

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

Citation: Re Dhala, 2025 BCSECCOM 89

Date: 20250303

Hussain Dhala

Panel	Gordon Johnson Deborah Armour, KC Karen Keilty	Vice Chair Commissioner Commissioner
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Decision date March 3, 2025

Parties

Karin Blok For the Executive Director
Steve Zolnay

Hussain Dhala For himself

Procedural Order

I. Introduction

- [1] On November 7, 2023, Hussain Dhala (Dhala) applied to the Commission under section 171 of the *Securities Act*, RSBC 1996, c. 418 (Review Application), for an order varying or revoking the Commission's 2015 decision *Re Dhala*, 2015 BCSECCOM 336 (2015 Decision).
- [2] Section 171 of the Act states:

Discretion to revoke or vary decision

171 If the commission, the executive director or a designated organization considers that to do so would not be prejudicial to the public interest, the commission, executive director or designated organization, as the case may be, may make an order revoking in whole or in part or varying a decision the commission, the executive director or the designated organization, as the case may be, has made under this Act, another enactment or a former enactment, whether or not the decision has been filed under section 163.

- [3] The 2015 Decision, included the following orders:

- ...
- f) under section 161(1)(g), that Dhala disgorge to the Commission \$26,900; and
- g) under section 162, that Dhala pay an administrative penalty of at \$125,000, where \$100,000 of such fine is in respect of Dhala's fraudulent misconduct and \$25,000 of such fine is in respect of Dhala's contravention of section 168.1(1)(a).

II. Procedural History

- [4] The parties attended a hearing management meeting by telephone conference December 8, 2023.
- [5] At the hearing management meeting the parties agreed to proceed with the Review Application in writing and to the following schedule for delivery of materials:

Schedule for delivery of evidence

- a) Dhala to deliver his written evidence in support of his application by January 2, 2024;
- b) The executive director to deliver his written response to that evidence, if any, by January 12, 2024;
- c) Dhala to deliver any reply evidence, if any, by January 26, 2024;
- d) Dhala and the executive director both agreed that, after receiving the other's evidence, they would promptly determine whether to seek to apply for cross-examination of a witness.

Schedule for delivery of written submissions

- a) Dhala to deliver his submissions by February 9, 2024;
- b) The executive director to deliver his response submissions by February 20, 2024;
- c) Dhala to deliver any reply submissions by February 27, 2024.

- [6] The evidence of Dhala and the executive director was delivered in accordance with the schedule.
- [7] On January 26, 2024, Dhala delivered an application to cross-examine Commission Investigator, Christopher Cheng (Cross-examination Application).
- [8] By email to the parties on January 29, 2024, a deadline of February 1, 2024, was set for the executive director to provide his response on the Cross-examination Application. On January 31, 2024, the executive director requested an extension to February 6, 2024, which was granted. The executive director provided his response on February 5, 2024.
- [9] On February 6, 2024, the panel adjourned the previously set schedule for delivery of written submissions on the Review Application and directed Dhala to provide his reply on the Cross-examination Application by February 13, 2024.
- [10] On February 11, 2024, Dhala requested an extension to February 20, 2024, to provide his reply on the Cross-Examination Application. The extension was granted on February 12, 2024. Dhala provided his reply on February 20, 2024.
- [11] Oral submissions on the Cross-examination Application were set for a half-day hearing on April 24, 2024.
- [12] On April 23, 2024, the executive director provided Dhala with a copy of a transcript of an interview of a witness from June 24, 2014, that had not been previously disclosed to Dhala. Dhala requested the hearing of the Cross-examination Application be adjourned. The panel granted the adjournment and a hearing management meeting was set for May 31, 2024.
- [13] At the second hearing management meeting held May 31, 2024, the Cross-examination Application was reset for hearing on July 16, 2024, and the parties agreed to the following schedule for delivery of materials:
 - a) By June 5, 2024, the executive director was to deliver a list of additional materials from the original 2015 hearing file that he wished the panel to review.

