

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

Citation: Re Leyk, 2026 BCSECCOM 83

Date: 20260312

Robert Joseph Leyk

Panel	Gordon Johnson Jason Milne Warren Funt	Vice Chair Commissioner Commissioner
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Submissions completed December 12, 2025

Decision date March 12, 2026

Parties

Laura L. Bevan Baylee Hunt	For the Executive Director
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Robert Joseph Leyk	For himself
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Decision

I. Introduction

[1] On July 16, 2025, the executive director of the British Columbia Securities Commission applied to the Commission under section 171 of the *Securities Act*, RSBC 1996, c. 418 (Act) for orders:

- a) lifting a Commission panel's stay of a 2015 order made under s. 161(1)(g) of the Act (Original Order) against Robert Joseph Leyk (Leyk), and
- b) varying the amount of the Original Order.

[2] As described in more detail below, although Leyk corresponded with the Commission hearing office and with counsel for the executive director, he did not provide evidence or submissions in response to the executive director's application.

[3] The executive director provided written submissions and a supporting affidavit of a senior enforcement officer in the enforcement division of the Commission.

[4] Having advised the parties that this proceeding would proceed in writing on the basis of the application materials received, we are granting the orders sought by the executive director.

[5] This Decision sets out our reasons for doing so.

II. Application procedure

A. Proceedings before this Commission and the British Columbia Court of Appeal

[6] In *Singh Poonian (Re)*, 2014 BCSECCOM 318 (Findings), a Commission hearing panel found that the respondents, including Leyk, breached section 57(a) of the Act by engaging in market manipulation.

- [7] At paragraph 163 of those Findings, the hearing panel wrote that Leyk: "...was actively and extensively involved in many aspects of the market manipulation."
- [8] Section 161(1)(g) of the Act enables the Commission to order payment to the Commission of money obtained through misconduct. Specifically, the sub-section provides:
- 161(1)** If the commission or the executive director considers it to be in the public interest, the commission or the executive director, after a hearing, may order one or more of the following:
- ...
- (g) if a person has not complied with this Act, the regulations or a decision of the commission or the executive director, that the person pay to the commission any amount obtained, or payment or loss avoided, directly or indirectly, as a result of the failure to comply or the contravention...
- [9] In *Poonian (Re)*, 2015 BCSECCOM 96 (Sanctions Decision), the Commission hearing panel made various orders against the respondents, including Leyk. One was the Original Order made under section 161(1)(g) which included this language: "...the respondents pay to the Commission \$7,332,936 and the respondents are jointly and severally liable to pay this amount..." The Commission also ordered under section 162 that Leyk pay an administrative penalty of \$3.5 million (Administrative Penalty).
- [10] Certain of the respondents appealed the Original Order. Thalbinder Singh Poonian and Shailu Sharon Poonian sought leave to appeal the Commission's Findings and Sanctions Decision. Manjit Sihota and Perminder Sihota sought leave to appeal the Sanctions Decision only. Ultimately, the Court of Appeal granted leave to appeal the issue of sanctions only and, more particularly, only the orders made pursuant to section 161(1)(g). Leyk did not participate in the appeal.
- [11] In its 2017 decision *Poonian v. British Columbia Securities Commission*, 2017 BCCA 207, the Court of Appeal held at paragraph 143 that an "amount obtained" in section 161(1)(g) of the Act must be obtained "*by that respondent, directly or indirectly*" [emphasis in original].
- [12] The Court explained: "This generally prohibits the making of a joint and several order because such an order would require someone to pay an amount that person did not obtain as a result of that person's contravention."
- [13] In remitting the matter to the Commission to consider whether section 161(1)(g) orders should be made against the parties who had appealed, the Court of Appeal stated at paragraph 165:
- In my view, it is incumbent on the Commission and properly within its expertise to make determinations as to the conduct of each person, the existence, if any, of each person's direction and control over accounts containing the "amounts obtained", and on balance, what proportion of the amount obtained (aggregate net trading gain) can properly be found as having been directly or indirectly obtained by each person. Of course, it is also for the Commission to determine whether it is in the public interest to make any order under s. 161(1)(g).
- [14] In *Poonian (Re)*, 2018 BCSECCOM 160 (Reconsideration Decision), the Commission considered section 161(1)(g) in light of the reasons issued by the Court of Appeal.

