

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

Citation: Re Castano, 2018 BCSECCOM 338

Date: 20181031

**Reciprocal Order**

**Roberto Castano**

**Section 161 of the *Securities Act*, RSBC 1996, c. 418**

- [1] This is an order under sections 161(1) and 161(6)(a) of the *Securities Act*, RSBC 1996, c. 418.
- [2] Section 161(6) facilitates cooperation between the Commission and other securities regulatory authorities and the courts. The executive director of the Commission has applied for an order imposing sanctions on Roberto Castano based on his misconduct and the sanctions imposed by the Honourable Mr. Justice Harvey of the Supreme Court of British Columbia in *R. v. Castano*, 2016 BCSC 1755 (Oral Reasons for Sentence).
- [3] We find that the executive director provided notice of the application to Castano. Although Castano was provided the opportunity to tender evidence and make submissions, he did not participate in the hearing. We find that Castano was provided with an opportunity to be heard.
- [4] Castano entered a guilty plea to one count of fraud over \$5,000, contrary to s. 380(1)(a) of the *Criminal Code*. The Court made a restitution order against Castano and sentenced him to 27 months in jail.
- [5] The Court found that between September 2008 and September 2009, Castano misappropriated funds from investors and instead of using the money for investment purposes, he used the funds to make interest payments owed to earlier investors or to pay his personal expenses.
- [6] In the Joint Statement of Facts for Sentencing, attached to the Oral Reasons for Sentence, Castano also admitted that he was in the business of trading securities, but was not registered, in breach of section 34 of the *Securities Act* and distributed securities without filing a prospectus, in breach of section 61 of the *Securities Act*.
- [7] Castano raised \$2,500,550 from investors. His scheme caused investors to lose over \$1.5 million.
- [8] Mr. Justice Harvey set out the following aggravating factors in Castano's conduct at para 10 of the Oral Reasons for Sentence:

...the magnitude, complexity and the duration of the fraud; the sizable number of victims involved; the impact of the offence upon those victims; the lack of proper licencing as an investment advisor by the offender; and that, in committing the offence, the offender took what I consider to be some advantage of his position in the community as a successful business person.

- [9] The Commission makes reciprocal orders under section 161(6) when such orders will, in the public interest, protect investors and the capital markets in British Columbia.
- [10] Castano's fraud was in relation to securities as defined under the Act. He also contravened sections 34 and 61 of the Act, which are cornerstone provisions of the Act with respect to protecting the investing public. Castano's conduct was egregious. He knowingly deceived investors. Public confidence in our capital markets is dependent on the honesty and integrity of those who participate in it. Castano's participation in the capital markets of British Columbia, given the conduct to which he has admitted, would raise concerns for the protection of the investing public.
- [11] The extent of the fraud, including the amount lost by investors, the length of the time over which Castano perpetrated the fraud and the fact that he used his standing in the community to attract investors show that he poses a significant ongoing risk to investors and the capital markets in British Columbia. He is ill suited to act as a director or officer or as an advisor to any public or private issuers going forward. Permanent bans are necessary to ensure that he does not engage in similar misconduct in the future.
- [12] We find that it is in the public interest to order that:
- (a) under section 161(1)(d)(i) of the Act, Castano resign any position he holds as a director or officer of an issuer or registrant;
  - (b) Castano is permanently prohibited:
    - (i) under sections 161(1)(b)(ii) of the Act, from trading in or purchasing any securities or exchange contracts;
    - (ii) under section 161(1)(d)(ii) of the Act, from becoming or acting as a director or officer of any issuer or registrant;
    - (iii) under section 161(1)(d)(iii) of the Act, from becoming or acting as a registrant or promoter;
    - (iv) under section 161(1)(d)(iv) of the Act, from acting in a management or consultative capacity in connection with activities in the securities markets; and

- (v) under section 161(1)(d)(v) of the Act, from engaging in investor relations activities.

October 31, 2018

**For the Commission**

Nigel P. Cave  
Vice Chair

Judith Downes  
Commissioner