2005 BCSECCOM 577

Paul Robert Maudsley
and
Shaylor Management Ltd.

Sections 161 and 162 of the *Securities Act*, RSBC 1996, c. 418

Hearing

Panel	Brent W. Aitken	Vice Chair
	John K. Graf	Commissioner
	Robert J. Milbourne	Commissioner
Submissions Completed	August 5, 2005	
Date of Decision	September 9, 2005	
Submissions Filed By		
Joyce M. Johner	For the Executive Director	

Decision

Introduction

¶ 1 This decision should be read with our Findings in this matter made on July 14, 2005 (see 2005 BCSECCOM 463). In our Findings, we directed the parties to make written submissions on the matter of sanctions and to advise the Secretary to the Commission if they wished to be heard orally. Only the Executive Director made submissions; neither party sought an oral hearing.

¶ 2 Between July 1997 and December 2002, Maudsley, a mutual fund salesperson, followed a pattern of persuading some of his mutual fund clients to redeem their funds and, ostensibly, invest the proceeds in other securities. In some cases he redeemed clients' mutual funds without their consent, only later obtaining their concurrence with the purported reinvestment strategy. Twenty-three of his clients (through 16 accounts) followed his advice and redeemed about $1.6 million worth of mutual funds. At Maudsley's request, the clients paid the proceeds to him or to Shaylor. Maudsley did not invest their funds in other securities. Instead, he took their money for his own use.

Findings

¶ 3 We found that Maudsley contravened section 57(b) of the Act when he perpetrated a fraud on persons in British Columbia by redeeming mutual fund securities without his clients' knowledge, or did so with their consent by deceiving them about how the proceeds of the redemptions would be invested. We put it this way:

> 32 In our opinion, the evidence provides clear and convincing proof that Maudsley and Shaylor committed what *Théroux* [[1993] 2 SCR 5] describes as a "prohibited act" and that it caused deprivation. Maudsley redeemed mutual fund securities without his clients' knowledge, or did so with their consent by deceiving them about how the proceeds of the redemptions would be invested. He simply took their money, or caused Shaylor to do so – about as stark an instance of deceit as there can be.
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> 33 Because of Maudsley's deceit, his clients suffered deprivation. They were deprived not just of the money they transferred to him, but of the investment opportunities associated with those funds. The money transferred to Maudsley and Shaylor by his clients was about $1.6 million, but the deprivation was much greater: to make them whole, [Investors Group Inc.] had to compensate them with over $2.3 million.

¶ 4 We also found that Maudsley failed to deal fairly, honestly and in good faith with his clients, contrary to section 14(2) of the *Securities Rules*, BC Reg. 194/97. We said:

> 40 We have already found that Maudsley redeemed mutual fund securities in the accounts of his clients, sometimes without their knowledge and consent. When he did have their consent, he obtained it by lying about what he intended to do with the proceeds. In fact, he stole the proceeds. In addition, he relied on his relationship with his clients as a financial adviser to facilitate this pattern of organized thievery, and targeted his vulnerable clients as his victims.
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> 41 There could not be a more blatant contravention of section 14(2) . . . .

Discussion

¶ 5 In *Re Eron Mortgage Corporation* [2000] 7 BCSC Weekly Summary 22, the Commission discussed the factors relevant to sanction as follows (at page 24):

> In making orders under sections 161 and 162 of the Act, the Commission must consider what is in the public interest in the context of its mandate to regulate trading in securities. The circumstances of each case are different, so it is not possible to produce an exhaustive list of all of the

factors that the Commission considers in making orders under sections 161 and 162, but the following are usually relevant:

- the seriousness of respondent's conduct,
- the harm suffered by investors as a result of the respondent's conduct,
- the damage done to the integrity of the capital markets in British Columbia by the respondent's conduct,
- the extent to which the respondent was enriched,
- factors that mitigate the respondent's conduct,
- the respondent's past conduct,
- the risk to investors and the capital markets posed by the respondent's continued participation in the capital markets of British Columbia,
- the respondent's fitness to be a registrant or to bear the responsibilities associated with being a director, officer or adviser to issuers,
- the need to demonstrate the consequences of inappropriate conduct to those who enjoy the benefits of access to the capital markets,
- the need to deter those who participate in the capital markets from engaging in inappropriate conduct, and
- orders made by the Commission in similar circumstances in the past.

¶ 6 Applying these factors to this case, the respondents' conduct was serious. Maudsley betrayed the trust of his clients, many of whom were especially vulnerable, and stole their money. His clients were harmed by his conduct, their losses amounting to about $2.3 million. Conduct this dishonest, and that does this much damage cannot help but damage the integrity of our markets.

¶ 7 Maudsley and Shaylor were enriched by about $1.6 million, the amount Maudsley actually stole from his clients.

¶ 8 There are no mitigating factors. Fortunately, Investors compensated their clients for the losses they suffered at Maudsley's hands, but this does not in any way mitigate Maudsley's conduct. In our opinion, Maudsley poses a significant risk to investors and British Columbia's capital markets were he allowed to continue to participate in those markets. He is unfit to be a registrant; he abused his status as a registered mutual fund salesperson by betraying the trust of those who looked to him for financial advice. He repaid their trust, not by dealing with them fairly, honestly and in good faith, but by defrauding them.

¶ 9 The orders we make below demonstrate, in our opinion, the consequences of conduct such as Maudsley's, and will have the appropriate deterrent effect on both Maudsley and others. They are also consistent with orders made by the Commission in similar circumstances in the past (see *Barker*, 2005 BCSECCOM

146, *Rast*, 2003 BCSECCOM 609, and *Stenner*, [1998] 4 BCSC Weekly Summary 18).

Orders

¶ 10 Considering it to be in the public interest, we order:

Maudsley

1. under section 161(1)(c) the exemptions described in sections 44 to 47, 74, 75 , 98 and 99 of the Act do not apply to Maudsley permanently;

2. under section 161(1)(d)(ii), that Maudsley is permanently prohibited from becoming or acting as a director or officer of any issuer;

3. under section 161(1)(d)(iii), that Maudsley is permanently prohibited from engaging in investor relations activities;

4. under section 162, that Maudsley pay an administrative penalty of $250,000;

5. under section 174, that Maudsley pay, jointly and severally with Shaylor Management Ltd., costs of or related to the hearing in the amount of $57,959.95;

Shaylor

6. under section 161(1)(b), that all persons cease trading in and be prohibited from purchasing the securities of Shaylor permanently;

7. under section 161(1)(b), that Shaylor is permanently prohibited from trading or purchasing any securities;

8. under section 162, that Shaylor pay an administrative penalty of $500,000; and

9. under section 174, that Shaylor pay, jointly and severally with Maudsley, costs of or related to the hearing in the amount of $57,959.95.

¶ 11 September 9, 2005

¶ 12 **For the Commission**

Brent W. Aitken
Vice Chair

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John K. Graf
Commissioner

Robert J. Milbourne
Commissioner