- [15] Below, we discuss a later Commission decision, *Re Leyk*, 2019 BCSECCOM 136, in which Leyk sought relief in respect of the Findings and the Sanctions Decision (Stay Decision). In the Stay Decision, the hearing panel noted that Leyk participated in an October 2017 Commission hearing management meeting respecting the reconsideration of section 161(1)(g) orders. The panel chair offered Leyk the opportunity to join in the reconsideration proceeding, if he made an application under section 171 of the Act to revoke or vary the section 161(1)(g) order against him. Leyk did not apply to join that reconsideration proceeding.
- [16] In the Reconsideration Decision, the Commission reassessed the Original Order on the basis of the net trading gains obtained by the respondents participating in that proceeding and ordered under section 161(1)(g) of the Act that:
- a) Shailu Sharon Poonian pay to the Commission \$3,149,935;
 - b) Thalbinder Singh Poonian pay to the Commission \$1,319,167; and
 - c) Thalbinder Singh Poonian and Perminder Sihota pay to the Commission \$1,126,260 on a joint and several basis.
- [17] Because Leyk did not participate in the Reconsideration Decision, the orders in that proceeding did not directly affect the Original Order as against Leyk.
- [18] In January 2018, Leyk applied to the Commission for an order “permanently cancelling” the Findings and the Sanctions Decision. The Commission considered this application in the Stay Decision. In it, the Commission hearing panel found at paragraph 40 that it would be prejudicial to the public interest to vary or revoke any of the Findings or the orders made against Leyk in the Sanctions Decision.
- [19] However, the panel determined that it was in the public interest to stay a section 161(1)(g) order that may be affected by the Court of Appeal decision until a party makes an application to the Commission under section 171 to lift the stay or to vary or revoke the order. Accordingly, the hearing panel stayed the Original Order made against Leyk. That stay remains in place.

B. Alberta court proceedings

- [20] On January 10, 2025, Leyk made an assignment into bankruptcy in Alberta (Bankruptcy) under summary administration by A.C. Waring & Associates Inc. as trustee in bankruptcy (Trustee).
- [21] Section 69.3(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (BIA) states:
- 69.3 (1) Subject to subsections (1.1) and (2) and sections 69.4 and 69.5, on the bankruptcy of any debtor, no creditor has any remedy against the debtor or the debtor’s property, or shall commence or continue any action, execution or other proceedings, for the recovery of a claim provable in bankruptcy.
- [22] The executive director submits, and we accept, that orders to pay money under sections 162 and 161(1)(g) of the Act are claims provable in bankruptcy and, accordingly, the stay of proceedings imposed by the BIA applies to Commission orders, including the Original Order as it applies to Leyk.

- [23] The Commission submitted a proof of claim in the Bankruptcy in respect of the Administrative Penalty and advised the Trustee of the Original Order and the Stay Decision. However, the Commission could not submit a proof of claim in respect of the Original Order because it remains stayed by the Stay Decision.
- [24] In May 2025, the executive director applied to the Alberta Court of King's Bench for an order to lift the stay in the Bankruptcy imposed by section 69.3 of the BIA so that the executive director could apply to the Commission to vary the Original Order in accordance with the Court of Appeal's reasons.
- [25] The Alberta Court of King's Bench granted an order on May 14, 2025 (Alberta Order) which lifts the stay imposed by the BIA to permit this application before us by the executive director. The Alberta Order also provides that if we lift the stay imposed by the Stay Decision and vary the Original Order, the stay imposed by the BIA in the Bankruptcy will immediately become effective in respect of any execution of that order, on the terms described in the Alberta Order.

