



British Columbia Securities Commission

Citation: 2013 BCSECCOM 297

Amended Notice of Hearing

**David Michael Michaels and
509802 BC Ltd. doing business as Michaels Wealth Management Group**

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

- ¶ 1 The British Columbia Securities Commission (Commission) will hold a hearing (Hearing) at which the Executive Director will tender evidence, make submissions and apply for orders against David Michael Michaels and 509802 BC Ltd. doing business as Michaels Wealth Management Group (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. David Michael Michaels (Michaels) resides in Mill Bay, British Columbia.
2. Michaels is a director of 509802 BC Ltd., a British Columbia company doing business as Michaels Wealth Management Group.
3. Michaels was registered under the Act from 1996 to 2006 as a mutual fund salesperson and, briefly, as a salesperson.
4. Michaels was licensed as a life insurance agent nominee by the Insurance Council of British Columbia from 1996 to 2011.
5. In 2003, Michaels obtained the designation of Certified Senior Advisor (CSA). This designation did not entitle Michaels under the Act to advise anyone about purchasing securities. In April 2013, the Board of Standards of Age-Friendly Business stripped Michaels of this designation.

Michaels gets into trouble with the IDA

6. In February 2004, Michaels' employment as a mutual fund salesperson was terminated after his employer discovered he conducted a number of off book transactions with clients. This triggered an investigation into his conduct by the Investment Dealers Association of Canada (IDA), during which he repeatedly attempted to conceal information from the IDA.



7. Michaels realized that his future in the IDA was going to either end or become severely limited after receiving a draft notice of hearing from the IDA, so he started exploring how he could “escape the IDA” but still generate income from his clients. Michaels resigned in May 2006 and has not been registered under the Act in any capacity since.
8. In September 2006, the IDA issued a notice of hearing against Michaels alleging that he:
 - Conducted off book transactions.
 - Advised clients about purchasing shares when his registration was restricted to mutual fund sales.
 - Attempted to conceal information and mislead IDA staff during the course of the investigation.
9. In March 2007, the IDA found that the above allegations were true and ordered that Michaels could not reapply for registration until two months had elapsed and he paid a fine and costs of \$60,000, which he never did.

Michaels turns to advising clients to purchase exempt market securities

10. No longer able to earn income from being registered under the Act, Michaels turned to advising his former mutual fund clients and existing insurance clients to purchase exempt market securities. He also actively sought out new clients, targeting retired investors.
11. Between June 2007 and December 2010, Michaels advised 484 clients to purchase over \$65 million worth of exempt market securities, for which he was paid almost \$5.8 million in commissions and marketing fees by the exempt market issuers.
12. Almost all of the roughly \$65 million invested by Michaels’ clients is now worthless, leaving many of them financially destitute.

Michaels’ advice premised on fraud and misrepresentations

13. The promotion of his financial advising business and the advice he gave to clients was premised on fraud and misrepresentations.



Weekly infomercials

14. Michaels appeared in a weekly infomercial entitled ‘Creating Wealth with David Michaels’ on CFAX 1070 radio in Victoria during which he invited listeners to attend upcoming monthly seminars promoting exempt market securities. During the infomercials, he claimed that:
- He decided to stop selling stocks, bonds and mutual funds in 2006 because he saw the “writing on the wall” that there was going to be a stock market crash, when in fact the real reason was that he got into trouble with the IDA.
 - Exempt market securities were less risky investments than securities that trade in the stock market.
 - His CSA designation gave him expertise in advising investors about purchasing exempt market securities.
 - He could provide a second opinion on listeners’ investment portfolios, when he was not registered to do so under the Act.

These claims were false or misleading.

Monthly seminars

15. During his monthly seminars, Michaels claimed that:
- He specialized in helping retirees earn monthly incomes without stock market uncertainty.
 - Exempt market securities were the key to preserving and creating wealth.
 - Leveraging using a home equity loan to purchase exempt market securities was good advice regardless of the attendees’ financial situation or needs.
 - RRSP’s were the “poor man’s retirement vehicle” and should be deregistered to purchase exempt market securities to get the advantage that the “house” has always enjoyed.

These claims were false or misleading.

16. Michaels encouraged attendees at his seminars to question the motives of their current registered advisors and to schedule a one-on-one meeting with him for a free review of their financial situation.

One-on-one meetings

17. Clients were required to bring their current investment statements and tax returns to the one-on-one meetings so Michaels could review them.
18. Armed with details of their financial situation, Michaels advised his clients to purchase various exempt market securities by repeating the false statements



he made during his weekly infomercials and monthly seminars and also stating that:

- The exempt market securities he was selling were good investments.
- He had personally made the same investments.
- They should transfer their current investment holdings to his firm, so they could be liquidated to fund the investments.
- They should obtain a home equity loan to fund the investments.
- They should deregister their RRSP holdings to fund the investments.
- The investments were tailored to their needs.

19. After people became his clients, Michaels continued to advise them to purchase additional exempt market securities, which many did.

Misconduct

20. By advising his clients to purchase exempt market securities, Michaels acted as an adviser without being registered to do so, contrary to section 34(b) of the Act.
21. By repeatedly making false and misleading statements during his weekly infomercials, monthly seminars, and one-on-one meetings with clients, Michaels:
- Perpetrated a fraud, contrary to section 57(b) of the Act.
 - Made misrepresentations, contrary to section 50(1)(d) of the Act.
22. The conduct described in this Amended Notice of Hearing is contrary to the public interest.

Orders sought

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

Hearing Process

- ¶ 2 The hearing of this matter is scheduled for January 20th to 31st, 2014 at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia. Relevant information gathered by Commission Staff in the investigation of this matter will be disclosed to the Respondent upon request to the Executive Director.
- ¶ 3 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.

- ¶ 4 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.
- ¶ 5 August 2, 2013.

Paul Bourque

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