- b) By June 13, 2024, Dhala was to respond, either confirming his agreement with the executive director's list, or advising if there were additional materials that he believed should be included in the materials provided to the panel.
- c) If the parties were in agreement, they were to confirm in writing the agreed list of original 2015 hearing materials to be provided to the panel.

[14] The executive director provided his list of additional materials on June 5, 2024, and Dhala confirmed he agreed with the list with the addition of four further items.

[15] The Cross-Examination Application was heard on July 16, 2024, and the panel delivered its Ruling and Reasons for Ruling, *Re Dhala*, 2024 BCSECCOM 379, on August 29, 2024, dismissing the application.

[16] On September 3, 2024, the following schedule for submissions on the Review Application was set:

- a) Dhala to deliver his submissions by September 27, 2024;
- b) The executive director to deliver his response submissions by October 8, 2024;
- c) Dhala to deliver any reply submissions by October 15, 2024.

[17] On September 16, 2024, Dhala requested the schedule be revised. On September 24, 2024, a revised schedule was set as follows:

- a) Dhala to deliver his submissions by November 1, 2024;
- b) The executive director to deliver his response submissions by November 27, 2024;
- c) Dhala to deliver any reply submissions by December 6, 2024.

[18] The parties did not deliver any written submissions on the Review Application and no further communications were received.

III. Analysis

[19] BC Policy 15-601 *Hearings*, section 9.10 Post Hearing Applications – applications to vary and appeals of decisions, applies to section 171 hearings. It states:

(d) Timing If a party fails to diligently pursue their application under section 171 of the Act, or fails to file materials required by the Commission to hear the matter, the Commission may determine the matter has been abandoned and direct the Commission Hearing Office to strike it from the hearing schedule.

[20] Dhala failed to provide his submissions by November 1, 2024, the date required. This date was an extension of time from Dhala's original date for submissions of September 27, 2024.

[21] 15-601, section 2.1 Procedures, states:

2.1 Procedures - The Act and Regulation prescribe very few procedures the Commission must follow in hearings. Consequently, the Commission is the master of its own procedures, and can do what is required to ensure a proceeding is fair, flexible and efficient. In deciding procedural matters, the Commission considers the rules of natural

justice set by the courts and the public interest in having matters heard fully and fairly, and decided promptly.

- [22] It has been over a year since Dhala provided the last of the evidence that he wished to rely on for his Review Application. Dhala has not communicated with the hearing office since September 2024, and the underlying application was made some fifteen months ago.
- [23] It is in the public interest to have proceedings conducted and determined in a reasonable time frame. Every party to a proceeding before the Commission has the opportunity to participate in it, but there is an obligation on the party who brings an application to ensure that they pursue it in a fair and efficient manner. When that party stops participating in a proceeding, it is within the Commission's power as master of its own procedures to strike the matter.

IV. Conclusion

- [24] Dhala has failed to diligently pursue his Review Application by failing to provide his submissions and by not communicating with the hearing office. As such, we are providing Dhala notice that this matter will be struck from the hearing schedule unless there is substantive communication from him as outlined below.
- [25] If Dhala wishes to proceed with his Review Application, we require that he seek leave from us to take any further steps including filing submissions.
- [26] In seeking leave to proceed with the Review Application, Dhala must apply within 30 days of this decision with:
- a) an explanation as to why he missed the previously-established deadline;
 - b) an explanation as to why he did not communicate with the hearing office after missing his deadline; and
 - c) the date he proposes to provide his submissions.
- [27] If Dhala files a leave application, the panel will decide on the basis of the evidence provided in that application whether or not to accept or dismiss the leave application. If the leave application is accepted, then the Review Application will continue with new dates for submissions. If the leave application is dismissed, then the Review Application will be struck.
- [28] If there is no communication from Dhala then, after the 30 day period has expired, we will consider the Review Application abandoned and will direct that it be struck.

March 3, 2025

For the Commission

Gordon Johnson
Vice Chair

Deborah Armour, KC
Commissioner

Karen Keilty
Commissioner