

Citation: 2024 BCSECCOM 502

Notice of Hearing

William Gareth Birdsall

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 William Gareth Birdsall (Birdsall) under sections 161, 162 and 174 of the *Securities Act*, RSBC 1996, c. 418 (the Act), based on the following facts:

Summary

1. Birdsall failed or refused to comply with a summons issued under section 144 of the Act.
2. By engaging in the conduct as set out in this notice of hearing, Birdsall contravened section 57.5 of the Act, and he is also liable under sections 161(6.1) and 162(3) of the Act.

Background

3. Birdsall is a resident of Vancouver, British Columbia.

Misconduct

4. On June 21, 2024, Commission staff issued a summons to Birdsall requiring him to attend at the Commission's offices on August 19, 2024 for an interview (the Summons).
5. Birdsall was served with the Summons according to the terms of a substituted service order issued by the Commission on June 19, 2024 (the Substituted Service Order), as follows:
 - (a) on June 24, 2024, a process server mailed the Summons and the Substituted Service Order to Birdsall and posted copies of these documents on the door of his building;
 - (b) on June 24, 2024, a process server emailed the Summons and the Substituted Service Order to Birdsall; and
 - (c) on July 22, 2024, Commission staff again emailed the Summons and the Substituted Service Order to Birdsall.

Birdsall's refusal or failure to comply with the Summons

6. On July 24, 2024, legal counsel emailed Commission staff, stating that he was in the process of being retained by Birdsall and possibly unavailable for an interview on August 19, 2024 under the Summons.
7. On August 1, 2024, Commission staff emailed counsel, stating that Birdsall's interview remained scheduled for August 19, 2024, and requesting that counsel provide alternate dates if he was not available that day.
8. On August 7, 2024, Commission staff emailed counsel again, requesting that counsel provide alternate dates if he was not available for the interview on August 19, 2024.
9. On August 13, 2024, counsel advised Commission staff by email that Birdsall formally retained him and requested that the interview be rescheduled to the week of October 14 or 28, 2024.
10. On August 16, 2024, Commission staff agreed by email to reschedule the interview to October 15, 2024.
11. On October 11, 2024, counsel emailed Commission staff to reschedule the interview to October 25, 2024 as Birdsall was dealing with a personal matter. Commission staff agreed.
12. On October 24, 2024, counsel informed Commission staff by email that he no longer acted for Birdsall.
13. On October 24, 2024, Commission staff emailed Birdsall, after receiving the email from counsel, reminding Birdsall that his interview remained scheduled for October 25, 2024.
14. On October 25, 2024, Birdsall emailed Commission staff, requesting that his interview later that day be rescheduled after he secured new counsel, which he anticipated within a week.
15. On October 25, 2024, Commission staff emailed Birdsall to confirm that the interview would proceed.
16. Commission staff and a court reporter attended the scheduled interview on October 25, 2024, but Birdsall did not appear.

17. As no further communication had been received from Birdsall, Commission staff emailed Birdsall on November 7, 2024, but Birdsall did not respond.

18. Birdsall failed or refused to attend an interview under the Summons to give evidence on oath. To date, Birdsall has not complied with the Summons.

Hearing Process

- ¶ 2 The Respondent or his counsel is required to attend at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on **Tuesday, January 14, 2025 at 9:00 a.m.** if he wishes 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.
- ¶ 3 At the Hearing, the Respondent may be represented by counsel, make submissions and tender evidence. The Respondent is requested to advise the Commission of his intention to attend the Hearing by informing the Hearing Office at PO Box 10142, Pacific Centre, 701 West Georgia Street, Vancouver, BC V7Y 1L2 phone: (604) 899-6500; email: hearingoffice@bcsc.bc.ca.
- ¶ 4 If the Respondent or his 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 Respondent may be made in his absence.

Peter J Brady
12/12/2024 | 11:02 AM PST

- ¶ 5 Peter J. Brady
Executive Director