



British Columbia Securities Commission

Citation: 2014 BCSECCOM 241

Notice of Hearing

Robert Bruce Rush and Breakthrough Financial Inc.

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

¶ 1 The British Columbia (BC) Securities Commission (Commission) will hold a hearing (Hearing) at which the Executive Director will tender evidence, make submissions and apply for orders against Robert Bruce Rush (Rush) and Breakthrough Financial Inc. (Breakthrough) (collectively, the Respondents) under sections 161, 162 and 174 of the *Securities Act*, RSBC 1996, c. 418 (the Act), based on the following facts:

Background

1. Rush resides in Vernon, BC and between 2005 and 2007 was registered as a mutual fund salesperson.
2. Breakthrough was a BC-incorporated company which was never registered under the Act and which was dissolved in 2011.
3. Rush was the sole director of Breakthrough.
4. On February 2, 2014, the Mutual Fund Dealers Association of Canada (MFDA) found that Rush engaged in misconduct by contravening MFDA Rules by selling off-book inappropriate securities to clients, and by failing to cooperate with the MFDA investigation. Rush is seeking a hearing and review of the decision.
5. Francois Joseph Leon Michaud (Michaud) was an Alberta resident who the Alberta Securities Commission (ASC) permanently banned from the Alberta securities markets in 2011 (the ASC Order). In 2014 the Commission reciprocated the ASC Order by permanently banning Michaud from the BC securities markets.

The Forex Investment

6. After Rush ceased to be a registrant in 2007, he persuaded a BC investor (the Investor) to unlock her pension funds to enable her to invest in a foreign exchange investment program offered by Michaud (the Forex Investment Program).



7. Rush told the Investor that she could use her locked pension funds to purchase a bond and then borrow money to invest using the bond as collateral (the Pension Unlocking Scheme). Rush described the Pension Unlocking Scheme as being tax free.
8. Rush told the Investor her funds would be invested in the Forex Investment Program (the Forex Investment).
9. In 2008, the Investor wrote a \$73,200 cheque (the Investor Funds) to Breakthrough for the Forex Investment.
10. Rush and Breakthrough did not forward the Investor Funds to Michaud, but instead Rush and his girlfriend spent the money in ways unrelated to the Forex Investment, including on their own personal expenses.
11. Rush did not tell the Investor that he would be keeping and spending the Investor Funds.
12. The CRA later reassessed the Investor \$35,000 due to the Pension Unlocking Scheme, resulting in the Investor having to remortgage her home.
13. The Investor Funds are gone.

Misconduct

Unregistered trading

14. By trading the Forex Investment without being registered, the Respondents contravened section 34 of the Act.

Fraud

15. By engaging in the conduct described in this Notice of Hearing, the Respondents perpetrated a fraud on the Investor contrary to section 57(b) of the Act.

Liability under section 168.2

16. Rush, as director of Breakthrough, authorized, permitted, and acquiesced in its contraventions of the Act and therefore also contravened those same provisions by operation of section 168.2 of the Act.

Public Interest

17. The Respondents' conduct described in this Notice of Hearing is contrary to the public interest.
18. 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, July 22, 2014, at 9:00 am** if they wish to be heard before the Commission sets a date for the Hearing.
- ¶ 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.

Paul C. Bourque
Jul 4 2014 3:04 PM

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