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

Citation: Re Rafal, 2025 BCSECCOM 461 Date: 20251009

Rona-Joanne Galeon Rafal

Panel	Gordon Johnson	Vice Chair
	Warren Funt	Commissioner
	Jason Milne	Commissioner
Hearing date	February 18, 2025	
Submissions completed	June 6, 2025	
Date of findings	October 9, 2025	

Appearing

Mila Pivnenko	For the Executive Director
Mikhael Magaril	For Rona-Joanne Galeon Rafal

Findings

I. Introduction

[1] This is the liability portion of a hearing under sections 161,162 and 174 of the *Securities Act*, RSBC 1996, c. 418 (Act).

[2] In a notice of hearing issued April 17, 2024 (2024 BCSECCOM 142), the executive director alleged, among other things, that the respondent Rona-Joanne Galeon Rafal failed to attend an interview as required by a summons (Summons) issued under section 144 of the Act or to produce records in her possession as required by a demand (Demand) issued under section 144 of the Act and is, therefore, liable under section 161(6.1) and section 162(3) of the Act.

[3] One witness, a commission investigator, testified at the liability hearing and was cross examined by counsel for the respondent.

[4] The liability hearing was followed by written submissions and also, on June 6, 2025, by oral submissions.

II. Factual Background

A. Rafal

[5] Rafal was listed in a February 28, 2020 British Columbia company summary (Company Summary) for AltMed Capital Corp. (AltMed) as the sole director of that BC corporation.

[6] Rafal described herself in her Instagram page as a “self-care enthusiast & weekend esthetician @dalaga.ca”. Rafal associates herself with the business name Dalaga.

[7] Dalaga’s website listed the address for the business at “4158 Main St Vancouver BC V5V3P7” and Rafal as an “artist” in the business offering customers lash and brow lifts and facials.

B. Champignon investigation

[8] An investigation order was issued under section 142 of the Act on May 13, 2022 (IO). It appointed staff of the British Columbia Securities Commission (Commission) to investigate certain subjects relating to the trading in Braxia Scientific Corp., formerly known as Champignon Brands Inc. (Champignon).

[9] The memorandum (IO Memo), which was provided to the Chair when staff requested the IO, set out the following:

a) This is an investigation into potential market manipulation, misrepresentations, insider trading, and continuous disclosure involving the shares of Champignon,

b) Champignon acquired companies at inflated prices relative to their underlying values to maximize the number of shares issued to shareholders of the acquired companies (collectively, the Trojan Asset Acquisitions, or TAAs), and

c) Champignon engaged in TAAs of four companies, one of which was AltMed.

[10] The details contained within the IO Memo indicate that the suspect activity occurred generally in the first half of 2020.

[11] It is a common understanding in the securities industry that a TAA is a transaction in which an issuer acquires an asset at an extravagant valuation, often followed by the write down of the value of that asset and the creation of significant profits for individuals other than the issuer or its shareholders. It is clear from the IO Memo that one of the issues under investigation is whether AltMed was acquired by Champignon at an excessive price. This issue would logically engage the question of what information Champignon and its representatives obtained at the time about AltMed and its business.

[12] On November 15, 2022, a Commission investigator sent an email to Rafal, copying another Commission investigator. Using documents collected during the investigation, Commission staff had identified that Rafal used this email address. The email informed Rafal that staff were looking into the activities of AltMed and asked Rafal to let staff know when she was available to discuss her connection to AltMed. Rafal did not reply to this email.

C. The Summons and the Demand

[13] On February 12, 2024, a Commission investigator issued a Summons to Attend before an Investigator under section 144 of the Act that required Rafal to attend to give evidence on oath on March 12, 2024 at 2 pm (Summons).

[14] On February 12, 2024, a Commission investigator issued a Demand for Production under section 144 of the Act (Demand) that required Rafal to provide, by 4 pm on March 8, 2024:

> "for the period from August 1, 2019 to June 30, 2020, all documents and correspondence in native format, including emails, text messages, and messages sent through any other communication applications such as WhatsApp or Discord, related to:
>
> a. AltMed Capital Corp.
> b. Braxia Scientific Corp., formerly known as Champignon Brands Inc."

