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

Citation: Re Application 20230310, 2026 BCSECCOM 25 Date: 20260128

Re Application 20230310

Panel	Deborah Armour, KC	Commissioner
	James Kershaw	Commissioner
	Jason Milne	Commissioner
Submissions completed	January 2, 2026	
Counsel		
Deborah Flood Angelika Erickson	For the executive director	
Joven Narwal, KC	For the respondent	

Decision

I. Introduction

[1] The executive director applies:

a) to stay our decision in *Re Application 20230310*, 2025 BCSECCOM 5, which ordered that three preservation orders be revoked effective August 1, 2025, unless a successful application was brought to extend them; and

b) under sections 171 and 164.04(1) of the *Securities Act*, RSBC 1996, c. 418 (the Act), to extend three preservation orders issued by the Commission.

[2] On September 3, 2024, we granted an application (*Re Application 20230310*, 2024 BCSECCOM 380) anonymizing the ruling and reasons of the application, the style of cause and names of the applicant and affiant, and ordering the hearing materials to be sealed, "until such a time as a Notice of Hearing is issued".

[3] On November 27, 2025, a Notice of Hearing was filed relating to the matters in this decision: 2025 BCSECCOM 518.

[4] The parties have agreed and we have determined that it is appropriate that this application be heard in writing.

II. Procedural Background

[5] The executive director sought and obtained, by way of *ex parte* application, preservation orders that were issued on February 17, 2023 (COR#2023/015, COR#2023/016 and COR#2023/017) to restrain the respondent (the corporate respondent in the notice of hearing) from disposing or transmitting assets held in accounts at three financial institutions (the Preservation Orders).

[6] In support of that application, the executive director filed an affidavit of an investigator sworn February 10, 2023 (Affidavit #1).

[7] On March 20, 2023, the Commission varied COR #2023/015 to allow the corporate respondent to sell securities in that account. On March 31, 2023, the investigator made a further affidavit (Affidavit #2) advising that the total amount preserved was approximately $680,000.

[8] On March 13, 2023, the corporate respondent applied to vary the Preservation Orders. The executive director opposed the application (Original Variation Application).

[9] On January 3, 2025, after considering the corporate respondent's application to revoke or vary the Preservation Orders, we issued a decision (2025 BCSECCOM 5) finding that "it would not be prejudicial to the public interest to maintain the full amount of the Preservation Orders, for the time being." (the Original Variation Decision)

[10] Given concerns about the effluxion of time and the operation of the limitation period, we also varied the Preservation Orders to order that, absent a successful application by the executive director to extend the Preservation Orders, they would be revoked effective August 1, 2025.

[11] On July 21, 2025, the executive director applied to extend the Preservation Orders (the Extension Application) with further affidavit evidence from the same investigator (Affidavit #3).

[12] On July 22, 2025, the executive director applied to stay the revocation of the Preservation Orders on August 1, 2025, from our decision in *Re Application 20230310*, 2025 BCSECCOM 5 (the Stay Application).

[13] On July 24 and 29, 2025, the corporate respondent responded to the Stay Application. On July 29, 2025, the executive director provided a reply to the response.

[14] On July 31, 2025, we granted the Stay Application and ordered the Preservation Orders to remain in place until a decision was rendered on the Extension Application with reasons to follow (2025 BCSECCOM 345). Our reasons for that ruling are below.

[15] The panel directed the parties to file any additional materials by certain dates in the Extension Application. The executive director filed additional submissions. The corporate respondent has not filed any material in relation to the Extension Application.

[16] The allegations in the Notice of Hearing differ from those raised in the Original Variation Application and those raised in the submissions of the executive director for the Extension Application both of which raised the possibility of the operation of a Ponzi scheme by the Respondents. The Notice of Hearing does not allege that the Respondents engaged in a Ponzi scheme. Also, unlike potential allegations raised in the Extension Application submissions, the Notice of Hearing does not make allegations relating to the use of the funds raised. Further, the Notice of Hearing does not allege wrongdoing prior to January 1, 2020.

[17] The Notice of Hearing alleges the following:

a. Between July 24, 2020 and October 21, 2022, the Respondents committed fraud by raising CAD $14.6 million and USD $1 million from investors while failing to disclose to those investors, the corporate respondent's true financial condition;

b. From 2020 onwards, the corporate respondent represented that most of its securities would provide interest and monthly dividends to investors between 6% and 11.5% annually; and

c. Between February 26, 2020 and October 14, 2022, the corporate respondent engaged in illegal distributions by making 28 distributions totaling approximately CAD $2.6 million to 13 investors without a prospectus and when no exemptions were available.

