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

Citation: Re Gokturk, 2025 BCSECCOM 408 Date: 20250915

Michael Ongun Gokturk, Einstein Capital Partners Ltd., Einstein Exchange Inc., and Einstein Law Corporation

Panel	Deborah Armour, KC	Commissioner
	Audrey T. Ho	Commissioner
	Karen Keilty	Commissioner
Submissions completed	September 2, 2025	
Ruling date	September 15, 2025	

Counsel

Matthew Smith Jillian Dean Elizabeth Allan	For the Executive Director
Eric Bojm David Gibbons Faith Pierce	For Michael Ongun Gokturk

Ruling and Reasons for Ruling on Sealing Order Application

I. Background

[1] On January 31, 2024, the executive director issued the notice of hearing, 2024 BCSECCOM 46. In it he alleged that Michael Ongun Gokturk (Gokturk), Einstein Capital Partners Ltd., Einstein Exchange Inc., and Einstein Law Corporation (Einstein Respondents) "committed fraud by lying to customers about a crypto trading platform (Platform) and misappropriating deposited customer assets for their own speculative investments and personal use". He alleged that the respondents contravened section 57(b) of the *Securities Act*, RSBC 1996, c. 418 (Act).

[2] On July 10, 2025, a hearing notice was issued (*Re Gokturk*, 2025 BCSECCOM 308) advising that the hearing dates that were originally scheduled for this matter were adjourned to October 2025.

[3] On August 15, 2025, the executive director applied for a proposed exhibit to be sealed. The proposed exhibit is all of the contents on a specific hard drive that the executive director says could be entered as an exhibit in the hearing of this matter.

[4] On August 25, 2025, counsel for Gokturk sent a letter to the hearing office advising, amongst other issues, that Gokturk was not taking any position "on the sealing order being sought". The Einstein Respondents have not appeared.

II. The executive director's position

[5] The executive director states:

a) The Commission obtained records from the Platform and one of those records "was an electronic file containing millions of ledger entries for various financial transactions involving customers of the Platform (the Transaction Records). The Transaction Records, by their very nature, contain personal and private information of the customers involved in those transactions. This includes names, financial information and IP addresses."

b) "Normally, the Executive Director redacts non-relevant personal and private information from any records prior to disclosure in accordance with the Commission's Privacy Policy and his obligations under section 11(1) of the" Act.

c) Due to both the number of entries and the nature of the file which requires specialized software to view, the executive director cannot redact personal information contained in the Transaction Records. Sealing the hard drive that contains the Transaction Records, identified in the executive director's list of documents as BCSC041417 (the Document), "is the most fair, flexible and efficient way to proceed".

d) Sealing the Document is necessary to prevent "disclosure of personal and financial information of non-party individuals".

III. Analysis

[6] Section 11(1) of the Act states:

> Every person acting under the authority of this Act must keep confidential all facts, information and records obtained or provided under this Act, or under a former enactment, except so far as the person's public duty requires or this Act permits the person to disclose them or to report or take official action on them.

[7] Section 19 of the *Securities Regulation*, BC Reg 196/97, states:

> **When hearing public**
> **19** (1) Subject to subsection (2), every hearing is open to the public.
>
> (2) If the person presiding considers that a public hearing would be unduly prejudicial to a party or a witness and that to do so would not be prejudicial to the public interest, the person presiding may order that the public be excluded for all or part of the hearing.

[8] BC Policy 15-601, *Hearings*, section 8.4(a), *Hearings are public*, states:

> A hearing must be open to the public, unless the Commission considers that:
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> - a public hearing would be unduly prejudicial to a party or a witness and
> - it would not be prejudicial to the public interest to order that the public be excluded for all or part of the hearing

[9] Section 8.4(b), *Access to Hearing Materials*, states:

> Hearing materials including transcripts and exhibits are generally available to the public upon request after the completion of the proceedings, and may be redacted for third-party and personal information.
>
> A person who requests access to hearing exhibits or transcripts must make an application to the Commission. The Commission will consider applications having regard to the status of the proceedings, the public interest and privacy interests. In considering an application for access to hearing materials in a matter that is currently before a panel, the Commission may:
>
> - consult the parties to the proceeding and
> - give the parties the opportunity to provide redacted copies of the requested exhibits or transcripts
>
> Applications must be sent in writing to the Commission Hearing Office, at the address in paragraph **2.2 – Commission Hearing Office**.
>
> The Commission may refuse access to hearing materials.
>
> If the Commission provides access to hearing materials, it may redact third party and personal information to protect the privacy of parties, witnesses and third parties, and may redact other sensitive information. A person who seeks access to un-redacted hearing exhibits or transcripts must make an application to the Commission, setting out the reasons why the Commission should provide this information, including the potential impact on the privacy interests of parties, witnesses and third parties.
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> [emphasis added]

[10] The leading case on sealing orders is the Supreme Court of Canada decision, *Sherman Estate v. Donovan*, 2021 SCC 25, which was recently applied by the British Columbia Court of Appeal in *College of Physicians and Surgeons of British Columbia v. Madryga*, 2025 BCCA 250.