[15] On February 17, 2024 at 10 am, a process server personally served Rafal with the Summons and the Demand at Rafal's workplace at Dalaga at 4158 Main Street, Vancouver.

[16] On March 11, 2024, a Commission investigator sent an email to Rafal stating that:

a) her response to the Demand is overdue,

b) an interview is scheduled for March 12, 2024 at 2 pm, and

c) if she does not attend the interview or respond to the Demand, she may be liable under application to be committed for contempt, and she may also be liable to pay the Commission an administrative penalty of up to $1 million.

[17] On March 11, 2024, at 2:14 pm, the same Commission investigator called Rafal's phone number. He left a voice message stating that:

a) her response to the Demand is overdue,

b) an interview is scheduled for March 12, 2024 at 2 pm, and

c) if she does not comply with the Demand or Summons, she may be liable under application to be committed for contempt, and she may also be liable to pay the Commission an administrative penalty of up to $1 million.

[18] On March 12, 2024 at 2 pm, two Commission investigators, including the one referenced above, attended the scheduled interview in person. A court reporter attended remotely. At 2:11 pm, while waiting for Rafal in the interview room, one of the Commission investigators called Rafal's phone number to find out if Rafal was coming. He left a voice message reminding her that the interview was supposed to start at 2 pm that day and asking Rafal to call him back immediately.

[19] Rafal did not attend the interview in person or remotely or return the phone call made at 2:11 pm. The court reporter issued a Certificate of Non-Attendance.

[20] The Commission has not received any documents from Rafal pursuant to the Demand.

III. Relevant statutory provisions

[21] Section 142 of the Act states that:

> 142 (1) The commission may, by order, appoint a person to make an investigation the commission considers expedient
>
> (a) for the administration of this Act,
>
> (b) to assist in the administration of the securities or derivatives laws of another jurisdiction,
>
> (c) in respect of matters relating to trading in securities or derivatives in British Columbia, or
>
> (d) in respect of matters in British Columbia relating to trading in securities or derivatives in another jurisdiction.
>
> (2) In its order, the commission must specify the matter to be investigated under subsection (1).

[22] The relevant portions of section 144(1) of the Act state as follows:

> 144 (1) An investigator appointed under section 142 […] has the same power
>
> (a) to summon and enforce the attendance of witnesses,
>
> (b) to compel witnesses to give evidence on oath or in any other manner,
>
> (b.1) to compel witnesses to preserve records and things or classes of records and things, and
>
> (c) to compel witnesses to provide information or to produce records and things and classes of records and things
>
> as the Supreme Court has for the trial of civil actions.
>
> (1.1) A summons under subsection (1), or a demand under that subsection to produce records, property, assets or things or a class of records, property, assets or things, must be served personally on the witness […]

[23] The relevant portions of section 161(1) and (6.1) of the Act state as follows:

> **Enforcement orders**
> 161 (1) If the commission or the executive director considers it to be in the public interest, the commission or the executive director, after a hearing, may order one or more of the following:
>
> […]
>
> (b) that
>
> […]
>
> (ii) the person or persons named in the order, or cease trading in, or be prohibited from purchasing, any securities or derivatives, a specified security or derivative or a specified class of securities or class of derivatives,
>
> […]
>
> (c) that any or all of the exemptions set out in this Act, the regulations or a decision do not apply to a person;
>
> (d) that a person
>
> (i) resign any position that the person holds as a director or officer of an issuer or registrant,
>
> (ii) is prohibited from becoming or acting as a director or officer of any issuer or registrant,
>
> (iii) is prohibited from becoming or acting as a registrant or promoter,

(iv) is prohibited from advising or otherwise acting in a management or consultative capacity in connection with activities in the securities or derivatives markets,

(v) is prohibited 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,

(vi) is prohibited from engaging in promotional activities on the person's own behalf in respect of circumstances that would reasonably be expected to benefit the person,

(vii) is prohibited from voting a security or exercising a right attaching to a security or a derivative, or

[…]

(j) that a person be reprimanded.