[18] This decision will be confined to the allegations in the Notice of Hearing.

III. Factual Background

[19] Affidavit #1 discloses that the corporate respondent claimed that its business was proprietary automated software marketed to portfolio managers and used for its own trading. In marketing materials, it said that its core business was producing products for research and trading in the capital markets. It described itself as an independent technology company creating customizable trading software.

[20] Affidavit #3 discloses the following:

a. Between January 1, 2020 and October 14, 2022, 13 investors subscribed for investments in bonds and preferred shares in the corporate respondent totaling approximately $2.6 million. Those investors all indicated through investor surveys, telephone interviews or interviews under oath, that they did not qualify for either the Accredited Investor (AI) or Family, Friends and Business Associates (FFBA) exemptions as was claimed in their subscription agreements.

b. Affidavit #3 attached a table listing the names of those investors with their total investments and the exemptions claimed for each of them.

c. As examples of the illegal distributions, transcripts of the interviews of three of those investors was attached to Affidavit #3.

d. The total amount preserved as of July 18, 2025 was CAD $319,745.01 and USD $262,511.58.

e. Based on exempt distribution reports (EDRs) filed by the corporate respondent between January 1, 2020 and July 15, 2022, it raised approximately $22.1 million from investors.

f. The corporate respondent's annual financial statements for the year ended December 31, 2020, showed

   i. net losses of approximately $10.7 million

   ii. revenue from software sales and other income of $179,000

   iii. expenses from interest on bonds of $811,000 and expenses from dividends on preferred shares of $438,000

   iv. on the statement of cash flows, proceeds of $4.3 million from bond issuance, $311,000 from common shares issuance, and $5.8 million from preferred shares issuance.

g. One of the corporate respondent's directors until 2022, was interviewed under oath. The transcript of his interview was attached as an exhibit. In the interview, he disclosed that

there was concern at the company about the level of losses in the corporate respondent's trading accounts. He said that there was a 56% loss in the account in March 2020. He said that "the technology was falling apart" but that "the consensus was to keep going". He said that the corporate respondent "never came back".

h. A forensic accountant with the commission prepared a chart showing the corporate respondent's monthly revenue and cumulative revenue shortfalls compared to its monthly investor/ interest and dividend expenses. That chart shows shortfalls between $4 million in March 2020 and $12 million in November 2022.

IV. Stay Application

[21] In an email dated July 22, 2025, the executive director submitted that the Extension Application "is effectively a stay application" of our decision in 2025 BCSECCOM 5 to preserve the Preservation Orders until August 1, 2025. The executive director seeks a stay of the ruling that the Preservation Orders be revoked effective August 1, 2025, "absent a successful application by the executive director to extend" them. The executive director relies on the previously submitted affidavit evidence.

A. Submissions from the parties

The executive director's Stay Application

[22] The executive director relies on the test for a stay from *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 SCR 311 [*RJR*], referred to by the Commission in *Re Starflick.com*, 2014 BCSECCOM 25, which states that an applicant for a stay must establish:

1. There is a serious issue to be tried;

2. The applicant would suffer irreparable harm if the application were refused; and

3. The applicant would suffer greater harm than would the other party to the application if the application were refused.

[23] The executive director submits:

- There is a serious question to be tried because the evidence submitted with the Variation Application "raises a serious question that [the corporate respondent] committed fraud in or after July 2020 and distributed securities illegally in or after January 2020". He submits that this element of the test, as stated by the panel in *Re Parhar*, 2017 BCSECCOM 286 [*Parhar*], "simply requires that the substantive application is neither frivolous nor vexatious".

- The irreparable harm if the application was refused would be the possible dissipation of the preserved funds instead of being used for any disgorgement order or administrative penalty or for dividends for the respondent's investors. The corporate respondent's investors and confidence in the Commission may suffer if a stay is not granted.

- It is in the public interest to grant the stay because:

    - the allegations against the corporate respondent are serious;

    - the preserved funds are less than the potential penalties;

- there are serious possible negative financial consequences for investors if the Preservation Orders are revoked; and

- the executive director's evidence is compelling.

