

VANCOUVER

CA 46428

OCT 10 2019

Court of Appeal File No. _____

**COURT OF APPEAL
REGISTRY**

COURT OF APPEAL

BETWEEN:

BRITISH COLUMBIA SECURITIES COMMISSION

RESPONDENT (Tribunal)

AND:

THE EXECUTIVE DIRECTOR OF THE BRITISH COLUMBIA SECURITIES COMMISSION

RESPONDENT (Plaintiff)

AND:

JUSTIN EDGAR LIU AND LUKOR CAPITAL CORP.

APPELLANTS (Defendants)

BRIDGEMARK FINANCIAL CORP., JACKSON & COMPANY PROFESSIONAL CORP., ANTHONY KEVIN JACKSON, ROCKSHORE ADVISORS LTD. (formerly known as CAM PADDOCK ENTERPRISES INC.), CAMERON ROBERT PADDOCK, SIMRAN SINGH GILL, JCN CAPITAL CORP., JOHN ROSARINO BEVILACQUA, ESSOS CORPORATE SERVICES INC., SWAY CAPITAL CORP., VON ROWELL TORRES, DAVID MATTHEW SCHMIDT, DETONA CAPITAL CORP., DANILEN VILLANUEVA, NATASHA JON EMAMI, ALTITUDE MARKETING CORP., RYAN PETER VENIER, PLATINUM CAPITAL CORP., 658111 B.C. LTD., JASON CHRISTOPHER SHULL, TRYTON FINANCIAL CORP., ABEIR HADDAD, TAVISTOCK CAPITAL CORP., ROBERT JOHN LAWRENCE, JARMIN CAPITAL INC., SCOTT JASON JARMAN, NORTHWEST MARKETING AND MANAGEMENT INC., ALY BABU HUSEIN MAWJI, RUFIZA BABU HUSEIN MAWJI-ESMAIL, DENISE MARIE TRAINOR, RANDY WHITE, ESCHER INVEST SA, HUNTON ADVISORY LTD., KENDL CAPITAL LIMITED, 1153307 B.C. LTD., RUSSELL GRANT VAN SKIVER, BERTHO HOLDINGS LTD., ROBERT WILLIAM BOSWELL, HAIGHT-ASHBURY MEDIA CONSULTANTS LTD., ASHKAN SHAHROKHI, SAIYA CAPITAL CORPORATION, TARA KERRY HADDAD, KEIR PAUL MACPHERSON, TOLLSTAM & COMPANY CHARTERED ACCOUNTANTS, ALBERT KENNETH TOLLSTAM, 727 CAPITAL, DAVID RAYMOND DUGGAN, VIRAL STOCKS INC., 10X CAPITAL, CRYPTOBLOC TECHNOLOGIES CORP., NEW POINT EXPLORATION CORP., GREEN 2 BLUE ENERGY CORP., BLOK TECHNOLOGIES INC., KOOTENAY ZINC CORP., AFFINOR GROWERS INC., LIHT CANNABIS CORP. (formerly known as MARAPHARM VENTURES INC.), PREVECEUTICAL MEDICAL INC., SPEAKEASY CANNABIS CLUB LTD., AND ABBATIS BIOCEUTICALS CORP.

RESPONDENTS (Defendants)

AND:

CAMP FIORANTE MATTHEWS MOGERMAN LLP

RESPONDENT (Non-Party Applicant)

NOTICE OF APPLICATION FOR LEAVE TO APPEAL

Take notice that Justin Edgar Liu and Lukor Capital Corp. 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 the 10th day of September, 2019, at Vancouver, British Columbia.

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 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:

 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. The Panel's decision pronounced on September 10, 2019, with Reasons for Decisions dated September 12, 2019, indexed as 2019 BCSSECCOM 331 (the "Decision") be stayed pending the determination of this Appeal;
2. This application be heard at the same time as any other application(s) for leave to appeal the Panel's Decision;

3. The Respondent/Non-Party Applicant Camp Fiornate Matthews Mogerman LLP be denied access to the affidavit exhibits #1 – 7 (the "Documents") filed in the Commission's proceedings for use in civil proceedings;
4. The appellants be given leave to adduce evidence for the purposes of this Appeal; and
5. Costs of this proceeding be awarded to the appellants.

