

2007 BCSECCOM 501

Order

Terry James Minnie

Section 161(6) of the *Securities Act*, RSBC 1996, c 418

Introduction

- ¶ 1 This is an application under section 161(6)(a) of the *Securities Act*, RSBC 1996, c. 418.
- ¶ 2 On June 5, 2007 the executive director sent notice of this application to Terry James Minnie. The application is based on Minnie's convictions under the *Criminal Code* described below.
- ¶ 3 Minnie's *Criminal Code* convictions are based on some of the same facts as those alleged in a notice of hearing the executive director issued in October 2004, *Terry James Minnie and Patrick Raymond Shaw* (2004 BCSECCOM 577). The commission adjourned those administrative proceedings pending completion of the criminal proceedings against Minnie and Shaw. The executive director says that if we make the orders she seeks in this application, she will discontinue the administrative proceedings.
- ¶ 4 In the notice, the executive director gave Minnie a deadline of July 13, 2007 to respond to the application. Minnie has not filed a response to the application.

Background

- ¶ 5 Section 161(6)(a) says:

The commission . . . may, after providing an opportunity to be heard, make an order under [section 161(1)] in respect of a person if the person

(a) has been convicted of a criminal offence arising from a transaction, business or course of conduct related to securities

- ¶ 6 The Act defines "security" in section 1(1):

In this Act

...

"security" includes

(d) a . . . note or other evidence of indebtedness

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...
(l) an investment contract

- ¶ 7 On March 8, 2007 Minnie was convicted in the Supreme Court of British Columbia of six counts of fraud and one count of theft under sections 380(1)(a) and 334(a) of the *Criminal Code* and was sentenced to a five years' incarceration.
- ¶ 8 Minnie perpetrated a fraud involving an individual he invented, Andrew Fuller. Minnie recruited an individual to impersonate Fuller. Minnie represented that Fuller was the beneficiary of an estate of \$12 to 15 million but could not collect his legacy until he paid off various debts. Minnie persuaded people to advance funds for Fuller to use to pay off the debts, on the promise they would be repaid with returns exceeding 60% per annum.
- ¶ 9 We find these advances were securities as defined by the Act, because they were either evidences of indebtedness, or were investment contracts. The law interpreting the meaning of "investment contract" is well-known and clearly applies.
- ¶ 10 We therefore find that Minnie has been convicted of criminal offences for transactions related to securities.
- ¶ 11 The fraud resulted in investor losses of at least \$1.8 million.
- ¶ 12 In imposing sentence, the court identified these aggravating factors:
- Minnie systematically planned the elaborate scheme
 - The scheme went on for five years
 - The fraud involved a breach of trust and affected its victims detrimentally
 - Minnie expressed no remorse for his conduct or the harm that it caused.
- ¶ 13 The court found no mitigating factors.
- Orders**
- ¶ 14 We have considered the authorities cited by the executive director. In our opinion, they support the orders the executive director seeks.
- ¶ 15 Minnie having been provided with an opportunity to be heard, and considering the public interest, we order
1. under section 161(1)(b) of the Act, that Minnie cease trading in, and is permanently prohibited from trading and purchasing, any securities, except

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that Minnie may trade or purchase securities for his own account through a registrant, if he gives the registrant a copy of this decision;

2. under section 161(1)(d)(i) and (ii), that Minnie resign any position he holds as, and is permanently prohibited from becoming, or acting as, a director or officer of any issuer, except an issuer all the securities of which are owned beneficially by him, his wife or his children; and
3. under section 161(1)(d)(iii), that Minnie is permanently prohibited from engaging in any investor relations activities.

¶ 16 August 21, 2007

¶ 17 **For the commission**

Brent W. Aitken
Vice Chair

Kenneth G. Hanna
Commissioner