- The balance of convenience favours a stay of the panel's ruling in 2025 BCSECCOM 5 to impose an expiration date on the Preservation Orders because those orders "have already been in place over two years" and a further extension of those orders will not harm the corporate respondent further.

The corporate respondent's response

[24] In an email dated July 24, 2025, the corporate respondent objected to the Stay Application and submitted:

- The executive director has known for months that the Preservation Orders would expire on August 1, 2025, and took no meaningful steps to renew them until the end of July 2025, just days before the expiry of the Preservation Orders.

- The executive director provided "no coherent justification for the delay".

- "The suggestion that the executive director only recently received the needed evidence from [the corporate respondent's] CFO is simply unpersuasive, particularly given that the CFO interview occurred weeks earlier" and many other interviews had concluded months earlier.

- The panel "should not endorse or normalize such conduct".

[25] On July 29, 2025, the corporate respondent filed a further response to the Stay Application. In it, the corporate respondent submitted:

- The executive director's application "is a classic example of self-inflicted urgency".

- The executive director's claim that he "recently received" necessary evidence is implausible.

- *Goodall v. Reeves,* 2024 BCCA 162, and *Henry v. Fontaine,* 2022 BCSC 733, are precedents for the principle that urgent applications are not truly urgent if it is the result of inaction from a party.

- "The delay in bringing this application until July 21, 2025, just days before the expiry, reflects inattention and lack of proper case management, not an emergent circumstance".

- There is no evidence of irreparable harm because the executive director "has uncovered no credible evidence of a dissipation risk".

- The corporate respondent cites *Insurance Corp. of British Columbia v. Patko,* 2008 BCCA 65 [*Patko*], for the principle that "the absence of any probative evidence of dissipation is fatal" to the executive director's application.

- The balance of convenience does not favour the executive director because of his "prolonged inaction" and the lack of evidence that the funds would dissipate.

[26] The respondent did not submit any evidence.

The executive director's reply

[27] On July 30, 2025, the executive director filed a reply to the response. In it, the executive director submitted:

- He provided evidence that the interview of the corporate respondent's chief financial officer occurred on July 3, 2025, which "is the type of new and compelling evidence that is required on a variation application".

- The corporate respondent misstated the test and the evidence required for a stay because:

    - The risks of dissipation of assets is not a factor to be considered in a stay application.

    - The "extension of the Expiration Order until a determination of the Variation Application" is not an "extraordinary remedy or relief" because "the Preservation Orders have been in place over two years and [the corporate respondent] has failed to demonstrate the Preservation Orders are causing it inconvenience or harm".

    - The corporate respondent's submissions did not address the factors for the test for a stay: there was no dispute that there is a serious question to be tried, the respondent did not provide any evidence of inconvenience or harm from a stay, and the respondent "ignored the public interest entirely".

- None of the cases relied on by the corporate respondent dealt with the stay of an order or were Commission decisions. Three of the corporate respondent's cases were about short leave applications and *Patko* considered the test for a Mareva injunction not a stay.

B. Analysis of the Stay Application

[28] We agree with the corporate respondent that it appears there was unwarranted delay on the part of the executive director. At the very least, the Stay Application could have been brought much sooner following the July 3, 2025 interview of the corporate respondent's CFO. However, that delay is not an appropriate consideration in determining whether a stay should be granted.

[29] The three part test from *RJR* is the correct test for issuing a stay. The onus is on the executive director as the party seeking the stay to establish the three criteria, which are:

a) There is a serious issue to be tried;

b) The applicant would suffer irreparable harm if the application were refused; and

c) The applicant would suffer greater harm than would the other party to the application if the application were refused.

Serious issue to be tried

[30] The executive director alleged that the corporate respondent committed fraud and illegal distributions, both of which are serious issues. As noted by the panel in *Parhar*, this part of the test "simply requires that the substantive application is neither frivolous nor vexatious". We find that there is a serious issue to be tried.

Irreparable harm

[31] The executive director referenced his Variation Application which referenced our decision in *Re Application 20230310*, 2025 BCSECCOM 5, that stated:

> [76] Turning to the issue of impact of the Preservation Orders on the Applicant or third parties, the Applicant provided affidavit evidence stating that because of the Preservation Orders, the Applicant was unable to make payroll and had to let staff go as a consequence…

[32] The executive director submits that the funds "would be quickly dissipated by [the corporate respondent] if the Preservation Orders are revoked" given its financial situation and would not be available to repay investors.