[…]

(6.1) The commission or the executive director may, after providing an opportunity to be heard, make an order under subsection (1) (b), (c), (d), (e), (f) or (j) in respect of a person if the person has failed or refused to comply with a summons or demand under section 144 (1).

[24] The relevant portions of section 162(3) of the Act state as follows:

Administrative penalty

162 (3) If the commission, after a hearing, determines that a person named in a summons or demand under section 144 (1) has failed or refused

(a) to attend,

[…]

(e) to provide information or to produce the records and things or classes of records and things in the custody, possession or control of the person,

the commission may, if the commission considers it to be in the public interest to make the order, order the person to pay the commission an administrative penalty of not more than $1 million.

IV. Standard of Proof

[25] The standard of proof is proof on a balance of probabilities. In *F.H. v. McDougall*, 2008 SCC 53 (CanLII), the Supreme Court of Canada held, at paragraph 49:

> In the result, I would reaffirm that in civil cases there is only one standard of proof and that is proof on a balance of probabilities. In all civil cases, the trial judge must scrutinize the relevant evidence with care to determine whether it is more likely than not that an alleged event occurred.

[26] The Court also held at paragraph 46 that the "evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test".

V. Positions of the Parties

[27] The executive director portrays the conduct described in the Notice of Hearing as a simple and clear breach of statutory obligations. He submits that the Demand and the Summons were served and that Rafal failed to comply. As a result, Rafal breached the Act in the manner alleged in the Notice or Hearing.

[28] Rafal makes a number of submissions for why we should find that the executive director has failed to prove a breach of the Act on the proper standard of proof. One of Rafal's arguments is a constitutional argument.

[29] Both Rafal and the executive director submitted that the most efficient way to conduct this proceeding is to address all other issues first and then, if we find that the Act has been breached as alleged in the Notice of Hearing, the parties should address the constitutional issue. We agreed to proceed as the parties suggested.

[30] The non-constitutional arguments raised by Rafal are as follows:

a) there is no evidence that Rafal had responsive documents or information,

b) neither the IO nor the IO Memo in support of it were disclosed to Rafal,

c) there is no evidence that the information sought could not have been obtained from another source,

d) there is no evidence that the information Rafal might have had would have still been relevant as of the date of the Demand and Summons,

e) the Demand and Summons were invalidly served, or at least there is no convincing proof of service, and

f) there was no persuasive evidence that the Summons was validly issued and for that reason, Rafal was not required to attend the interview.

VI. Analysis and findings

[31] We have organized our analysis with a focus on whether there is any validity to the specific arguments raised by Rafal. However, we have also kept in mind that the onus of proof is on the executive director in relation to the Notice of Hearing

A. Is there a need for evidence that Rafal has responsive documents and information?

[32] Rafal makes a number of arguments to support her submission that the executive director must establish that, at the time she was served, Rafal had documents and information relevant to the investigation. We begin with the most compelling of these arguments, which is that if Rafal had no documents then there was nothing for her to produce and in the absence of proof that she had material documents at the time, her failure to produce documents was not a breach of the Demand.

[33] We accept that if Rafal had nothing in her possession or control which was responsive to the Demand, then there was nothing for her to produce. As a result, the key issue is whether there is sufficient evidence for us to conclude that, on a balance of probabilities in accordance with the test in *McDougall*, at the time of service of the Demand Rafal would likely have had at least one document which was responsive to the Demand. Since we don't have any evidence from Rafal, we must decide this issue by inference. Our inference must not be based on speculation and we must be careful to consider alternative inferences which might be equally likely as the one which leads to a finding of liability. See *Re Weicker*, 2015 BCSECCOM 19 at paragraph 80, cited with approval in *Re Lim*, 2017 BCSECCOM 196 at paragraph 85.

[34] According to AltMed's Company Summary, as at February of 2020, Rafal was the sole director of that company.

