

Citation: 2024 BCSECCOM 426

Notice of Hearing

Lucas Christopher Birdsall

Section 161 of the *Securities Act*, RSBC 1996, c. 418

- ¶ 1 The British Columbia Securities Commission (Commission) will hold a hearing (Hearing) at which the Executive Director will tender evidence, make submissions and apply for orders against Lucas Christopher Birdsall (Birdsall) under sections 161, 162 and 174 of the *Securities Act*, RSBC 1996, c. 418 (the Act), based on the following facts:

Summary

1. Birdsall failed to comply with a demand for the production of records issued under section 144 of the Act.
2. By engaging in the conduct as set out in this notice of hearing, Birdsall contravened section 57.5 of the Act, and he is also liable under sections 161(6.1) and 162(3) of the Act

Background

3. Birdsall is a resident of Vancouver, British Columbia.

Misconduct

4. Between August 2023 and February 2024, Commission Staff and process servers made several attempts to serve a demand issued under section 144 of the Act on Birdsall, including attending at his address on multiple occasions, but were not able to effect personal service.
5. On June 19, 2024, the Commission ordered under section 144(1.2) of the Act that a demand may be served on Birdsall by: (1) mailing a copy by ordinary mail to Birdsall's address; (2) affixing a copy to the building door of Birdsall's address; and (3) emailing a copy to Birdsall (the Substituted Service Order).
6. On June 21, 2024, Commission Staff issued a demand to Birdsall under section 144 of the Act to produce certain records in his custody, possession or control by July 24, 2024 (the Demand).
7. Birdsall was served with the Demand according to the terms of the Substituted Service Order:

- (a) On June 25, 2024, a process server mailed the Demand and the Substituted Service Order to Birdsall, and posted copies of these documents on the front door of his building.
 - (b) On June 28, 2024, a process server emailed the Demand and the Substituted Service Order to Birdsall.
 - (c) On July 22, 2024, Commission Staff again emailed the Demand and the Substituted Service Order to Birdsall.
8. On July 23, 2024, at the request of Birdsall's counsel, the deadline for Birdsall to provide Commission Staff with a response to the Demand was extended to August 12, 2024.
9. On August 9, 2024, at the request of Birdsall's counsel, the deadline for Birdsall to comply with the Demand was extended again to September 16, 2024.
10. On September 11, 2024, Birdsall's counsel requested a third extension of the deadline for Birdsall to comply with the Demand. Commission Staff did not agree to grant the extension.
11. To date, Commission Staff have not received any records from Birdsall under the Demand.

Hearing Process

- ¶ 2 The Respondent or his counsel are required to attend at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on **Tuesday, November 12, 2024 at 9:00 a.m.** if the Respondent wishes to be heard before the Commission sets a date for the Hearing. Relevant information gathered by Commission Staff in the investigation of this matter will be disclosed to the Respondent upon request to the Executive Director.
- ¶ 3 At the Hearing, the Respondent may be represented by counsel, make submissions and tender evidence. The Respondent is requested to advise the Commission of his intention to attend the Hearing by informing the Hearing Office at PO Box 10142, Pacific Centre, 701 West Georgia Street, Vancouver, BC V7Y 1L2 phone: (604) 899-6500; email: hearingoffice@bcsc.bc.ca.
- ¶ 4 If the Respondent or his counsel do not appear at the Hearing, the Executive Director may apply to have questions of liability and sanction heard at the same time. Determinations adverse to the Respondent may be made in his absence.

- ¶ 5 Orders made against the Respondent in this matter may automatically take effect against them in other Canadian jurisdictions, without further notice to the Respondent.

Peter J. Brady
10/03/2024 | 12:44 PM PDT

- ¶ 6 Peter J. Brady
Executive Director