

BRITISH COLUMBIA SECURITIES COMMISSION
Securities Act, RSBC 1996, c. 418

Citation: Re Thomas, 2025 BCSECCOM 85

Date: 20250228

Order under section 161(6)

Hope Moira Donna Thomas

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

Introduction

- [1] This is an order under sections 161(1) and 161(6)(c) of the *Securities Act*, RSBC 1996, c. 418 (Act).
- [2] Section 161(6) facilitates cooperation between the Commission and other securities regulatory authorities, self-regulatory bodies and exchanges. If the requirements of the section are met and it is in the public interest, the Commission may issue orders without the need for inefficient parallel and duplicative proceedings in British Columbia (*McLean v. British Columbia (Securities Commission)*, 2013 SCC 67, at para. 54).
- [3] On October 9, 2024, the executive director of the Commission applied (Application) for an order against Hope Moira Donna Thomas (Thomas) based on the Decision and Reasons of the Canadian Investment Regulatory Organization (CIRO) made April 25, 2023 in which CIRO found Thomas had contravened Rules 2.1.1, 2.5.1 and 1.1.2 of the Mutual Funds Dealer Association (MFDA).
- [4] In his Application, the executive director tendered affidavit evidence and submissions to the Commission.
- [5] We find that the executive director provided notice of his application to Thomas as well as affidavit evidence to establish that Thomas is a resident of British Columbia. Although Thomas was provided the opportunity to tender evidence and provide submissions, she did not participate in the hearing.

Background

- [6] Thomas was registered in British Columbia as a dealing representative with CIBC Securities Inc. (CIBC) from December 7, 2012 until October 25, 2019 and was employed at all material times by the Canadian Imperial Bank of Commerce (Bank).
- [7] In January of 2018, a client of the Bank (Client) opened a tax-free savings account (TFSA) and purchased mutual funds totaling approximately \$56,316. Thomas processed the opening of the TFSA.
- [8] In or about December 2018, without the knowledge or consent of the Client, Thomas opened a bank account with an overdraft facility in the Client's name (Fake Account).
- [9] Between February and August 2019, Thomas without the Client's knowledge or authorization, processed 12 redemptions from the Client's TFSA totaling \$59,000. Thomas deposited the proceeds of the TFSA redemptions into the Fake Account and used a bank card to withdraw those funds and ran up an overdraft of \$5,188.95.
- [10] Thomas changed the Client's account statement delivery method so that her statements would be delivered online and changed the address to Thomas' address to conceal the redemptions.

- [11] Between September 2018 and March 2019, Thomas also misappropriated monies from an account the Client held with her spouse in the amount of approximately \$34,000.
- [12] Beginning in August 2019, and without the Client's authorization, Thomas applied for and obtained bank loans and a line of credit in the Client's name and received \$59,000 from the Bank.
- [13] Thomas used the monies she obtained for her personal use and failed to pay back or otherwise account for the funds. Thomas admitted she took the funds because the Client was elderly and trusted her. In total, Thomas misappropriated approximately \$157,000.
- [14] CISO imposed the following on Thomas:
- a. a permanent prohibition of Thomas' authority to conduct securities related business,
 - b. a fine in the amount of \$300,000, and
 - c. costs in the amount of \$10,000.

Position of the executive director

- [15] The executive director submits that Thomas' conduct in contravening the MFDA Rules is analogous to a contravention of section 57(1)(b) of the Act, a provision that prohibits fraud.
- [16] The executive director points to the Decision and Reasons of CISO which noted that Thomas held a position of trust with the Client who was elderly and vulnerable and whom she exploited to steal money for her own personal use.
- [17] The executive director submits that:
- a. Thomas' actions caused financial losses to the Client, although the Client was compensated by the Bank, and to the Bank itself,
 - b. Thomas failed to repay or otherwise account for the stolen funds,
 - c. there are no factors that mitigate Thomas' misconduct,
 - d. compliance with securities laws is vital for those who participate in the capital markets,
 - e. Thomas' conduct demonstrates that she is unfit to participate in the capital markets and ill-suited to act as a registrant, director, officer, promoter or advisor to any private or public issuer, and
 - f. the market as a whole must understand that a finding of fraud will result in a significant penalty.
- [18] The executive director applies for permanent market prohibitions under section 161 of the Act.