[35] In the normal course, directors have legal obligations to manage the company. When there is only one director, there is a heightened expectation that he or she is at least overseeing the affairs of any employees or officers of the company. If there are no officers or employees then normally the sole director is the individual through whom every activity on behalf of the company is conducted.

[36] It is unlikely, to the point of being very hard to imagine, that anyone would purchase a company without first conducting at least some limited form of due diligence into that company. It is equally difficult to imagine that communications in relation to the sale of a company could occur without the inclusion of at least some communication with the sole director of that company. On that basis it is not just likely but highly likely that as of the first half of 2020, Rafal had received communications, very likely including written or electronic communications, related to one or both of AltMed and Champignon. The Champignon documents would likely relate to the TAA involving AltMed. The AltMed documents could fit into any of a number of categories of documents that the sole director of the company would normally receive and review.

[37] At this Commission we do, of course, encounter instances where individuals are named as directors of a company who merely pretend to fulfill the role, while ignoring all of their duties as directors. We do not see a proper evidentiary basis to draw an inference that Rafal merely pretended to be a director of AltMed, without fulfilling any of the duties of a director.

[38] We have considered the possibility that although Rafal likely had documents responsive to the Demand in 2020, she might not have had any at the date of service of the demand. We consider this outcome to be possible but unlikely. Even if at some point after 2020 Rafal ceased to be active in managing AltMed, we can see no logical reason why she would throw away whatever records she had accumulated while acting in her role as a director. In addition, we note that by the 2020s, we were in an age when much of society's communications occur in electronic form, and electronic records are hard to dispose of to the extent that they are completely unrecoverable. We do not draw an inference that Rafal was both motivated to destroy her records connected to AltMed and Champignon and acted successfully on that motivation. Our conclusion is that at the time she was served with the Demand, Rafal had at least some documents which were responsive to that Demand.

[39] Rafal makes other arguments supporting her proposition that there must be evidence that she possessed evidence before there can be a finding that she had any obligation to respond to the Demand or the Summons. Rafal builds these arguments by reference to other contexts, specifically the concept of a contempt application or an application under the British Columbia Supreme Court Civil Rules regarding what must be established, and how, before an order for

production will be made. We do not consider those other contexts to be strong analogies to the present context.

[40] We have accepted that in order to establish that a respondent has breached the Act by failing to produce certain types of documents, it must be proven on a balance of probabilities that the respondent had such documents to produce. To that extent there is, as a matter of substance, some validity to the analogy to the context of civil proceedings. However, there is no basis to go beyond substance and look to expectations of a civil court regarding the manner and form by which the substantive proof is made. The Commission has its own procedural rules which have appropriate flexibility. Those rules are fair, and we follow them.

[41] Regarding the comparison to what must be proven in a contempt proceeding, we acknowledge Rafal's point that, absent section 161(6.1) of the Act, the executive director's normal remedy given a failure to comply with a demand or a summons would be to commence a contempt proceeding. However, Rafal has not provided any argument to convince us that, as a consequence, all of the safeguards for the respondent in a contempt application should be imported into a proceeding under section 161(6.1). Rafal suggests that there is no evidence before us to support reading what the legislature intended when it enacted section 161(6.1). However, the executive director directs us to the following excerpt from Hansard, which we find persuasive regarding the intention of the legislature and consistent with the context and the plain wording of the section:

> … When it comes to enforcement, the BCSC relies on its ability to call a witness to provide information or records while investigating a potential violation of securities laws. With the changes in the bill, the BCSC will be able to take action if a witness ignores these summons or demands.
>
> The BCSC will be able to issue a fine of up to $1 million, order a person to stop trading or suspend the registration under the Securities Act. The BCSC will have a better ability to make witnesses provide important information to investigate violations of securities laws and collect money from wrongdoers…
>
> Legislative Assembly of British Columbia, Official Report of Debates (Hansard), Fourth Session, 42nd Parliament, February 13, 2023, Afternoon Sitting, Issue No. 264, pp. 8887-8888 (Hon K. Conroy)

[42] In conclusion, we find that proof is required that a respondent had responsive documents at the time of service of a demand for production. However, the Act does not require any particular form of evidence, and the requirements of a contempt process were not intended to be imported into section 161(6.1). Proof according to our normal standard of proof, in accordance with our normal procedures, is what is required. The evidence before us here is sufficient to support our conclusion that at the time of service Rafal had documents which should have been produced.

