

# 2012 BCSECCOM 66

## Notice of Hearing

**Michael Patrick Lathigee and Earle Douglas Pasquill, FIC Real Estate Projects Ltd., FIC Foreclosure Fund Ltd., WBIC Canada Ltd.  
(collectively, the Respondents)**

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

¶ 1 The British Columbia Securities Commission (Commission) will hold a 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. Michael Patrick Lathigee (Lathigee) and Earle Douglas Pasquill (Pasquill) jointly directed and controlled a group of companies that they represented and promoted collectively as the Freedom Investment Club (FIC or the FIC Group of Companies).
2. At all relevant times Lathigee and Pasquill were residents of Vancouver, British Columbia, where FIC also had its head office.
3. Lathigee and Pasquill were directors and the Chief Executive Officer and President, respectively, of:
  - (a) FIC Real Estate Projects Ltd. (FIC Projects);
  - (b) FIC Foreclosure Fund Ltd. (FIC Foreclosure);
  - (c) WBIC Canada Ltd. (WBIC); and
  - (d) other entities in the FIC Group of Companies.
4. FIC promoted investments that it represented as “funds”. More accurately, these investments were securities offered by individual FIC companies and distributed, purportedly, under exemptions from the registration and prospectus requirements of the Act.
5. Lathigee, Pasquill, and FIC made the following representations in promoting FIC as an investment vehicle to prospective investors:
  - (a) FIC was a club that provided its members with exclusive opportunities to invest in a variety of funds.

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- (b) Only members in FIC were permitted to invest in a FIC fund. Persons wishing to become members were required to first pay a membership fee, which allowed them an opportunity to invest in one fund.
- (c) Members were required to pay an additional fee in respect of each additional fund in which a member wished to invest.
- (d) Each fund had specific guidelines that dictated the investment decisions made by that fund, and therefore “if a Member chooses to purchase shares, he/she should first select which fund is appropriate for their investment needs.”

### **Misconduct**

6. By February 2008, FIC had taken on a significant amount of debt in relation to several Alberta real estate properties it had acquired and was attempting to develop. These were, principally:
  - (a) A \$22,128,800 loan provided by a Canadian chartered bank (the Loan) to a FIC company, secured by a first mortgage on one of FIC’s development properties and guaranteed by five other FIC companies, including WBIC, that jointly and severally agreed to repay the entire outstanding amount of the Loan in the event of default.
  - (b) A \$4,000,000 mortgage loan to a FIC company, secured by a first mortgage on a FIC property and with another FIC company as a covenantor.
  - (c) A \$8,940,000 mortgage loan to a FIC company, the repayment of which was guaranteed by three other FIC companies.(collectively, the Guaranteed Debt)
7. By early March, 2008, Lathigee and Pasquill were aware that FIC as a whole was, in their own words, “in a very bad situation”, had “no cash flow”, was “close to insolvency”, and that there was a real possibility the Loan would be called and that FIC was “doomed”.
8. Faced with FIC’s dire financial situation, Lathigee and Pasquill chose, again in their own words, to keep it “confidential”, and “focus on sales and bringing in cash and nothing else” to try and “save” FIC.

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### **Dishonest deprivation**

9. Although FIC represented that investments in its various funds were individual investments, the reality was that Lathigee and Pasquill treated all money raised from FIC investors as one pool of money, orchestrating loans between FIC companies as required. In this fashion, money raised by one FIC company was effectively available to fund any other FIC company.
  
10. Between February 1, 2008 and November 15, 2008, Lathigee, Pasquill and the other Respondents aggressively promoted and distributed securities in the following FIC companies to members of FIC, without disclosing that the FIC Group of Companies was close to insolvency and that the investments were therefore extremely risky:
  - (a) \$1,999,732.30 by selling WBIC shares to 100 investors;
  - (b) \$9,759,405.36 by selling FIC Projects promissory notes to 267 investors;
  - (c) \$9,936,271.25 by selling FIC Foreclosure shares to 331 investors.
  
11. In promoting the sale of FIC Projects promissory notes, Lathigee and Pasquill mailed notices to FIC members and held webcasts in which they stated:
  - (a) “We have over \$100 million in Real Estate Assets and the loan amount we are seeking is \$10 million”... “the asset base of FIC real estate alone is ten times bigger than the total amount being raised for the promissory note,” and
  - (b) “If you have followed the teachings of the Club, we have had an uncanny accuracy to guide members. We are now guiding you to go very heavy in cash and seek a cash flow opportunity that outperforms inflation”... “be an action-taker and take advantage of this spectacular opportunity that’s so right for these times.”
  
12. These statements were misleading. In reality, FIC’s properties were encumbered by mortgages and liens, and FIC Projects was an unsecured real estate investment with little prospect of cash flow.
  
13. In a webcast promoting FIC Foreclosure shares, Lathigee represented it as an opportunity to invest in foreclosed properties in the United States, in the following terms:
  - (a) “I have discovered an opportunity for members where we can all make a fortune and the returns will likely be higher than any other opportunity

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we have pursued as a club. In fact, in my entire career I have never seen a better opportunity... the returns are spectacular.”

- (b) “The profits are enormous”... “I want you to get rich with the Club”... “the numbers are astounding”... “This deal will seal the legacy of the Freedom Investment Club and all its members to acquire enormous wealth”... “make gains that we never thought possible.”
- (c) “I am positive this will be our best investment opportunity to date, and maybe ever, because these type of opportunities, as I see them, come along once in a lifetime. In my career, it is the best one I’ve ever seen. This should be the opportunity where you write the largest cheque you have ever considered, to participate in an FIC offering.”

- 14. In reality, of the approximately \$9.9 million raised through the sale of its shares, FIC Foreclosure used only \$1.4 million to buy foreclosed properties in the United States. Lathigee and Pasquill directed the majority of the remaining proceeds to other FIC companies, without disclosing it to the investors.
- 15. By December 2008, the bank holding the Loan began to take legal steps to collect it, which culminated in the appointment of a receiver in January of 2010. Investors in WBIC, FIC Projects and FIC Foreclosure lost most of their money.

### **Fraud**

- 16. Lathigee, Pasquill and the other Respondents perpetrated a fraud on investors in WBIC, FIC Projects and FIC Foreclosure, contrary to section 57(b) 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, BC, on March 20, 2012, at 9:00 a.m. 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 Respondents 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

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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 may 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 March 1, 2012

Paul C. Bourque

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