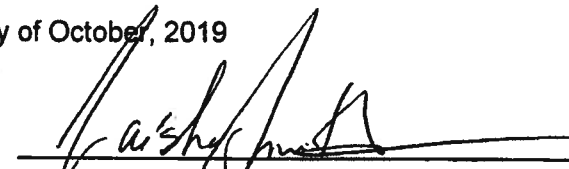
The grounds of appeal are:

1. The Panel erred in law in finding that the procedures for seeking and extending temporary orders, pursuant to Sections 161(2) and 161(3) of the *Securities Act*, constitute a "hearing" under Section 19 of the *Securities Regulation* and Section 7.5 of BC Policy 15-601 – *Hearings*.
2. The Panel erred in law in concluding, when balancing the importance of the open court principle against the potential prejudice to the parties, that there is no fundamental difference between an interim proceeding and an enforcement hearing on the merits of the allegations made in a notice of hearing.
3. The Panel erred in law in its finding that the public duty exception to the Commission's obligation to keep information confidential, pursuant to Section 11(1) of the *Securities Act*, allows for the provision of information to third-parties for use in separate civil litigation proceedings.
4. The Panel erred in law by misapplying the implied undertaking rule by:
 - a. incorrectly concluding that the mere filing of the Documents in the Commission proceedings rendered the information public;
 - b. incorrectly concluding that absent a confidentiality order, the Documents should be made available to the public;
 - c. failing to recognize that the principles behind the implied undertaking rule may outweigh the open court principle in relation to information filed in an affidavit in interim proceedings as opposed to evidence tendered at an enforcement hearing on the merits;
 - d. failing to recognize that the nature of information in affidavits of Commission staff in support of an interim application in connection with an ongoing investigation differs from evidence vetted during an enforcement hearing that then becomes a part of the hearing record; and

- e. by granting the release of the Documents to Camp Fiorante Matthews Mogerman LLP for a collateral purpose outside the Commission proceedings for which it was produced.
5. Such other grounds as counsel may advise prior to the Hearing of the Leave to Appeal and this Court may permit.

The proceeding before the Commission proceeded by way of written submissions.

Dated at Vancouver, British Columbia, this 10th day of October, 2019


 Solicitor for the Appellant
 J. Kenneth McEwan, Q.C.

To the Respondent: **British Columbia Securities Commission**

And to its solicitor: Ann Gander, Secretary to the Commission
 12th Floor, 701 West Georgia St.
 Vancouver BC V7Y 1L2

To the Respondent: **The Executive Director of the British Columbia Securities Commission**

And to its solicitor: Graham MacLennan, counsel to the Commission
 12th Floor, 701 West Georgia St.
 Vancouver BC V7Y 1L2

To the Respondents: **BridgeMark Financial Corp., Jackson & Company Professional Corp., Anthony Kevin Jackson and Kootenay Zinc Corp.**

And to their solicitor: Patrick J. Sullivan
 Taylor Veinotte Sullivan
 502 – 1168 Hamilton Street
 Vancouver, B.C. V6B 2S2

To the Respondents: **Rockshore Advisors Ltd. (formerly known as Cam Paddock Enterprises Inc.) and Cameron Robert Paddock**

And to their solicitor: Andrew Crabtree
Crabtree Law
502-1168 Hamilton St.
Vancouver BC V6B 2S2

To the Respondent: **Simran Singh Gill**

And to its solicitor: Patricia Taylor
Patricia Taylor Law Group
500 – 666 Burrard Street
Vancouver, BC V6C 3P6

To the Respondent: **JCN Capital Corp. and John Rosario Bevilacqua**

And to their solicitors: Peter Senkpiel and Emily Hansen
Nathanson Schachter & Thompson LLP
750-900 Howe St.
Vancouver BC V6Z 2M4

To the Respondent: **Essos Corporate Services Inc.**
800 – 1199 West Hastings St
Vancouver, B.C. V6E 3T5

To the Respondents, **New Point Exploration Corp., Cryptobloc Technologies Corp., Tavistock Capital Corp., Robert John Lawrence, Sway Capital Corp., Jason Christopher Shull, Platinum Capital Corp., 658111 B.C. Ltd., Robert William Boswell, Bertho Holdings Ltd., David Matthew Schmidt and BLOK Technologies Inc. Abbatis Bioceuticals Corp.**

And to their solicitors: Rod Anderson and Daniel Yaverbaum
Harper Grey LLP
3200-650 West Georgia St.
Vancouver BC V6B 4P7

To the Respondents: **Von Rowell Torres and Essos
Corporate Services Inc.**

And to their solicitor: Tam Boyar
MacKay Boyar Law Corporation
The Landing
620 – 375 Water Street
Vancouver, B.C. V6B 5C6