[43] We have reached our above conclusion without considering Rafal's conduct in response to being personally served with the Demand. Since it would have been in Rafal's interest to reply to the Demand by stating that she did not have any documents if that was the case, it may be open to a panel to draw an inference from her silence. We did not have to consider that possibility here in light of the proven circumstances supporting an inference that Rafal would have had responsive documents which should have been produced.

B. Disclosure of the investigation order or memo

[44] Rafal argues that before she should be obligated to respond to the Demand or Summons, the executive director is obligated to show her at least the IO and perhaps the IO Memo. This argument is completely wrong.

[45] The public has an interest in efficient capital markets and those cannot exist if the markets are not trusted by investors and other market participants. Such trust can only be created if the markets have integrity, and that integrity can only exist if allegations of misconduct are properly investigated.

[46] It is simply not correct that investigations can be conducted properly if each time an investigator seeks to compel the production of evidence from a witness, the investigator must first make significant disclosures of what the investigator already knows.

[47] Rafal was identified by the executive director as a possible witness regarding the matters to be investigated under the IO. The rights of a witness in an investigation are not higher than the rights of the subject of an investigation. Even if Rafal had been a subject of the investigation, that would not entitle her to insist on the type of disclosure which she submits was a pre-requisite to compelled production. In this regard, we adopt the following proposition and quote from the written submissions of the executive director:

> The British Columbia Court of Appeal confirmed in *Morabito* that the degree of procedural fairness afforded to an individual is lower during the investigation phase of an enforcement proceeding than during the hearing phase.
>
> > […] There is always a reasonable expectation that market participants who choose to participate in a highly-regulated industry might be "questioned by a regulator", and securities investigations by their very nature are complex and difficult. The panel quoted a well-known passage, again from the concurring reasons of L'Heureux-Dubé J. in *Branch*:
> >
> > > First, the argument that fundamental fairness may require different standards in different contexts is evidenced by the different procedural protections that we generally accord to witnesses called to appear at hearings similar to that challenged in the present case. Although those conducting an investigation are always under a duty to act fairly, this Court has held that fairness in the context of such hearings does not require that the persons who are the "subjects" of the investigation participate in the examination of other witnesses, or that they be provided with an opportunity to adduce evidence or make submissions to the investigator …
> >
> > > Second, although activity in the securities sphere is of immense economic value to society generally, it must be remembered that participants engage in this licensed activity of their own volition and ultimately for their own profit. In return for permitting persons to obtain the fruits of participation in this industry, society requires that market participants also undertake certain corresponding obligations in order to safeguard the public welfare and trust. Participants must conform with the extensive regulations and requirements set out by the provincial securities commissions. Many of these requirements are fundamental to maintaining an efficient, competitive market environment in a context where imperfect information is endemic. They are also essential to prevent and deter abuses of such asymmetries of information, and

> therefore to maintain the integrity of the securities system and protect the public interest.
>
> Third, given the nature and breadth of this obligation, as well as the important economic stake that the investing public holds in its proper fulfilment, I fail to see how market participants would not expect to be questioned by regulators from time to time as to their market activities ...

[48] Whether it is open to a witness to request a copy of an investigation order or whether it is fair for it to be provided is not before us. Our conclusion here is that delivery of such documents to a witness is not a prerequisite to the application of section 161(6.1).

C. Obligation to obtain information from other sources

[49] Rafal argues that evidence cannot properly be compelled from her if it can be, or perhaps has been, obtained from other sources. Again, this is simply not correct.

