

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

Citation: Re Heatherington, 2026 BCSECCOM 5

Date: 20260107

Order under section 161(6)

Colin Jeffrey Heatherington

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

Introduction

- [1] This is an order under sections 161(1) and 161(6)(a) of the *Securities Act, RSBC 1996, c. 418*.
- [2] On July 24, 2025, the executive director of the Commission applied (Application) for orders against Colin Jeffrey Heatherington (Heatherington) under sections 161(6)(a) and 161(1) of the *Securities Act, RSBC 1996, c. 418* (the Act) based on findings and orders made by the United States District Court, Central District of California (US Court), against Heatherington.
- [3] In his Application, the executive director tendered affidavit evidence, caselaw, submissions, and the following documents to the Commission:
 - (a) Judgment and Probation/Commitment Order, July 3, 2024;
 - (b) Plea Agreement: *United States of America v. Colin Heatherington*, No. CR 13-183-JAK(A)-3, January 5, 2024;
 - (c) Exhibit A – Statement of Facts in support of the Plea Agreement (Statement of Facts), January 5, 2024;
 - (d) Transcript of the Plea Proceeding;
 - (e) Transcript of the Sentencing Proceeding; and
 - (f) Amended Criminal Complaint, January 27, 2014
- [4] We find that the executive director provided notice of the Application to Heatherington. Although Heatherington was provided the opportunity to be heard, he did not participate in the hearing.

Background

- [5] Heatherington is a citizen of Canada. Before his extradition to the United States, he resided and worked in Canada. He used accounts in British Columbia to receive some of the proceeds of his misconduct, and criminal conviction for, conspiracy to commit securities fraud and wire fraud in the United States.

- [6] On February 21, 2024, Heatherington plead guilty to, and was convicted of, one count of conspiracy to commit securities fraud and wire fraud, contrary to sections 1343 and 1348 of Title 18 United States Code.
- [7] On July 2, 2024, the Honourable Justice Kronstadt of the United States District Court sentenced Heatherington to the following:
 - (a) imprisonment for 42 months;
 - (b) upon release from imprisonment, a supervised release for two years, with conditions;
 - (c) a special assessment of \$100; and
 - (d) restitution in the total amount of \$215,851,031, jointly and severally with a co-conspirator.

Position of the executive director

- [8] The executive director is seeking the following orders:
 - (a) under section 161(1)(d)(i), Heatherington resign any position he holds as a director or officer of an issuer or registrant;
 - (b) Heatherington is permanently prohibited:
 - (i) under section 161(1)(b)(ii), from trading in or purchasing any securities or derivatives, except that, if Heatherington gives a registered dealer a copy of this decision, Heatherington may trade in or purchase securities only through a registered dealer in: RRSPs, RRIFs, or tax-free savings accounts (as defined in the Income Tax Act (Canada)) or locked-in retirement accounts for his own benefit;
 - (ii) under section 161(1)(c), from relying on any of the exemptions set out in this Act, the regulations or a decision;
 - (iii) under section 161(1)(d)(ii), from becoming or acting as a director or officer of any issuer or registrant;
 - (iv) under section 161(1)(d)(iii), from becoming or acting as a registrant or promoter;
 - (v) under section 161(1)(d)(iv), from advising or otherwise acting in a management or consultative capacity in connection with activities in the securities or derivatives markets;
 - (vi) under section 161(1)(d)(v), from engaging in promotional activities by or on behalf of
 - (A) an issuer, security holder or party to a derivative, or

(B) another person that is reasonably expected to benefit from the promotional activity; and

(vii) under section 161(1)(vi) from engaging in promotional activities on the person's own behalf in respect of circumstances that would reasonably be expected to benefit the person.

[9] The executive director is not seeking any monetary sanctions.

Analysis

The purpose of orders under section 161(6)

[10] The Commission is established under the Act to regulate the capital markets in British Columbia. Central to the Commission's mandate under the Act is to protect the investing public from those who would take advantage of them, and to preserve investor confidence in the regulated capital markets.