[33] The executive director quoted the Court in *RJR* which noted that the onus of establishing irreparable harm is less for a public authority than a private applicant:

> In the case of a public authority, the onus of demonstrating irreparable harm to the public interest is less than that of a private applicant. . . . The test will nearly always be satisfied simply upon proof that the authority is charged with the duty of promoting and protecting the public interest and upon some indication that the impugned legislation, regulation, or activity was undertaken pursuant to that responsibility. Once these minimal requirements have been met, the court should in most cases assume that irreparable harm to the public interest would result from the restraint of that action.

[34] We agree with the executive director that, given the previously stated financial condition of the corporate respondent, there continues to be a high risk that the funds would be spent if they are released and that could result in irreparable harm to investors. We find that the second part of the test has been met, particularly given the reduced onus mentioned in *RJR*.

Balance of convenience

[35] The executive director provided evidence of possible harm to investors and the public interest if the stay were lifted. The executive director noted that the Preservation Orders have been in place for over two years. By contrast, the corporate respondent did not provide any evidence of actual harm to its interests if the stay remained. We find that the balance of convenience favours the executive director and that the third test from *RJR* is met.

[36] The executive director has established all three elements of the test from *RJR*. We find that it is not prejudicial to the public interest to have the stay remain.

V. Applicable Law on the Extension Application

A. Applicable Legislation

Section 164 Preservation Orders

[37] The Commission has the power to issue preservation orders at various stages of a proceeding including after an investigation order has been issued. The relevant subsections of section 164 of the Act provide:

> **Preservation orders**
> **164.04** (1) In the circumstances set out in subsection (2) or (3), the commission may make one or more orders under subsection (4) in relation to
>
> (a) the whole or a portion of the interest in property of a person referred to in subsection (2),
> (b) the property in which the whole or a portion of the interest in property of a person referred to in subsection (2) is held,
> …
>
> (2) The commission may make an order under subsection (4) in respect of a person if any of the following apply:
> …
> (b) an investigation under section 142 or 147 has been ordered in respect of the person;
> …
>
> (4) In the circumstances set out in subsection (2) or (3), the commission may make one or more of the following orders relating to the preservation, management or disposition of property or the whole or a portion of an interest in property:
>
> (a) an order restraining the disposition or transmission of the property or the whole or the portion of the interest in property;
> …

Section 171 Application

[38] The Commission has the discretion to make an order revoking or varying a decision under section 171 of the Act if it considers that to do so would not be prejudicial to the public interest. Section 171 reads:

> **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.

Fraud

[39] Fraud is specifically prohibited under the Act. The relevant provision of section 57 is:

> **Manipulation and fraud**
> **57**
> ...
> (2) A person must not, in relation to a security, derivative or benchmark,
> (a) perpetrate a fraud, or
> (b) attempt to perpetrate a fraud.

Illegal Distributions

[40] The Act states that a person must not distribute securities without a prospectus unless applicable exemptions have been met. Section 61 provides:

> **Prospectus required**
> **61** (1) Unless exempted under this Act, a person must not distribute a security unless
> (a) a preliminary prospectus and a prospectus respecting the security have been filed with the executive director, and
> (b) the executive director has issued receipts for the preliminary prospectus and prospectus.
> (2) A preliminary prospectus and a prospectus must be in the required form.

B. *Party A* Decision

[41] In *Party A v. British Columbia (Securities Commission)*, 2021 BCCA 358 [*Party A*], the Court of Appeal considered the Commission's dismissal of section 171 applications to set aside freeze orders where those orders were issued *ex parte.* While the Act was amended in 2020 to replace freeze orders with section 164 preservation orders, *Party A* remains relevant to our consideration.

[42] At paragraph 177 of its decision, the Court stated that when considering whether to maintain a freeze order, the Commission must:

> ...assess the evidence to determine if it is sufficient to raise a **serious question** that the investigation **could** show breaches of the Act **leading to financial consequences** against the asset owner by way of monetary claims or penalties under the Act. [Emphasis added]

We refer to this as the threshold test.

[43] The Court, at paragraphs 178 and 179, described the nature of the required evidentiary standard which we summarize below:

- more than mere speculation or mere suspicion, but it can be less than evidence required to satisfy a balance of probabilities;
- low and flexible; and
- not unduly constraining of the actions of the enforcement division of the Commission.