[50] Rafal's argument presumes that all evidence is consistent with all other evidence, and that there is no chance that other witnesses' evidence and documents might support conclusions different from the conclusions indicated by Rafal's evidence. This presumption is not accurate.

[51] In our experience it is not uncommon for respondents, after investigations are completed and notices of hearings have been issued, to suggest that investigators jumped to conclusions after seeing some of evidence and without looking for evidence of alternative explanations. We do not see any intention in the wording of section 161(6.1) which suggests that evidence should not be sought from multiple sources. We do not accept that any part of the Act should be interpreted in a manner which precludes a proper search for the truth during an investigation.

[52] In addition, we note that Rafal's argument leads to some circularity in its practical application. If both Rafal and another witness have relevant information but each is entitled to withhold that information because the executive director can obtain it elsewhere, the result will be that the information is not available at all.

D. Lack of evidence of materiality as at the date of service

[53] Rafal suggests that even if Rafal might have had relevant evidence at some point, she might not have had it at the date of service of the Demand and Summons, or it is possible that by then the investigators had the information from other sources or, potentially, the investigation had by then been abandoned or completed. In support of the latter point, Rafal notes that activity in the investigation appears to have ceased.

[54] Our earlier analysis addresses the substance of Rafal's submission. We will not repeat it here.

[55] With respect to the apparent end of progress in the investigation which Rafal's counsel described to us, at this point we do not need to draw a conclusion about why progress in the investigation might have stopped. If we had to draw a speculative conclusion based on the limited information before us, it would likely be that the investigation is stalled because evidence from Rafal and perhaps others is required before the investigation can resume.

E. Validity of service

[56] Rafal submits that service was invalid or unproved because the Demand and Summons were in the wrong form, because the witness fees due to Rafal were not paid and because the affidavit

of service of the process server was invalid and unconvincing. We address those submissions in reverse order.

[57] We are not bound by the strict rules of evidence. Nevertheless, we pay close attention to the rules of evidence because they are generally excellent guides to fairness and reliability.

[58] We frequently admit and rely on hearsay evidence, although we are alive to the frailties of hearsay evidence. For example, we are aware that hearsay evidence cannot properly be tested by cross-examination regarding credibility or reliability.

[59] When considered with appropriate caution, admitting hearsay evidence can create tremendous efficiencies in our hearing processes. This is important because a very high percentage of our proceedings involve a great number of disparate facts and documents, many drawn from different sources and only a handful of which will conflict with other evidence. In addition, the hearsay which we admit and rely upon is often corroborated by, or at least consistent with, other evidence, so there are reasons beyond convenience for us to rely upon hearsay evidence.

[60] In a case where the issue is whether a professional process server actually served certain materials, we conclude that, absent some highly unusual factor, an affidavit of service will be at least as reliable as will in-person evidence, tested by cross-examination. This is because process servers can be expected to serve many dozens, and perhaps many hundreds of documents in a year. They cannot be expected to retain first-hand memory of each service. However, they can be expected to reliably record the details of service in an affidavit which is made contemporaneously with service.

[61] We can and do accept the evidence of the process server. In addition, we note that the affidavit (there are two affidavits of service, one for the Demand and one for the Summons) evidence is not contradicted by contrary evidence, and no application was made to compel the process server to attend to be cross-examined.

[62] Rafal submits that the form used by the process server was defective. Section 11 of the Securities Regulation provides that service of a summons or demand on a witness may be proved by an affidavit in the required form. The required form states that the affidavit is “sworn”.

[63] Section 11 of the Securities Regulation is permissive, and in our view it also allows proof in other ways, including, in this case, by an affidavit which is in a slightly different form because the prescribed form would allow the affiant to elect to swear or affirm. We find that any difference between the form used and the prescribed form is technical and non-material. As we have already concluded, the substance of the affidavits is reliable and we do rely upon them.

[64] Rafal asserts that we should apply *BC v. Adamson*, 2016 BCSC 584, where Chief Justice Hinkson cautioned that a failure by an affiant to indicate whether an oath or affirmation binds the affiant is more than a practice slip, it results in a defective affidavit. This issue is not relevant here, because the affidavits are clear that the process server was bound by an oath.

