

# 2012 BCSECCOM 316

## Notice of Hearing

**Aviawest Resorts Inc., Rob DiCatri, Andrew Pearson, James Pearson, Lawrence Pearson, Susan Pearson, Zulak Financial Group Ltd., Melvin Zulak, and Karla Ann Davis (the Respondents)**

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

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

#### **Background**

1. Aviawest Resorts Inc. (Aviawest) is a British Columbia company that owned, managed or marketed vacation properties and sold to investors the rights to use the properties, commonly referred to as timeshares or timeshare points. Aviawest has an office in Nanaimo, BC. Aviawest has never filed a prospectus under the Act.
2. From December 2006 through to June 2011 (the Relevant Period) Aviawest's directors were Rob DiCatri, Andrew Pearson, James Pearson, Lawrence Pearson, and Susan Pearson who all resided in British Columbia.
3. Zulak Financial Group Ltd. (Zulak Financial) is a British Columbia company with an office in Nanaimo, BC that sells primarily life insurance products.
4. Zulak Financial's directors during the Relevant Period were Karla Ann Davis and Melvin Zulak, both of whom resided in British Columbia.

#### **Misconduct**

5. During the Relevant Period, Aviawest issued securities to 214 investors totaling approximately \$12.7 million.
6. In respect of 173 investors who invested approximately \$9.2 million, Aviawest purported to rely on the Family, Friends and Business Associates exemptions from the prospectus requirements of the Act, none of which applied in the circumstances.
7. In respect of 18 investors who invested \$1.2 million, Aviawest does not purport to have an exemption from the prospectus requirements of the Act.

## 2012 BCSECCOM 316

8. Between February 2010 and April 2011, Zulak Financial marketed Aviawest securities to 21 of their life insurance clients who invested approximately \$1.8 million. Aviawest compensated Zulak Financial for finding investors.
9. By distributing securities for which a prospectus has not been filed, the Respondents contravened section 61 of the Act.
10. The directors of Aviawest and Zulak Financial authorized, permitted, or acquiesced in Aviawest's and Zulak Financial's contravention of section 61 of the Act and, therefore, also contravened section 61 by operation of section 168.2 of the Act.

### **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 The Respondents or their counsel are required to attend at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on Tuesday, September 18, 2012, at 9:00 am if they wish 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 the Respondent upon request to the Executive Director.
- ¶ 4 At the Hearing, the Respondents may be represented by counsel, make submissions and tender evidence. The Respondents are requested to advise the Commission of their 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.
- ¶ 5 If the Respondents or their 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 Respondents may be made in their absence.
- ¶ 6 August 9, 2012.

Paul C. Bourque

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