

**IN THE MATTER OF THE SECURITIES ACT,  
[RSBC 1996] CHAPTER 418  
AND  
IN THE MATTER OF THE INVESTMENT DEALER AND PARTIALLY  
CONSOLIDATED RULES AND TEYMUR ENGLESBY AND CALE NISHIMURA**

**NOTICE OF APPLICATION**

**Applicants: Teymur Englesby and Cale Nishimura**

**TO: BRITISH COLUMBIA SECURITIES COMMISSION**

TAKE NOTICE that an application will be made by the applicants to the British Columbia Securities Commission ("BCSC") at 701 West Georgia Street, Vancouver, BC V7Y 1L2 on a date and time to be determined for the orders set out in Part 1 below.

**PART 1: ORDER(S) SOUGHT**

1. An order that this application be heard by way of an oral hearing;
2. An order striking CIRO Enforcement Staff's (i) request for a hearing and review, dated August 12, 2024; and (ii) Statement of Points, dated October 10, 2024, due to lack of standing and want of jurisdiction;
3. An order dismissing the relief sought by CIRO Enforcement Staff in its Statement of Points; and
4. Such further relief as counsel to the Respondents may request and the Commission may permit.

**PART 2: FACTUAL BASIS**

1. On September 27, 2023, a Notice of Hearing and Statement of Allegations was issued by the Canadian Investment Regulatory Organization ("**CIRO**") alleging that Teymur Englesby and Cale Nishimura failed to fulfill their role as gatekeepers to the capital markets, contrary to Investment Dealer and Partially Consolidated Rule 1400.

2. On July 22, 2023, a decision was issued dismissing the allegations against Messrs. Englesby and Nishimura in their entirety (the “**Decision**”).
3. On August 12, 2024 CIRO Enforcement Staff requested a hearing and review of the Decision pursuant to s. 28 of the *Securities Act*, R.S.B.C. 1996, c. 418 (the “**Act**”) and Part 7 of BC Policy 15-601 on the basis that, “CIRO Enforcement Staff was a party to the enforcement proceeding and CIRO is a person directly affected by the decision”.
4. The Respondents bring this application on the basis that neither CIRO Enforcement Staff nor CIRO are a person directly affected by the Decision within the meaning of s. 28 of the Act, such that neither have standing to seek this hearing and review under the Act or otherwise and the Commission has no jurisdiction to consider the hearing and review.

### **PART 3: LEGAL BASIS**

5. The Respondents will rely on the following legislation, policy and rules:
  - (a) *Securities Act*, R.S.B.C. 1996, c. 418, as amended;
  - (b) *Securities Act*, R.S.A. 2000 cS-4, as amended;
  - (c) *Securities Act*, R.S.O. 1990, c. S.5, as amended;
  - (d) BC Policy 15-601 *Hearings*; and
  - (e) Investment Dealer and Partially Consolidated Rules.

### **PART 4: MATERIAL TO BE RELIED ON**

1. Merits Hearing Record;
2. The applicant’s written submissions made in support of this application, dated November 8, 2024; and

3. Such further and other materials as counsel to the Applicants may advise and the Commission may permit.

DATE: November 8, 2024



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**OWAIS AHMED & JESSICA MANK**

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Englesby & Cale Nishimura

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