[65] Rafal’s argument regarding conduct money begins with section 9(2) of the Securities Regulation, which states that:

> A person summoned under section 144 of the Act must be paid the fees and allowances for the person’s attendance before the investigator to which a witness summoned to attend before the Supreme Court is entitled.

[66] The fees payable for attendance at the Supreme Court are specified in Appendix C to the Supreme Court Civil Rules. In summary, in addition to a $20 witness fee, a travel allowance of 30 cents per kilometer is payable for witnesses who reside less than 200 kilometers from the place of examination unless the examination is less than 8 kilometers from the place of residence. The schedule states quite clearly that all fees (there are other fees which might apply in some circumstances but are not alleged to apply here) must "unless ordered otherwise, be tendered in advance by the party requiring the attendance of the witness".

[67] The location which the executive director alleges is the residence of Rafal is not alleged by Rafal to be more than 8 kilometers from the place of interview designated in the Summons. We have not measured the distance ourselves, it is not our role to create or collect evidence. From our ordinary powers of observation we can take notice that the alleged residence, which we will not designate by address here in order to protect Rafal's confidentiality, is within 8 kilometers of the place designated for Rafal's interview.

[68] It may be that the executive director has elected not to lead evidence about how far the Rafal residence is from the interview location identified in the Summons because Rafal has not submitted that distance is more than 8 kilometers. That may be sufficient here, since the answer is obvious enough that we can take notice of the distance. However, that might not be true in a future case, and the executive director should generally take care to lead evidence to establish all elements which he wishes to prove.

[69] Rafal's next argument is that it has not been established on a balance of probabilities that Rafal resided at the address which the executive director asserts is Rafal's address.

[70] There is a significant body of evidence before us to establish that the address alleged to be Rafal's is Rafal's. First, when AltMed was incorporated, the filings on the incorporation documents provided the alleged address as Rafal's address. Second, the Company Summary provides the address of its director, Rafal, which was also the alleged address. Next, the affidavit of service of the Notice of Hearing is before us and that affidavit says that the alleged address is Rafal's. The sources identified in that affidavit for that information about Rafal are listed as a BC Driver's license search, a personal property registry search and the account opening documents for Rafal's account at PI Financial Corp. We consider all of that evidence to be convincing.

[71] We conclude that Rafal's address is the one alleged by the executive director and that the only fee payable to Rafal was the witness fee of $20.

[72] In the affidavit of service for the Summons the process server deposes that a witness fee of $20 was paid to Rafal at the time of service. For the reasons we have already provided, that evidence is convincing. It is also uncontradicted.

[73] In summary, we conclude that Rafal was validly served with the Demand and Summons.

F. Proof of failure to attend as required by the summons

[74] Rafal also submits that there is no compelling evidence that she failed to comply with the Summons. In support of that submission, Rafal makes reference to the certificate of non-compliance from the court reporter and alleged uncertainty as to whether the court reporter attended in person or by video. We do not perceive the uncertainty which Rafal is referring to. The best evidence available about what happened at the appointed time and place for Rafal's

interview came from the investigator who was present at that time and place. The evidence is that the court reporter attended by video link, but Rafal did not attend at all. We accept that evidence. We also accept the investigator's evidence that Rafal did not deliver anything in response to the Demand.

VII. Summary of Conclusions

[75] In conclusion, we find that Rafal failed to comply with the Summons and the Demand as alleged in the Notice of Hearing.

VIII. Submissions on Sanction

[76] We direct the executive director and the respondent to consult through their counsel and, within 10 business days, to write to the hearing office proposing a schedule to complete all processes related to the constitutional argument which Rafal has proposed to bring. If the parties cannot agree on a schedule they should each provide their proposals to the hearing office along with a request for a hearing management meeting.

October 9, 2025

For the Commission

Gordon Johnson
Vice Chair

Warren Funt
Commissioner

Jason Milne
Commission