C. This application

- [26] Although Leyk has not provided response materials to the executive director's application, he has corresponded with the Commission hearing office and the executive director.
- [27] On July 25, 2025, the Commission hearing office received two emails from Leyk. They are substantively the same, although addressed to different parties, including the premier and the minister of finance of British Columbia. The emails refer to the Commission as a "Sham" and refer to "legal falsehoods", "false charges", and "malevolent human bias", among other things.
- [28] On October 22, 2025, the hearing office emailed the parties advising of the appointment of this hearing panel and informing them of a deadline of October 31, 2025 set by the panel chair for either party to request an oral hearing. Neither party requested an oral hearing.
- [29] On November 7, 2025, the hearing office emailed the parties with the panel chair's directions that Leyk had until November 28, 2025 to file response materials. Leyk did not file any response materials.
- [30] Having not received any materials from Leyk, the hearing office wrote again to the parties on December 15, 2025 to advise that the hearing would proceed in writing and that the panel would make its decision on the basis of the application materials received.
- [31] On December 15, 2025, the Commission hearing office received an email from Leyk expressing the view that the hearing should be "held in abeyance".
- [32] On January 28, 2026, the Commission hearing office emailed the parties to convey the hearing panel's conclusion that the hearing would proceed in writing on the basis of application materials received to date and to advise that the hearing panel would issue its decision in due course. That email also provided the correspondence below from the hearing panel to the parties:

If Mr. Leyk considers that there is a good reason why the panel should interrupt its decision-making work at this stage, he should bring an application for a stay, supported by whatever arguments and evidence he submits to be relevant to that application. We direct that Mr. Leyk may make such an application no later than **4:00pm on Monday**,

February 2, 2026 by delivering application materials to the hearing office and to counsel for the executive director.

[33] On February 23, 2026, the hearing office wrote to the parties to confirm that no application for a stay had been received and that the hearing panel was continuing with its decision-making process with respect to the executive director’s application.

III. Issues

[34] In this application, the executive director seeks orders:

- a) lifting the stay of the Original Order, and
- b) varying the amount of the Original Order from \$7,332,936 to \$1,889,933.

IV. Analysis

A. Lifting stay of the Original Order

[35] The stay of the Original Order was explicitly made in contemplation that one party or another would eventually apply to adjust the amount payable under the Original Order to reflect the reasons of the Court of Appeal as applied to the parties to the Reconsideration Decision. The application for such an adjustment has now come before us. All of the information which we require to decide the application is before us. The public interest supports having the terms of the Alberta Order become fully effective.

[36] No good reason has been suggested to hold this proceeding in abeyance.

B. Varying amount of the Original Order

[37] As was properly established in the Reconsideration Decision, in the circumstances of this particular proceeding, the net trading gain in Leyk’s accounts represents the amount obtained or loss avoided, directly or indirectly, by Leyk as result of his contravention of the Act.

[38] The net trading gain is summarized in the Findings at paragraph 20:.

Trades in OSE shares between September 10, 2007 and March 31, 2009

Party	Buy Volume	Purchase Cost	Sell Volume	Sell Value
Thal Poonian	1,124,200	\$1,475,731	1,354,100	\$2,222,407
Sharon Poonian	1,476,800	\$1,977,448	3,204,000	\$5,127,383
Manjit Sihota	449,900	\$693,330	329,000	\$548,065
Perminder Sihota	337,900	\$545,481	1,273,100	\$1,671,741
Leyk/Leyk Co.	198,500	\$383,109	1,650,000	\$2,273,042
Respondents and Secondary Participants (total)	12,750,800	\$17,789,851	17,507,700	\$25,122,787

[39] The line within that chart labeled for Leyk and his company shows the panel’s findings relevant to the calculation of Leyk’s net trading gain. It is \$1,889,933, the difference between the sell value (\$2,273,042) and purchase cost of shares (\$383,109).

[40] It is in the public interest that we vary the Original Order as against Leyk to \$1,899,933.

V. Orders

[41] Considering it to be in the public interest, and pursuant to section 171 of the Act, we order that:

- a) The stay of the Original Order which is contained in the Stay Decision is lifted; and
- b) The amount payable under section 161(1)(g) of the Act under the original decision is varied from \$7,332,936 to \$1,899,933.

March 12, 2026

For the Commission

Gordon Johnson
Vice Chair

Jason Milne
Commissioner

Warren Funt
Commissioner