[11] The executive director applied for orders under sections 161(1) and 161(6)(a). Section 161(6)(a) states:

The commission or the executive director may, after providing an opportunity to be heard, make an order under subsection (1) in respect of a person if the person

(a) has been convicted in Canada or elsewhere of an offence

(i) arising from a transaction, business or course of conduct related to securities or derivatives, or

(ii) under the laws of the jurisdiction respecting trading in securities or derivatives

[12] Section 161(6) facilitates cooperation between the Commission, other securities regulatory authorities, self-regulatory bodies, exchanges and the courts. If the requirements of the section are met and it is in the public interest, the Commission may issue orders without the need for inefficient parallel and duplicative proceedings in British Columbia (*McLean v. British Columbia (Securities Commission)* [2013] 3 S.C.R. 895 at para. 54) or before the Commission.

The Eron factors

[13] The panel in *Re Eron Mortgage Corporation*, [2000] 7 BCSC Weekly Summary 22 [*Eron*], provided a non-exhaustive list of factors for the Commission to consider "in making orders under sections 161 and 162". Those factors are:

- the seriousness of [the] respondent's conduct,
- the harm suffered by investors as a result of the respondent's conduct,
- the damage done to the integrity of the capital markets in British Columbia by the respondent's conduct,
- the extent to which the respondent was enriched,
- factors that mitigate the respondent's conduct,
- the respondent's past conduct,
- the risk to investors and the capital markets posed by the respondent's continued participation in the capital markets of British Columbia,

- the respondent's fitness to be a registrant or to bear the responsibilities associated with being a director, officer or adviser to issuers,
- the need to demonstrate the consequences of inappropriate conduct to those who enjoy the benefits of access to the capital markets,
- the need to deter those who participate in the capital markets from engaging in inappropriate conduct, and
- orders made by the Commission in similar circumstances in the past.

Seriousness of the conduct

[14] As is discussed below, we find that the conduct in question was extremely serious. The executive director cited *Re Lim*, 2017 BCSECCOM 319 [*Lim*], and noted that market manipulations are similar to fraud because they require “a finding of intent on the part of the respondent and some element of deceit”. The executive director also cited *Re Poonian*, 2015 BCSECCOM 96 [*Poonian*], where the panel stated, at paragraph 15:

Market manipulation compromises the integrity of the entire market. Its impact extends beyond the victims who lost money to the investing public as a whole.

Harm suffered by investors, and enrichment

[15] Heatherington's scheme resulted in over US\$215 million in losses that are unlikely ever to be returned. Heatherington personally profited by at least \$15 million from this scheme.

Mitigating factors

[16] In the Application, the executive director submitted that Heatherington's guilty plea in the US Court's criminal action as well as his expressions of remorse in the Transcript of the Sentencing Proceeding were mitigating factors.

Risk to investors and the capital markets; participation in our capital markets; fitness to be a registrant or a director or officer

[17] In his Application, the executive director cited *Re Amir Beiklik*, 2020 BCSECCOM 261, and *Re Mountainstar Gold Inc.*, 2019 BCSECCOM 123, for the principle that our capital markets require participants to have honesty and integrity in order to maintain public confidence.

[18] He cited *Re Deyrmenjian*, 2019 BCSECCOM 93 [*Deyrmenjian*], *Re Mawji*, 2020 BCSECCOM 59, and *Lim (supra)* where the panels noted that participants in market manipulations intend to deceive and harm the public and such conduct is contrary to the obligations of registrants, directors, officers, and all other people who engage in the capital markets.

Deterrence

[19] Serious misconduct must attract sanctions to deter future malfeasance. As stated by the Supreme Court of Canada in *Committee for Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, [2001] 2 SCR 132, our role “is to protect the public interest by removing from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets”.

