

IN THE MATTER OF
THE BRITISH COLUMBIA SECURITIES COMMISSION

- AND -

THALBINDER SINGH POONIAN, SHAILU SHARON POONIAN,
ROBERT JOSEPH LEYK, MANJIT SINGH SIHOTA, and
PERMINDER SIHOTA

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

NOTICE OF APPLICATION

Name of applicants: Manjit Sihota and Perminder Sihota

TO: The Executive Director of the British Columbia Securities Commission
("Executive Director")
Attention: Paige Leggat, Litigation Counsel

AND TO: Thalbinder Singh Poonian and Shailu Sharon Poonian
Attention: Jeremy West

TAKE NOTICE that an application will be made by the Applicants to the British Columbia Securities Commission ("Commission") at 701 West Georgia Street, Vancouver, B.C. on a date and time to be determined for the order set out in Part 1 below.

Part 1: ORDER SOUGHT

1. An order permanently staying the proceedings against Manjit Sihota and Perminder Sihota commenced pursuant to a Notice of Hearing issued by the Executive Director on August 2, 2012.

Part 2: GROUNDS FOR ORDER SOUGHT

1. On April 12, 2013, representatives of the Executive Director acting within their prosecutorial or enforcement mandate engaged in *ex parte* communications with representatives of the Commission acting within the adjudicative mandate of the Commission.

Affidavit #1 of A. Kapchinsky sworn August 13, 2013, para 15, Exhibit "N"

2. The apparent intention of the *ex parte* communication was to provide the Executive Director with an advantage in a proposed appeal of an extension of a Temporary Order issued in this proceeding.

Affidavit #1 of A. Kapchinsky sworn August 13, 2013, para 15, Exhibit "N"

3. It appears that as a result of the *ex parte* communication the hearing panel was influenced either directly or indirectly.

Affidavit #1 of A. Kapchinsky sworn August 13, 2013, para 13, Exhibits "L"

4. The Executive Director has refused to acknowledge or deny the existence of other *ex parte* communications with representatives of the Commission acting within their adjudicative mandate in connection with the Applicants.

Affidavit #1 of A. Kapchinsky sworn August 13, 2013, paras 17 to 19, Exhibits "P" to "R"

5. Accordingly, the within proceeding is irreparably tainted such that a permanent stay of proceedings ought to be granted.

Affidavit #1 of M. Sihota, sworn August 13, 2013

6. The *ex parte* communications between representatives of the Executive Director and representatives of the Commission and the lack of transparency of those communications, deny the Applicants the requisite procedural fairness and natural justice.

7. Further, and in the alternative, an informed person, viewing the matter realistically and practically would conclude that the *ex parte* communications about this proceeding between Commission staff prosecuting this enforcement matter and Commission staff assisting with the adjudication of this same enforcement matter are unfair and create an apprehension of bias.

Part 3: MATERIAL TO BE RELIED ON

1. Affidavit #1 of April Kapchinsky, made on 13/August/2013.

2. Affidavit #1 of Manjit Sihota, made on 13/August/2013.

The applicant estimates that the application will take half a day.

Date: 13/August/2013

A handwritten signature in cursive script that reads "Sean Boyle". The signature is written in black ink and is positioned above a horizontal line.

Signature of
 applicant lawyer for applicants
Sean K. Boyle