Analysis

- [19] The Commission is established under the Act to regulate the capital markets in British Columbia. Central to the Commission's mandate under the Act is to protect the investing public from those who would take advantage of them, and to preserve investor confidence in the regulated capital markets.
- [20] Under section 161(6)(c), the Commission may, after providing an opportunity to be heard, make an order in respect of a person if the person is subject to an order made by a self-regulatory body, imposing sanctions on the person.
- [21] The executive director cites *Re Schouw*, 2017 BCSECCOM 168, *Re Spanenberg*, 2016 BCSECCOM 180, and *Re Figueiredo*, 2016 BCSECCOM 223, in support of his position that permanent market bans are appropriate. In each of those cases, the Commission imposed permanent market bans.

- [22] In *Schouw*, the respondent perpetrated fraud against one investor in the amount of \$74,612. Schouw misappropriated a portion of funds provided by an investor and used those funds for personal use.
- [23] In *Spangenberg*, the respondent committed fraud and illegal distribution by raising approximately \$170,000 from seven investors. He engaged in multiple acts of deceit including altering an analyst report and misrepresenting his personal background to investors.
- [24] In *Figueiredo*, the respondents committed fraud by raising \$81,000 from an investor in support of a non-existent investment. Approximately \$23,000 was returned to the investor as purported interest and return on the investment.
- [25] Although the facts in these three cases are of course different from the conduct of Thomas, in our view these cases provide useful guidance on the types of sanction that will be appropriate for misconduct that involves deceit and deprivation. The amount obtained by Thomas through her actions is close to the amount in *Spangenberg* and significantly higher than the amounts in *Schouw* and *Figueiredo*.
- [26] We have considered the Application, the circumstances of Thomas' misconduct, and the factors from *Re Eron Mortgage Corporation*, [2000] 7 BCSC Weekly Summary 22, and *Davis v. British Columbia (Securities Commission)*, 2018 BCCA 149.
- [27] Thomas' misconduct was extremely serious. She took money from her Client and carried out a series of deceptive steps to obtain even more money. Thomas is a risk to the capital markets. We find that she is unfit to participate in the British Columbia capital markets and that permanent prohibitions are warranted.
- [28] Despite Thomas' misconduct, trading in her own accounts for her sole benefit does not pose a risk to the public and the capital markets so long as she provides a registered representative with a copy of this order.

Order

- [29] We find that it is in the public interest to order that:
- (a) under section 161(1)(d)(i), Thomas resign any positions she holds as a director or officer of an issuer or registrant;
 - (b) Thomas is permanently prohibited:
 - (i) under section 161(1)(b)(ii), from trading in or purchasing any securities or derivatives, except in accounts in her own name with a person registered to trade in securities under the Act if she has first provided the registered representative with a copy of this order before any trade takes place;
 - (ii) under section 161(1)(c), from relying on any of the exemptions set out in this Act, the regulations or a decision;
 - (iii) under section 161(1)(d)(ii), from becoming or acting as a director or officer of any issuer or registrant;
 - (iv) under section 161(1)(d)(iii), from becoming or acting as a registrant or promoter;
 - (v) under section 161(1)(d)(iv), from advising or otherwise acting in a management or consultative capacity in connection with activities in the securities or derivatives markets;

(vi) under section 161(1)(d)(v), from engaging in promotional activities by or on behalf of:

(A) an issuer, security holder or a party to a derivative, or

(B) another person that is reasonably expected to benefit from the promotional activity; and

(vii) under section 161(1)(d)(vi), from engaging in promotional activities on Thomas' own behalf in respect of circumstances that would reasonably be expected to benefit Thomas.

February 28, 2025

For the Commission

Gordon Johnson
Vice Chair

Karen Keilty
Commissioner