Previous Orders

- [20] The executive director cited *Re Mulholland*, 2022 BCSECCOM 468 [*Mulholland*, *Poonian* (*supra*), and *Deyrmenjian* (*supra*)], in support of his position that permanent bans are appropriate.
- [21] *Mulholland* is an order under sections 161(6)(a), (b), and (d) of the Act where a British Columbia resident had plead guilty to money laundering conspiracy related to a fraudulent pump and dump scheme for various penny stocks in the United States. *Mulholland* controlled a group of people who transferred more than \$250 million in fraudulent proceeds into accounts controlled by the group.
- [22] *Mulholland* was sentenced to 12 years in prison in the criminal action and received permanent bans from the United States securities markets and over \$5 million in disgorgement, interest, and civil penalties in a related United States Securities and Exchange Commission civil action.
- [23] In *Mulholland*, the panel found that *Mulholland*'s misconduct "was exceptionally serious", and that he was a recidivist who "has no regard for the legal requirements of the securities industry". The panel ordered permanent bans on him.
- [24] *Poonian* is a sanctions decision. In the liability decision, the panel found that the respondents had committed fraud when they conducted a market manipulation of a company's shares that resulted in "gross proceeds of more than \$25 million". The panel ordered permanent bans on the respondents along with disgorgement and administrative penalties.
- [25] *Deyrmenjian* is a sanctions decision. In the liability decision, the panel found that the respondents committed fraud by engaging in a market manipulation that resulted in an artificial price of a company. The manipulation resulted in approximately US\$18 million from trades during the relevant period. The two main respondents were each enriched by approximately US\$7.3 million. The panel ordered permanent bans on the respondents along with disgorgement and administrative penalties.
- [26] Of the cases cited by the executive director, the amount and the type of misconduct in *Mulholland* is the closest to the misconduct that Heatherington plead guilty to.

Discussion

- [27] Heatherington plead guilty to conspiracy to commit securities fraud and wire fraud. He received a prison sentence of 42 months, a restitution order, and a special assessment from the US Court.
- [28] Although Heatherington is incarcerated in the United States, his family lives in British Columbia and, according to affidavit evidence submitted by the executive director, he had a British Columbia address after the Amended Criminal Complaint was filed. The Amended Criminal Complaint and the affidavit attached to it states that Heatherington lives at a different British Columbia address than the one found by staff.
- [29] We have considered the Application, the circumstances of Heatherington's misconduct, and the *Eron* factors and *Davis v. British Columbia (Securities Commission)*, 2018 BCCA 149 [*Davis*].

- [30] Heatherington's misconduct was extremely serious. In his Application, the executive director quoted *Lim (supra)*, where the panel stated that market manipulations are similar to fraud because there is "a finding of intent on the part of the respondent and some element of deceit". The panel concluded that "a market manipulation is one of the most serious misconduct contemplated by the Act".
- [31] The market manipulation that Heatherington was involved in deceived and harmed investors. His participation in the market manipulation shows that Heatherington is dishonest and lacks integrity. The extent and the calculated nature of his misconduct make it clear that only a permanent sanction will be sufficient to protect the public.
- [32] Applying the *Eron* factors to the evidence presented in the Application, we find that Heatherington is unfit to participate in British Columbia's capital markets.
- [33] Heatherington did not participate in the hearing and we are unaware of any circumstances that would limit orders against him, such as those referenced in *Davis*.

Order

- [34] We find that it is in the public interest to order that:
 - (a) under section 161(1)(d)(i), Heatherington resign any position he holds as a director or officer of an issuer or registrant;
 - (b) Heatherington is permanently prohibited:
 - (i) under section 161(1)(b)(ii), from trading in or purchasing any securities or derivatives, except that, if Heatherington gives the registered dealer a copy of this decision, Heatherington may trade in or purchase securities only through a registered dealer in RRSPs, RRIFs, or tax-free savings accounts (as defined in the *Income Tax Act* (Canada)) or locked-in retirement accounts for his own benefit;
 - (ii) under section 161(1)(c), from relying on any of the exemptions set out in this Act, the regulations or a decision;
 - (iii) under section 161(1)(d)(ii), from becoming or acting as a director or officer of any issuer or registrant;
 - (iv) under section 161(1)(d)(iii), from becoming or acting as a registrant or promoter;
 - (v) under section 161(1)(d)(iv), from advising or otherwise acting in a management or consultative capacity in connection with activities in the securities or derivatives markets;
 - (vi) under section 161(1)(d)(v), from engaging in promotional activities by or on behalf of
 - (A) an issuer, security holder or party to a derivative, or

- (B) another person that is reasonably expected to benefit from the promotional activity; and
- (vii) under section 161(1)(vi) from engaging in promotional activities on his own behalf in respect of circumstances that would reasonably be expected to benefit him.

January 7, 2026

For the Commission

Gordon Johnson
Vice Chair

Noordin Nanji
Commissioner