



British Columbia Securities Commission

Citation: 2013 BCSECCOM 94

Notice of Hearing

Rudolf Walter Brenner

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

Background

1. The Brenner Family Trust (the Trust) controls Muscatine Financial Corp (Muscatine) which has a brokerage account at an Austrian Bank (the Muscatine Account).
2. Hellix Ventures Inc. (Hellix) is a British Columbia (BC) incorporated company and a reporting issuer in BC and Alberta.
3. Brenner is a BC resident and was a director of Hellix from approximately January, 2000, to April, 2012. Brenner is also a beneficiary of the Trust.
4. On March 8, 2011, a total of 1,006,891 Hellix private placement shares were deposited into the Muscatine Account.
5. From September 8, 2011 to September 12, 2011, the Trust sold 104,500 Hellix shares through the Muscatine Account.

Misconduct

Concealing His Connection to the Muscatine Account

6. On March 21, 2012, Commission staff sent an Order for Production to Brenner, requiring him to identify securities trading accounts, both domestic and foreign, over which he had direction, control, or a beneficial interest and to produce documents for all such accounts.
7. On March 27, 2012, Brenner provided documents relating to Canadian accounts, failing to provide or mention documents relating to the Muscatine Account.



8. On March 28, 2012, Commission staff asked Brenner to confirm that his response was complete with respect to all accounts held in Canada and any foreign countries.
9. On March 28, 2012, Brenner stated his response to the requested information was complete again without mentioning the Muscatine Account.
10. On March 29, 2012, Commission staff specifically asked Brenner if he had any involvement, connection or relationship to Muscatine and the Muscatine Account.
11. On March 29, 2012, Brenner replied that he did not have control of the Muscatine Account and did not have access to the records referred to in the Order for Production.
12. On March 30, 2012, Commission staff again asked if Brenner had any other connections to the Muscatine Account and reiterated that the Order for Production requested information for accounts in his name, under his control or direction or in which he has a direct or indirect beneficial interest.
13. On April 19, 2012, Brenner's counsel wrote to Commission staff on behalf of Brenner and, notwithstanding Brenner's previous responses regarding his relationship with the Muscatine Account, admitted that:
 - Brenner was aware that Hellix private placement shares had been delivered to the Muscatine Account; and
 - Brenner had recommended that the Trust participate in several private placements, as in the case of Hellix.

False Information

Lying About His Knowledge of the Sale of Hellix Shares Through the Muscatine Account

14. In a response to a request for clarification from Commission staff, Brenner explained in a letter dated May 8, 2012, that:
 - he did not recommend that the Trust, through the Muscatine Account, sell Hellix shares in September 2011; and
 - he did not know the Hellix shares were sold until he asked the trustee who let him know, on or about April 10, 2012, the trades, dates and prices for the Hellix shares sold in September 2011.



15. This information was false. In fact, on September 7, 2011, Brenner had directed the manager of the Muscatine Account as to:
 - the number of Hellix shares to be sold;
 - the price to sell the shares for both the US and Canadian markets; and
 - the date to sell the shares, stating the offer is “For Thursday, good for the day only, please”.
16. By submitting or giving information to persons appointed under the Act that was false or misleading in a material respect, or omitting facts from the statement or information necessary to make that statement or information not false or misleading, Brenner contravened section 168.1(1)(a) of the Act.

Failure to File Insider Reports

17. Brenner did not file insider reports regarding the September 2011 sale of Hellix shares in the Muscatine Account within the prescribed five days of those sales.
18. After prompting from Commission staff, Brenner filed insider reports on May 7, 2012.
19. In failing to file insider reports for sales of Hellix shares in the Muscatine Account within five days of the trades, Brenner breached section 87(2) of the Act and section 3.3 of National Instrument 55-104.
20. Brenner’s conduct described in this Notice of Hearing is contrary to the public interest.

Orders Sought

21. It is in the public interest that the Commission issue orders under sections 161 and 162 of the Act.

Hearing Process

- ¶ 2 The Respondents or their counsel are required to attend at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on **Tuesday, September 3, 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 Respondent upon request to the Executive Director.



- ¶ 3 At the Hearing, the Respondents may be represented by counsel, make submissions and tender evidence. The Respondents are 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.
- ¶ 4 If the Respondents or their counsel do not appear at the Hearing, the Executive Director will apply to have questions of liability and sanction heard at the same time. Determinations adverse to the Respondents may be made in their absence.
- ¶ 5 August 12 , 2013.
- Paul C. Bourque
- ¶ 6 Paul C. Bourque, Q.C.
Executive Director