

VANCOUVER

OCT 16 2013

CA 041294

COURT OF APPEAL
REGISTRY

Court of Appeal File No.

COURT OF APPEAL

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

BETWEEN:

THALBINDER SINGH POONIAN and SHAILU SHARON POONIAN

APPELLANTS

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, Thalbinder Singh Poonian and Shailu Sharon Poonian, 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 (the "Commission") pronounced on the 11th day of October, 2013 at Vancouver, British Columbia (the "Decision").

1. The appeal is from a:

☐ Trial Judgment

☐ Summary Trial Judgment

☒ Order of a Statutory Body

☐ Chambers Judgment

2. If the appeal is from an appeal under Rule 18-3 or 3-6(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:

☒ Constitutional/Administrative ☐ Civil Procedure ☐ Commercial

☐ Family ☐ Motor Vehicle Accidents ☐ Municipal Law

☐ Real Property ☐ Torts ☐ Equity

☐ 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:

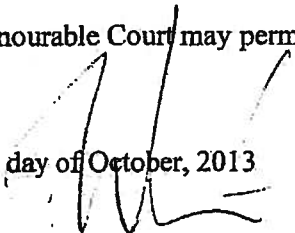
1. leave to appeal the Decision be granted; and
2. if leave to appeal is granted:
 - a. an order that the Decision be set aside;
 - b. an order permanently staying the proceedings against the Appellants; and
 - c. an order that the Appellants be granted their costs of the appeal.

The grounds of appeal are that:

1. the Panel erred in law and exceeded its jurisdiction, or in the alternative, acted unreasonably, in admitting and relying on the letter of Len Doust, Q.C., external counsel for the Executive Director, dated September 12, 2013 (the "Letter") as evidence in the application;
2. the Panel erred in law and exceeded its jurisdiction, or in the alternative, acted unreasonably, in relying on the Letter for the truth of its contents;
3. the Panel erred in law and exceeded its jurisdiction, or in the alternative, acted unreasonably, in finding that the *ex parte* communication between representatives of the Executive Director and representatives of the Commission did not give rise to a reasonable apprehension of bias;
4. the Panel failed to consider and address the Appellants' submissions that they were denied procedural fairness and natural justice; and
5. such further grounds as counsel may advise and this Honourable Court may permit.

The hearing of this proceeding occupied 1 day.

Dated at Vancouver, British Columbia, this 16th day of October, 2013



Jeremy D. West
Solicitor for the Appellants,
Thalbinder Singh Poonian and Shailu
Sharon Poonian

To the Respondents:
And to Their Solicitor:

TO: Executive Director of the British
Columbia Securities Commission
c/o McCarthy Tetrault LLP
Barristers & Solicitors
1300 – 777 Dunsmuir Street
PO Box 10424, Pacific Centre
Vancouver, BC V7Y 1K2

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

Attention: Leonard T. Doust, QC

This Notice of Leave to Appeal is given by Jeremy D. West, of the firm Watson Goepel LLP, Solicitors for the Appellants, whose address for service is Suite 1700, 1075 West Georgia Street, Vancouver, BC, V6E 3C9. Telephone: 604-688-8193. Facsimile: 604-688-8193.

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

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

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

Central Registry:

B.C. Court of Appeal
The Law Courts
800 Smithe Street
Vancouver BC V6Z 2E1

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 BC V2C 6K4

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