

VANCOUVER

CA 041292

OCT 16 2013

Court of Appeal File No.

COURT OF APPEAL  
REGISTRY COURT OF APPEAL

IN THE MATTER OF THE SECURITIES ACT  
R.S.B.C. 1996, c. 418

BETWEEN:

**MANJIT SINGH SIHOTA, and  
PERMINDER SIHOTA**

APPELLANTS

AND:

- AND -

**BRITISH COLUMBIA SECURITIES COMMISSION and  
THE EXECUTIVE DIRECTOR OF THE BRITISH COLUMBIA  
SECURITIES COMMISSION**

RESPONDENTS

**NOTICE OF APPLICATION FOR LEAVE TO APPEAL**

TAKE NOTICE that the Appellants, Manjit Singh Sihota and Perminder Sihota hereby apply for leave to appeal to the Court of Appeal for British Columbia from the decision of a hearing panel (the “Panel”) of the British Columbia Securities Commission (“Commission”) rendered on the 11th day of October, 2013 at Vancouver, British Columbia (the “Decision”).

1. The appeal is from a:

- |   |   |
|---|---|
| <input type="checkbox"/> Trial Judgment                       | <input type="checkbox"/> Summary Trial Judgment |
| <input checked="" type="checkbox"/> Order of a Statutory Body | <input type="checkbox"/> Chambers Judgment      |

2. If the appeal is from an appeal under Rule 18-3 or 23-6 (8) of the *Supreme Court Civil Rules* or Rule 18-3 or 22-7 (8) of the *Supreme Court Family Rules*, name the maker of the original decision, direction or order: N/A

3. Please identify which of the following is involved in the appeal:

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Constitutional/Administrative | <input type="checkbox"/> Civil Procedure         | <input type="checkbox"/> Commercial    |
| <input type="checkbox"/> Family                                   | <input type="checkbox"/> Motor Vehicle Accidents | <input type="checkbox"/> Municipal Law |
| <input type="checkbox"/> Real Property                            | <input type="checkbox"/> Torts                   | <input type="checkbox"/> Equity        |
| <input type="checkbox"/> Wills and Estates                        |  |  |

AND FURTHER TAKE NOTICE that the Court of Appeal will be moved at the hearing of this application for an Order that:

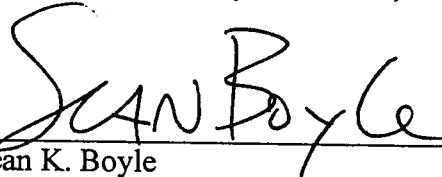
1. leave to appeal be granted;
2. if leave to appeal is granted, the following orders be made at the hearing of the appeal:
  - (a) an order that the Decision be set aside;
  - (b) an order that the Commission proceeding naming the Appellants as Respondents, pursuant to the Notice of Hearing dated August 2, 2012, be permanently stayed; and
  - (c) an order that the Appellants be granted their costs of the Appeal.

The grounds of appeal are that the Panel:

1. erred in law by failing to consider and conclude that *ex-parte* communications between the prosecutorial and adjudicative branches of the Commission in connection with an ongoing proceeding compromised the independence of the adjudicative branch of the Commission;
2. erred in law by failing to conclude that *ex-parte* communications between the prosecutorial and adjudicative branches of the Commission in connection with an ongoing proceeding resulted in a reasonable apprehension of bias;
3. erred in law and principle by admitting a letter from counsel dated September 12, 2013 into evidence and relying on such letter in the Decision; and
4. such further grounds as counsel may advise and this Honourable Court may permit.

The hearing of this proceeding occupied one day.

DATED at Vancouver, British Columbia, on this 16<sup>th</sup> day of October, 2013.

  
Sean K. Boyle  
Solicitor for the Appellants,  
Manjit Singh Sihota and Perminder Sihota

To the Respondents:  
And to Their Solicitor:

TO: Executive Director of the British  
Columbia Securities Commission  
c/o McCarthy Tétrault LLP  
Barristers and Solicitors  
1300 – 777 Dunsmuir Street  
PO Box 10424, Pacific Centre  
Vancouver, BC V7Y 1K2  
Attention: Leonard T. Doust, Q.C.

TO: British Columbia Securities Commission  
701 West Georgia Street  
PO Box 10142, Pacific Centre  
Vancouver, BC V7Y 1L2

This NOTICE OF APPLICATION FOR LEAVE TO APPEAL is given by Sean K. Boyle, of the firm BLAKE, CASSELS & GRAYDON LLP, Solicitors for the Appellants, whose address for service is Suite 2600, Three Bentall Centre, 595 Burrard Street, P.O. Box 49314, Vancouver, British Columbia, V7X 1L3. Telephone: 604.631.3300. Facsimile: 604.631.3309.

To the Respondents:

IF YOU INTEND TO PARTICIPATE in this proceeding, YOU MUST GIVE NOTICE of your intention by filing a form entitled "Notice of Appearance" (Form 2 of the Court of Appeal Rules) in a Court of Appeal registry and serve the notice of appearance on the appellant WITHIN 10 DAYS of receiving this Notice of Application for Leave to Appeal.

IF YOU FAIL TO FILE A NOTICE OF APPEARANCE,

- (a) you are deemed to take no position on the application, and
- (b) the parties are not obliged to serve you with any further documents related to the application.

The filing registries for the British Columbia Court of Appeal are as follows:

Central Registry:  
B.C. Court of Appeal  
Suite 400, 800 Hornby Street  
Vancouver, BC V6Z 2C5

Other Registries:

B.C. Court of Appeal  
The Law Courts  
P.O. Box 9248 STN PROV GOVT  
850 Burdett Ave.  
Victoria, BC V8W 1B4

B.C. Court of Appeal  
223 - 455 Columbia Street  
Kamloops, B.C. V2C 6K4

Inquiries should be addressed to (604) 660-2468  
Fax filings: (604) 660-1951