[11] The Court in *Sherman Estate* noted that court proceedings "are presumptively open to the public" but that if a party seeks a sealing order "that limits the open court presumption", then the party "must establish that":

> (1) court openness poses a serious risk to an important public interest;
>
> (2) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and,
>
> (3) as a matter of proportionality, the benefits of the order outweigh its negative effects.
>
> Only where all three of these prerequisites have been met can a discretionary limit on openness — for example, a sealing order, a publication ban, an order excluding the public from a hearing, or a redaction order — properly be ordered. This test applies to all discretionary limits on court openness, subject only to valid legislative enactments (*Toronto Star Newspapers Ltd. v. Ontario*, 2005 SCC 41, [2005] 2 S.C.R. 188, at paras. 7 and 22).

Court openness poses a serious risk to an important public interest

[12] The executive director states that the "Document in its current form discloses details of numerous financial transactions through the Transaction Records, which includes names and financial information of the Respondents' former customers as well as location information such as IP addresses". He says that most of the former customers have no connection to this matter and the "fact that these individuals have no ability to terminate the litigation is an important consideration in determining the privacy interests at stake."

[13] The Court in *Sherman Estate* stated that "privacy generally is an important public interest in the context of limits on court openness".

[14] The executive director argues:

> If the Document in its current form is disseminated beyond the hearing room, those names and the associated personal information of non-party individuals will be disclosed and the privacy interests of those individuals will be at risk with potentially seriously detrimental consequences to them. Once it is released to a single applicant, the Commission no longer has control over further dissemination. Therefore, the first prerequisite of Sherman Estate is met.

[15] We agree with the executive director. Although the Court in *Sherman Estate* noted that there are limited circumstances where the risk to the privacy of the third parties should limit court openness, this is one of those circumstances. The information in the Document contains the financial and location information of third parties to this matter who have no control over how that information is going to be used in the hearing. This third party financial and personal information is highly sensitive and would not normally be made public in enforcement proceedings before the Commission. If this information was disseminated, then the third parties' privacy, an important public interest, will be exposed to serious risk.

[16] We find the executive director has met the first part of the test.

The order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk

[17] The executive director states that it is not possible to redact non-relevant personal and private information in the Document due to its electronic form and the number of entries in it.

[18] He argues that if the Document is entered as an exhibit at the hearing, there is nothing in BC Policy 15-601 that "*requires* consultation with the parties prior to disclosure of an exhibit after the hearing is concluded" [emphasis in the original].

[19] Even if the Commission consults with the parties, the executive director states that "current counsel are in the best position to provide an explanation of the technical nature of the Document". He notes that if a request for the Document is made after the hearing, the executive director's current counsel "may not be available" and Gokturk's counsel "may no longer be retained" to address any issues.

[20] The executive director submits that the serious risk of disclosure of the privacy interests of third parties in the future "is best addressed as a pre-hearing application with an order made during the hearing" and not in the future.

[21] We agree. The language of section 8.4(b) does not require the redaction of third party and personal information. It is permissive. It states that the Commission "may" redact information, "may" consult with the parties, and "may refuse access to hearing materials".

[22] Given the permissive nature of BC Policy 15-601, section 8.4(b), and the fact that there is no alternative to redact the large amount of highly sensitive personal information of third parties, we find that the order sought is necessary to alleviate the risk to their privacy.

[23] We find that the executive director has met the second part of the test.

As a matter of proportionality, the benefits of the order outweigh its negative effects

[24] The executive director argues that the "order sought is proportionate" because "the personal and financial information of non-party individuals is not relevant to the allegations" in the notice of hearing and "will not add to public discourse on the important issues" that will be determined during the hearing. He says that it "is the cumulative nature of the Transaction Records located within the Document which are relevant to the matters at issue" and that non-specific information will be available to the public during and after the hearing through transcripts of the expert's testimony and the expert report.

[25] The executive director states that the protection of the personal and financial information of third parties "far outweighs the relatively minor intrusion on the open court principle". We agree. The withholding of the Document will not prevent the public from understanding the underlying issues in the matter but, if the Document is made public, then highly sensitive personal and financial information from third parties will be disseminated. The benefits of keeping private third parties' personal and financial information outweigh the minimal interference to the open court principle under the proposed sealing order.

[26] We find that the executive director has met the third part of the test.

IV. Ruling

[27] After considering the submissions of the executive director and noting that Gokturk is not taking any position on the executive director's application, we grant the application filed by the executive director and order that the Document, if tendered as an exhibit, be sealed.

September 15, 2025

For the Commission

Deborah Armour, KC
Commissioner

Audrey T. Ho
Commissioner

Karen Keilty
Commissioner