever held accounts with Gibraltar, either directly or beneficially; and
  - copies of new client account forms and account statements for each such account.
8. In its December 30, 2009 response, Gibraltar stated that it had instructed its attorneys to provide a considered response, and that it expected the BCSC would receive it in early 2010.
  9. The BCSC never received any response from Gibraltar's attorneys nor any further response from Gibraltar itself.
  10. In 2010, the SCB conducted an unannounced inspection of Gibraltar's business premises. The inspection was unrelated to the 2009 Request and conducted for the SCB's own purposes. During the inspection, the SCB found some of the information that had been the subject of the 2009 Request. On January 20, 2011, the SCB provided this information to the BCSC.
  11. The information provided by the SCB disclosed that at least 16 British Columbia residents were the beneficial holders of Gibraltar accounts.
  12. The BCSC learned the identities of three more British Columbia residents who hold Gibraltar accounts who were not included in the information received from the SCB.
  13. Of the 20 British Columbia residents known to hold Gibraltar accounts:
    - one has been convicted of wire fraud and securities fraud in the United States in connection with market manipulation; and
    - another is the subject of a BCSC hearing for which the decision is pending.
  14. The BCSC has issued a Notice of Hearing with respect to a market manipulation involving a British Columbia reporting issuer. One of the respondents to the Notice of Hearing is a United States resident who deposited securities of the issuer in a Gibraltar account.

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15. The BCSC is investigating trading in the securities of another British Columbia reporting issuer. It obtained the following information:

- Gibraltar holds a securities trading account in its own name with a United States broker/dealer.
- The reporting issuer issued share certificates to Gibraltar. Gibraltar deposited the share certificates in its United States trading account. Although they named Gibraltar as the legal owner of shares, the certificates represented the beneficial interests in the securities of the reporting issuer of five different residents of British Columbia who were also Gibraltar account holders.
- Gibraltar used its United States account to conduct open market transactions in the securities of the reporting issuer on behalf of two other Gibraltar accounts whose beneficial owners are residents of British Columbia.

### **Gibraltar BC accounts**

16. Gibraltar holds trading accounts with a brokerage firm in Vancouver, British Columbia (Gibraltar BC accounts). The dollar value of the trading by Gibraltar in TSX Venture Exchange issuers in Gibraltar BC accounts for the period from July 1, 2010 to June 30, 2011 was as follows:

July 2010	\$ 298,209.22
August 2010	\$ 501,870.62
September 2010	\$ 1,452,214.16
October 2010	\$ 932,750.09
November 2010	\$ 3,523,348.49
December 2010	\$ 1,211,939.02
January 2011	\$ 1,463,455.23
February 2011	\$ 2,078,528.80
March 2011	\$ 1,211,471.64
April 2011	\$ 652,557.69
May 2011	\$ 530,723.09
June 2011	\$ 381,756.00
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	\$ 14,238,824.05
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17. Gibraltar stated to the brokerage firm that it conducts all trading in Gibraltar BC accounts for its own proprietary purposes.

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18. On August 5, 2011, the BCSC issued a Freeze Order under section 151 of the Act against Gibraltar BC accounts, freezing approximately \$2.2 million.

### **Misconduct**

19. Gibraltar held itself out as being in the business of trading and advising in securities and carried out both activities without being registered to do so, contrary to section 34 of the Act.

20. Gibraltar's refusal to provide the BCSC with the names, account information, and account statements for all British Columbia residents who have beneficially held accounts with it makes Gibraltar unsuitable to engage in securities-related activities in, or connected with, British Columbia.

### **Public interest**

¶ 2 It is in the public interest that the Commission issue orders under sections 161 and 162 of the Act.

### **Hearing process**

¶ 3 Gibraltar or its counsel is required to attend at the 12<sup>th</sup> Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on **Tuesday, October 4, 2011, at 9:00 a.m.** if it wishes to be heard before the Commission sets a date for the Hearing. Relevant information gathered by Commission staff in the investigation of this matter will be disclosed to Gibraltar upon request to the Executive Director.

¶ 4 At the hearing, Gibraltar may be represented by counsel, make submissions and tender evidence. Gibraltar is requested to advise the Commission of its intention to attend the Hearing by informing the Secretary to the Commission at PO Box 10142, Pacific Centre, 12<sup>th</sup> Floor, 701 West Georgia Street, Vancouver, BC V7Y 1L2, phone: (604) 899-6500; email: commsec@bcsc.bc.ca.

¶ 5 If Gibraltar or its counsel does not appear at the Hearing, the Executive Director may apply to have questions of liability and sanction heard at the same time. Determinations adverse to Gibraltar may be made in its absence.

¶ 6 September 06, 2011.

Paul Bourque

¶ 7 Paul C. Bourque, Q.C.  
Executive Director