[44] At paragraph 222*, Party A* made it clear that, where *ex parte* orders were issued, the executive director bears the burden of proof to establish that the threshold test has been met. At paragraph 223, the Court said that the Commission on a section 171 application should take a fresh look at whether continuation of orders granted is in the public interest based on the evidence and circumstances known at the time of the section 171 application. The matter should be treated by the Commission as a new hearing, without according deference to the original order.

[45] If we determine that the above threshold test is met, we must then determine whether it is in the public interest to continue the Preservation Orders. *Party A* sets out a list of possible factors to

consider when assessing the public interest. It makes it clear that the list is not exhaustive and will depend on each case. The Court at paragraphs 196 and 197 said:

> [196] In summary, even where the preliminary assessment of the evidence reveals a serious question that the investigation could show that the owner of the assets breached the Act in ways that could lead to a monetary order or penalty against that party, other relevant public interest factors could include:
>
> a) The seriousness and scope of the allegations. For example, evidence of a relatively minor breach of the Act might not weigh heavily in favour of an asset freeze order, whereas evidence of a serious breach of the Act could weigh more heavily.
> b) The stage of the investigation and whether there is urgency or has been delay.
> c) The scope of the asset freeze order in relation to the potential penalties that might flow from the alleged breaches of the Act. This raises the question of whether there is proportionality between the scope of the asset freeze order and the magnitude of the prospective monetary claims or penalties arising from the investigation, to the extent it can be known.
> d) The potential consequences of the order on the asset's owner or other parties. Here, it is not an answer to the intrusive nature of an asset freeze order to observe that it preserves the status quo. The order interferes with asset owners' ability to use their property.
> e) The strength of the evidence in support of the asset freeze order. Even where the preliminary merits test is met, the relative weakness or strength of the evidence can be a relevant factor to weigh in combination with all other public interest factors.
>
> [197] The Commission is not required to run through a formal checklist of all possible relevant factors, but rather to balance those factors that are relevant to the case at hand, depending on the evidence and circumstances. There may be other factors, not mentioned above, that are relevant to the public interest in a given case.

VI. Positions of the Parties

A. Executive Director

[46] The submissions of the executive director include analysis of allegations that are not in the Notice of Hearing. We will focus only on those allegations in the Notice of Hearing.

[47] The executive director submits that the evidence raises a serious question that the Respondents engaged in fraud when it raised millions of dollars from investors without disclosing the corporate respondent's significant financial difficulties.

[48] The executive director also submits that the evidence raises a serious question that the Respondents engaged in illegal distributions. The corporate respondent did not file preliminary prospectuses or prospectuses. The evidence in Affidavit #3 discloses that 13 investors did not qualify for exemptions to the prospectus requirements.

[49] The executive director says that the threshold test in *Party A* has been met.

[50] The executive director also submits that the public interest test as outlined in *Party A*, has been met. As it relates to the seriousness and scope of the allegation, the executive director says that the allegations of fraud and illegal distributions are very serious. The scope is also significant relating to the fraud allegation with investments of approximately CAD $16 million from 113

investors. The amount of the illegal distributions of $2.6 million from 13 investors is also considerable in scope.

[51] As for the stage of the proceedings, the executive director refers to the decision in *Re Patrick Aaron Dunn,* 2021 BCSECCOM 294 [*Dunn*] at paragraph 26 where the panel found there is less prejudice to an applicant after a Notice of Hearing had been issued and an investigation has concluded because the timeline for a merits hearing have crystallized.

[52] The executive director submits the evidence in Affidavit #3 is strong and includes sworn testimony, the corporate respondent's financial statements and a summary of the corporate respondent's general ledger. The executive director takes the position that the public interest favours an extension of the Preservation Orders.

B. The Corporate Respondent

[53] As stated above, the corporate respondent has not filed any materials in response to this application.

VII. Analysis

A. Has the evidentiary threshold been met?

[54] Following the *Party A* decision, the threshold question we need to first answer is whether:

- there is sufficient evidence
- to raise a serious question that the investigation could show breaches of the Act
- that could lead to financial consequences (monetary claims or penalties under the Act) against the Respondents.

[55] At this stage, we are not making any findings of fact for the purpose of liability under the Act. That will be done following a hearing on the merits. The evidence that is tendered at that hearing may be different than that before us. It is possible that the panel hearing considering liability will find facts different than those we find in this decision. That hearing panel could also dismiss the Notice of Hearing and not find liability.