To the Respondents: **Detona Capital Corp. and Danilen
Villanueva**

And to their solicitors: Sean K. Boyle and Jenna Green
Blake, Cassels & Graydon LLP
2600 - 595 Burrard Street
Vancouver, B.C. V7X 1L3

To the Respondent: **Natasha Jon Emami**
4004 Delbrook Avenue
Vancouver BC V7N 3Z8

To the Respondents: **Altitude Marketing Corp., Ryan Peter
Venier, Tollstam & Company
Chartered Accountants and Albert
Kenneth Tollstam**

And to their solicitors: Lisa Ridgedale and Scott Marescaux
Hakemi & Ridgedale LLP
1500-888 Dunsmuir St.
Vancouver, BC V6C 3K4

To the Respondents: **Tryton Financial Corp., Saiya Capital
Corporation, Abeir Haddad and Tara
Kerry Haddad**

And their solicitors: Brigeeta Richdale and Jessica Lewis of
Cassels Brock & Blackwell LLP
Suite 2200, HSBC Building
885 West Georgia Street
Vancouver, BC V6C 3E8

To the Respondents: **Jarman Capital Inc. and Scott Jason Jarman**

And to their solicitor: Shane D. Coblin
Kornfeld LLP
1100 One Bentall Centre
505 Burrard St.
Vancouver BC V7X 1M5

To the Respondents: **Northwest Marketing and Management Inc., Denise Marie Trainor, Aly Babu Husein Mawji and Rufiza Babu Husein Mawji-Esmail**

And to their solicitor: Abbas Sabur
Shapray Cramer Fitterman Lamer LLP
670-999 Canada Place
Vancouver, BC
V6C 3E1

To the Respondents: **Randy White, Escher Invest SA, Hunton Advisory Ltd. and Kendl Capital Limited**

And to their solicitor: Teresa M. Tomchak
Farris, Vaughn, Wills & Murphy LLP
2500-700 W Georgia Street
Vancouver, BC V7Y 1B3

To the Respondents: **1153307 B.C. Ltd. and Russell Grant Van Skiver**

And to their solicitor: Harveen Thauli
Thauli Law
170-422 Richards St.
Vancouver BC V6B 2Z4

To the Respondents: **Haight-Ashbury Media Consultants Ltd. and Ashkan Shahrokhi**

And to their solicitor: Ronald Josephson
Singleton Urquhart Reynolds Vogel LLP
1200-925 West Georgia St.
Vancouver BC V6C 3L2

To the Respondent: **Keir Paul MacPherson**
6210 Sunshine Coast Highway
Sechelt, B.C. V0N 3A7

To the Respondents: **David Raymond Duggan, Viral**
Stocks Inc., 727 Capital and 10X
Capital

And to their solicitor: David P. Church, Q.C.
Church & Company
900-1040 West Georgia St.
Vancouver BC V6E 4H1

To the Respondents: **Green 2 Blue Energy Corp. and**
Affinor Growers Inc.

And to their solicitor: Desmond M. Balakrishnan
McMillan LLP
Royal Centre, suite 1500
1055 West Georgia St.
Vancouver BC V6E 4N7

To the Respondent: **Liht Cannabis Corp. (formerly known**
as Marapharm Ventures Inc.)

And to its solicitor: Samuel K. A. Osei
Samuel Osei Law Corporation
605-815 Hornby St.
Vancouver BC V6Z 2E6

To the Respondent: **PreveCeutical Medical Inc.**

And to its solicitor: Jonathon Lotz
Lotz & Company
1170-1040 West Georgia St.
Vancouver BC V6E 4H1

and

R. Barry Fraser
Fraser Litigation Group
1100-570 Granville St.
Vancouver BC V6C 3P1

To the Respondent: **Speakeasy Cannabis Club Ltd.**

And to its solicitor: Steve Warnett
Borden Ladner Gervais
1200 Waterfront Centre
200 Burrard Street
Vancouver, BC V7X 1T2

To **Camp Fiorante Matthews Mogerman
LLP**

And to its solicitor: Reidar Mogerman
Camp Fiorante Mathew Mogerman LLP
400-856 Homer St.
Vancouver BC
Canada V6B 2W5

This Notice of Leave to Appeal is given by: Justin Edgar Liu and Lukor Capital Corp.

Whose address for service is: McEwan Cooper Dennis LLP
#900 – 980 Howe Street
Vancouver, BC V6Z 0C8
**Attention: J. Kenneth McEwan, Q.C. and
Laésha J. Smith**

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 BC V2C 6K4

Inquiries should be addressed to (604) 660-2468

Fax filings: (604) 660-1951