



British Columbia Securities Commission

Citation: 2017 BCSECCOM 379

Notice of Hearing

Robert Clive Gardner

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

Summary

1. Staff are conducting an investigation. Gardner has information that is reasonably required for the investigation.
2. Gardner has failed to attend any scheduled interviews with Staff.
3. By refusing to give information reasonably required for an investigation, Gardner contravened s. 57.5 of the Act.

Background

4. Gardner is a resident of British Columbia.
5. On May 25, 2015, the Commission issued an Investigation Order (Investigation Order) under section 142 of the Act, appointing officers and employees of the Commission's Enforcement Division to investigate matters related to a certain issuer and the trading of its securities. Gardner is a named subject on the Investigation Order.
6. On June 5, 2015, the Commission froze two of Gardner's business accounts. On July 30, 2015, Staff emailed Gardner's lawyer copies of the Freeze Order and supporting affidavit, which attached the Investigation Order.

Obstruction of Justice

7. From March to December of 2017, Staff had several communications with Gardner and his lawyer about attending an interview to provide information.

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8. Staff initially scheduled a voluntary interview that accommodated Gardner's schedule. When Gardner later declined to attend this interview, Staff told Gardner that they would summons him to attend an interview.
9. Staff made several efforts to discuss with Gardner and his lawyer about accepting service of a summons for a compelled interview. Staff also took various steps to personally serve Gardner with a summons. These attempts include emailing summons to Gardner's lawyer, as well as repeated efforts to serve Gardner at his home and his office spaces over a period of several months. Gardner did not cooperate with staff.
10. Staff scheduled five interviews with Gardner, the last being set for December 13, 2017. Gardner failed to provide information required to serve him personally with a summons, and failed to attend any of the scheduled interviews.

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, January 30, 2018, at 10:00 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.

Peter J. Brady
2017.12.14

- ¶ 5 Peter J. Brady
Executive Director