

2012 BCSECCOM 466

Notice of Hearing

Robert Waters

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

Background

1. Berkeley Coffee & Tea, Inc. (Berkeley) was incorporated in Nevada on March 27, 2009.
2. Berkeley filed a prospectus with the US Securities and Exchange Commission in January, 2011, for an offering of up to a maximum of \$500,000USD.
3. Berkeley has never filed a prospectus in British Columbia and is an OTC reporting issuer in British Columbia.
4. Waters is a resident of British Columbia. Waters was formally registered under the Act as an investment advisor from March 6, 1985, to September 9, 1998.

Misconduct

Unregistered Trading and Illegal Distribution

5. On April 1, 2011, Berkeley distributed shares to 59 investors, for proceeds of approximately \$474,590.00CAD.
6. On May 6, 2011, Berkeley filed a Form 45-106F1, Report of Exempt Distribution in BC, claiming each sale of securities in the distribution was exempt under section 2.5 of National Instrument 45-106 (the Family, Friends and Close Business Associates Exemption).
7. Waters was in the business of trading securities. He promoted Berkeley securities in anticipation of future compensation from Berkeley.
8. Waters was responsible for 45 of the investors, for proceeds of approximately \$312,976.70CAD.

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9. As Waters has never been a director, officer, or founder of Berkeley, none of the investors for which Waters was responsible qualified for an exemption.
10. In soliciting investors to invest in Berkeley, Waters distributed securities without being registered and without having filed a prospectus, contrary to sections 34(a) and 61(1)(a) of the Act.

Public Interest

- ¶ 2 It is in the public interest that the Commission issue orders under sections 161 and 162 of the Securities Act.

Hearing Process

- ¶ 3 The Respondent or his counsel are required to attend at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on **Tuesday, January 22, 2013, at 9:00 a.m.** if they wish 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 Respondents upon request to the Executive Director.**
- ¶ 4 At the Hearing, the Respondent may be represented by counsel, make submissions and tender evidence. The Respondent is requested to advise the Commission of their intention to attend the Hearing by informing the Secretary to the Commission at PO Box 10142, Pacific Centre, 701 West Georgia Street, Vancouver, BC, V7Y 1L2 phone: (604) 899-6500; email: **commsec@bcsc.bc.ca**.
- ¶ 5 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 Respondents may be made in their absence.
- ¶ 6 December 11, 2012.

Paul C. Bourque

- ¶ 7 Paul C. Bourque, Q.C.
Executive Director