

Citation: 2013 BCSECCOM 409

**Armadillo Energy Inc., 0894563 BC Ltd., Darwin James Hajime Okano,  
Richard Gozdek and Mohammed Soolaman**

***Securities Act, RSBC 1996, c. 418***

**Hearing**

<b>Panel</b>	Brent W. Aitken George C. Glover, Jr. Don Rowlatt	Vice Chair Commissioner Commissioner
<b>Hearing date</b>	June 19, 2013	
<b>Submissions completed</b>	June 28, 2013	
<b>Date of Decision</b>	September 26, 2013	
<b>Appearing</b> Veda Kenda	For the Executive Director	

**Decision**

**I Introduction**

- ¶ 1 This is a hearing under sections 161(1) and 162 of the *Securities Act*, RSBC 1996, c. 418.
- ¶ 2 On August 28, 2012 the executive director issued a notice of hearing alleging that the respondents contravened the Act during the period December 2010 to April 2011 by raising \$2.4 million by distributing securities of Armadillo Energy Inc. to 64 investors, including nearly \$800,000 to 26 residents of British Columbia, without being registered and without filing a prospectus.
- ¶ 3 All of the respondents except Armadillo entered into settlement agreements with the executive director. This hearing related to the allegations against Armadillo.
- ¶ 4 Armadillo did not appear nor was it represented by counsel at the hearing. We granted the executive director's request that we consider submissions on both liability and sanction together.

¶ 5 Armadillo has never filed a prospectus under the Act.

## **II Finding**

¶ 6 Section 61(1) of the Act says that a person must not trade securities in a distribution without filing a prospectus. We find that the executive director proved that Armadillo raised \$868,769 from 26 British Columbia investors by distributing securities without filing a prospectus, contrary to section 61(1). In our opinion, this finding is sufficient for the consideration of an appropriate sanction. We make no finding on the allegation that Armadillo contravened section 34.

## **III Sanctions**

¶ 7 The factors relevant to sanction are set forth in *Re Eron Mortgage Corporation* [2000] 7 BCSC Weekly Summary 22 (see page 24).

¶ 8 Armadillo ignored the Act and distributed securities illegally in British Columbia. Its activities show that its continued participation in our capital markets represents a risk to investors and those markets.

¶ 9 There is no evidence of direct harm to investors, but Armadillo's conduct damaged the integrity and reputation of our markets. In our opinion, for that reason, and for the purpose of specific and general deterrence, it is appropriate to order an administrative penalty.

¶ 10 Commission staff proposed, on the basis of past decisions, an administrative penalty of \$50,000. However, in those decisions the penalty was levied on individual respondents after consideration of the submissions they made in a sanctions hearing. Here, the respondent, a corporation, did not participate in the hearing, so we have no similar submissions to consider. In these circumstances, we consider a penalty in the range of the amount raised illegally from BC residents to be appropriate.

¶ 11 We did not order disgorgement because Armadillo offered rescission to investors. There was also some evidence that Armadillo paid its investors their returns.

## **IV Orders**

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

1. under section 161(1)(b) of the Act, that all persons cease trading permanently, and are permanently prohibited from purchasing, any securities of Armadillo;
2. under section 161(1)(b) of the Act, that Armadillo cease trading permanently, and is permanently prohibited from purchasing, securities and exchange contracts; and

3. under section 162, that Armadillo pay an administrative penalty of \$800,000.

¶ 13 September 26, 2013

¶ 14 **For the Commission**

Brent W. Aitken  
Vice Chair

George C. Glover, Jr.  
Commissioner

Don Rowlett  
Commissioner