Allegation of Fraud

[56] In the Original Variation Decision, we found that there was evidence sufficient to raise a serious question that the investigation could show that the corporate respondent breached the Act by committing fraud when funds raised from some investors were used to pay others. As stated above, that allegation is not in the Notice of Hearing and, therefore, we will not address it here.

[57] As it relates to fraud, this decision is limited to the only allegation in the Notice of Hearing which we repeat here:

> Between July 24, 2020 and October 21, 2022, the Respondents committed fraud by raising CAD $14.6 million and USD $1 million from investors while failing to disclose to those investors, the corporate respondent's true financial condition.

[58] The executive director has not tendered any evidence in support of the Extension Application to establish that the investors were not told about the corporate respondent's true financial condition. One might assume that investors, having been told about the corporate respondent's true financial condition, would not invest and, therefore, because many investors did invest

significant sums of money, it would follow they must not have been told. However, to conclude that would be mere speculation.

[59] As stated in *Party A*, the evidence can be less than required to satisfy a balance of probabilities but it must be more than mere speculation or mere suspicion. A conclusion in this case that investors must not have been told about the true financial condition of the corporate respondent would be speculation and, therefore, insufficient to meet the evidentiary threshold.

Allegation of Illegal Distribution

[60] We found in the Original Variation Decision that the corporate respondent is an issuer and it distributed securities without filing a preliminary prospectus or a prospectus. There is no evidence before us that would cause us to find otherwise for the purposes of this decision.

[61] The corporate respondent still has not filed any evidence to support its claim of exempt distribution. By contrast, the executive director has filed Affidavit #3 which discloses:

- Between January 1, 2020 and July 15, 2022, the corporate respondent filed exempt distribution reports (EDRs) showing it raised approximately $22.1 million from investors.

- Thirteen of those investors subscribed for investments in bonds and preferred shares in the corporate respondent for a total of approximately $2.6 million.

- Those 13 investors all indicated through investor surveys, telephone interviews or interviews under oath that they did not qualify for the AI or FFBA exemptions as claimed on their subscription agreements.

[62] We find that there is sufficient evidence to raise a serious question that the investigation could show that the corporate respondent was engaged in illegal distributions. We also conclude that it is likely those breaches of the Act would lead to financial consequences against the corporate respondent by way of monetary claims or penalties.

B. The Public Interest

[63] As stated in the Original Variation Decision, public confidence is in part ensured when the Commission is able to recover amounts ordered against those found to have contravened the Act. Preservation orders are an important tool in making those recoveries. This is a significant factor in our public interest consideration. We will now consider other factors outlined in *Party A* which are relevant to this case.

[64] As it relates to the seriousness of the allegations, illegal distributions are inherently serious. The prospectus requirement is in place to ensure that the investors receive the information they need to make sound investment decisions. The scope of alleged wrongdoing is also significant. The 13 investors for whom it appears false exemptions were claimed invested $2.6 million.

[65] Following the decision in *Dunn,* there is less prejudice to the corporate respondent now that the Notice of Hearing has been issued as the investigation has concluded and the timeline for the merits hearing has crystallized.

[66] Turning to the factor of proportionality, we note that approximately $679,000 has been preserved. That amount is considerably less than the $2.6 million in investments which appear to have been illegal distributions. We conclude that a hearing panel could make orders for disgorgement under section 161(1)(g) of the Act and/or administrative penalties under section

162 of the Act, well in excess of the amount preserved. We find that the amount preserved is proportionate.

[67] In the Original Variation Decision, we concluded that evidence filed by the corporate respondent that it was unable to make payroll did not alter our conclusion that it would not be prejudicial to the public interest to maintain the full amount of the Preservation Orders. There is no new evidence before us that would cause us to change that conclusion.

[68] The last factor we consider is the strength of the evidence. The evidence we have relied on is sufficient for the conclusions we have reached.

VIII. Conclusion

[69] We find that, in all the circumstances existing at the time of this application, and taking all relevant factors into account, it would not be prejudicial to the public interest to maintain the full amount of the Preservation Orders.

[70] We extend the Preservation Orders until a decision is rendered in the liability hearing, or if liability is established, until a decision is rendered in the sanctions hearing.

January 28, 2026

For the Commission

Deborah Armour, KC
Commissioner

James Kershaw
Commissioner

Jason Milne
Commissioner