

BRITISH COLUMBIA SECURITIES COMMISSION

Securities Act, RSBC 1996, c. 418

Citation: Re Weicker, 2026 BCSECCOM 34

Date: 20260204

Robert Frederick Weicker and Amina Umutoni Weicker

Panel

Marion Shaw
Gordon Johnson
Karen Keilty

Commissioner
Vice Chair
Commissioner

Direction Date

February 4, 2026

Direction

I. Introduction

- [1] In a Decision issued August 28, 2015 (*Re Weicker*, 2015 BCSECCOM 335), a Commission panel made a joint and several order under section 161(1)(g) of the *Securities Act*, RSBC 1996, c. 418 (Act) that Amina Umutoni Weicker (Amina) and Robert Frederick Weicker (Robert) pay \$40,132.67 to the Commission (Order).
- [2] On February 15, 2023, the executive director entered into a payment agreement with Robert. As part of the agreement, Robert paid \$40,132.67 to the Commission in respect of the Order (Funds).
- [3] This is our direction with respect to the retention and disbursement of the Funds by the Commission.

II. Background

- [4] In a memorandum dated January 27, 2026, the executive director submitted that the Commission could retain the Funds, plus accrued interest, and disburse them in accordance with section 15 of the Act.
- [5] The executive director provided affidavit evidence from the Senior Enforcement Officer in the Commission's Enforcement Division responsible for overseeing all claims processes.
- [6] We accept that the affidavit evidence of the Senior Enforcement Officer establishes that:
 - (a) on October 8, 2025, staff posted a notice to the Commission's public website:
 - (i) informing the public that the Commission had received the Funds, and
 - (ii) urging investors who lost money as a result of Robert and Amina's misconduct to make a claim with the Commission in the required form by January 9, 2026,
 - (b) the Commission did not receive any claims in respect of the Funds by January 9, 2026, and
 - (c) the Senior Enforcement Officer is not aware of any persons who could be eligible applicants with respect to the Funds.

III. Analysis

A. Legislative provisions

[7] Part 3 of the *Securities Regulation*, BC Reg. 204/2021 (Regulation) establishes the Commission's claims process under section 15.1 of the Act.

[8] Section 15.1 of the Act states:

Claim for wrongful benefit

- 15.1** (1) The commission must publish a notice if the commission receives money from an order under section 155.1(b), 157(1)(b) or 161(1)(g).
- (1.1) A notice under subsection (1) must set out a period within which a person may make a claim.
- (1.2) The period referred to in subsection (1.1) must be at least 3 months from the date the notice is given.
- (2) A person may make a claim to money referred to in subsection (1) by submitting an application in accordance with the regulation.
- (3) if the commission receives an application under subsection (2), the commission may, in accordance with the regulations, pay to the applicant all or a part of the amount claimed.
- (4) [Repealed 2011-29-120.]
- (5) The commission may retain any money not payable under subsection (3) after the period referred to in subsection (1.1) expires and after adjudicating all claims in accordance with the regulations.

[emphasis added]

[9] Section 7.4(1) of the Regulation states:

- 7.4 (1) If the commission determines that an applicant is an eligible applicant in respect of an order, the commission may make a payment to the eligible applicant from money received from the order.

[emphasis added]

[10] Section 7.1 of the Regulation defines an "eligible applicant" as a person who:

- (a) suffered pecuniary loss as a direct result of misconduct that resulted in an order for which the commission gave notice under section 15.1 (1) of the Act,
- (b) did not directly or indirectly engage in the misconduct that resulted in the order, and
- (c) has not been denied a claim under section 7.4(6).

[11] Section 15 of the Act addresses revenue and expenditure, and it states, in part:

(3) Money received by the commission

- (a) under an order made under section 155.1 (b), 157 (1) (b), 161 (1) (g), 162, 162.04, 164.09 or 164.12,

...

may, subject to the regulations, be expended for the purpose of

- (d) educating securities market participants and members of the public about investing, financial matters or the operation or regulation of securities markets,
- (e) benefiting a third party the commission considers appropriate,
- (f) enforcing
 - (i) the order or notice, or
 - (ii) this Act, including, for greater certainty, the enforcement of another order made under section 155.1 (b), 157 (1) (b), 161 (1) (g), 162, 162.04, 164.09 or 164.12 or a notice given under section 162.01, or
- (g) exercising a power or performing a duty under section 15.1.

(3.1) Despite subsection (3) of this section, the commission may not expend money received under section 155.1 (b), 157 (1) (b) or 161 (1) (g) for a purpose referred to in subsection (3) (d), (e) or (f) (ii) of this section unless the period set out in the notice published under section 15.1 (1) has expired.

B. Guidelines for administrative process

- [12] This proceeding is similar to the Commission's Direction in *Re Jin*, 2022 BCSECCOM 89 [*Jin*], in that there is not an "application" before the Commission. No "applicant" seeks any of the Funds.
- [13] Rather, we are considering the executive director's submission that in the absence of any applications under section 15.1 of the Act, the Commission can retain the Funds and disburse them in accordance with section 15 of the Act.
- [14] As did the panel in *Jin*, we find the following paragraphs from *Re Alexander*, 2017 BCSECCOM 78, to be useful guidance:

[25] We agree with the submissions of the executive director on these questions, and adopt the following guidelines for future applications under section 15.1 of the Act:

1. although a duty of fairness applies in any administrative proceeding, in this case, if the procedural requirements set out in the Act and the regulations are met, the duty of fairness is fulfilled;

...

[26] In general, our role, as a Commission panel, is similar to that of a judge in a bankruptcy proceeding. In that role, we must:

- ensure that the procedural requirements of the Act have been met...

- [15] The question we must answer is whether the procedural requirements of the Act have been met for the retention and disbursement of the Funds by the Commission.

C. The facts in this case

- [16] We find that the Commission has satisfied all of the procedural requirements in the Act and Regulation.

- [17] In accordance with the requirements of subsections 15.1(1), (1.1) and (1.2) of the Act, staff provided notice of the claims process to the public, and the time period in that notice met the three-month minimum established by the Act.
- [18] The Commission received no applications in respect of the Funds within the notice period. Further, and based on the affidavit evidence of the Senior Enforcement Officer, we accept that the executive director does not know the identity of any person who could qualify as an eligible applicant.
- [19] With no claims to adjudicate, the Commission is entitled under section 15.1(5) of the Act to retain the funds now that the time period for making any claims has expired.
- [20] The Funds were received by the Commission under an order made under section 161(1)(g) of the Act. The time period set out in the notice having expired, the restrictions in section 15(3.1) do not apply to this matter.
- [21] Since the Commission has not received any applications for claims to the Funds, the Commission does not need to make any payments from the Funds and is entitled to retain them and expend them in accordance with section 15 of the Act.

IV. Direction

- [22] Having determined that the procedural requirements of the Act have been met for the retention and disbursement of the Funds by the Commission, we direct that the Commission may:
- (a) retain the Funds plus accrued interest pursuant to section 15.1(5) of the Act, and
 - (b) expend the Funds plus accrued interest pursuant to section 15(3)(d) to (g) of the Act.
- [23] February 4, 2026

For the Commission

Marion Shaw
Commissioner

Gordon Johnson
Vice Chair

Karen Keilty
Commissioner