

VANCOUVER
DEC 27 2018
COURT OF APPEAL
REGISTRY

British Columbia Court of Appeal

In the Matter of the *Securities Act*, RSBC 1996, c. 418



NOTICE OF APPLICATION FOR LEAVE TO APPEAL

Appellant: ROBERT JOSEPH LEYK,

Respondents: The Executive Director of the British Columbia Securities Commission
("Executive Director") and British Columbia Securities Commission

1. TAKE NOTICE that the Appellant, Robert Joseph Leyk, hereby apply for leave to the Court of Appeal for British Columbia from the decisions of a hearing panel (the Panel) of the British Columbia Securities Commission ("Commission") the Liability Decision dated ~~(August 29, 2014)~~ ^{the} Sanction Decision dated ~~(March 13, 2015)~~ ^{Decision dated (October 31, 2017)} dismissing BCSC's requirements for disclosure, Decision dated December 5, 2018 dismissing BCSC's requirement to provide notice of service and by failing to provide a decision on the Appellant's MALICIOUS PROSECUTION APPLICATION dated ~~(January 26, 2018)~~ ^{RX}
2. The appeal is from Orders of a **Statutory Body**.
3. The appeal involves **Constitutional/Administrative**

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

- a. Leave to appeal be granted;
- b. if leave to appeal is granted, the following orders be made at the hearing of the appeal:
 1. An order permanently staying the Liability Decision dated August 29, 2014 and the Sanction Decision dated March 13, 2015, against ROBERT JOSEPH LEYK;
 2. In the alternative, an order stating that a new hearing take place in which Robert Joseph Leyk can defend himself against the allegations of BCSC, while setting aside the Liability Decision dated August 29, 2014 and the Sanction Decision dated March 13, 2015, against ROBERT JOSEPH LEYK;

3. an order that, the Commission provide a decision on the Appellant's MALICIOUS PROSECUTION APPLICATION dated January 26, 2018;
- ~~pt~~ 4. a declaration of constitutional invalidity of the Panel's application of sections 161 and 162 of the Securities Act, R.S.B.C 1996, c 418 (the "Securities Act") and BC Policy 15-601 in the Liability Decision dated August 29, 2014, the Sanction Decision dated March 13, 2015, Decision dated October 31, 2017 dismissing BCSC's requirements for disclosure, Decision dated December 5, 2018 dismissing BCSC's requirement to provide notice of service and failing to provide a decision on the Appellant's MALICIOUS PROSECUTION APPLICATION dated January 26, 2018, pursuant to s 52 of the Constitution Act, 1982, as the appropriate and just remedy under s. 24 (1) of the Canadian Charter of Rights and Freedoms, for infringement of s. 7, 11, and 12 of the Charter on the grounds that the decisions are arbitrary, overall broad, levies a disproportionate administrative penalty upon the Appellant, and unjustly restricts his ability to conduct private business, resulting in the deprivation of his right to liberty and security of the person in a manner that does not accord with the principles of fundamental justice. Robert Joseph Leyk has never been given an opportunity to defend himself from the allegations by British Columbia Securities Commission;
- ~~pt~~ 5. an order that the Appellant be granted their costs of the Appeal.

THE GROUNDS FOR APPEAL ARE THAT THE PANEL:

1. erred in law in failing to observe the principles of natural justice and procedural fairness by refusing to order the Executive Director to make complete disclosure of all documents in existence and in his possession, in breach of the requisite disclosure obligation as per BC Policy 15-601 Sec 2.6;
2. erred in law and exceeded its jurisdiction by failing to consider and concluding that the Executive Director's obligations to provide notice of the proceedings to Robert Leyk as per BCSC Policy 15-601 Sec 2.6 were not required;
3. erred in law and exceeded its jurisdiction in ordering a Sanction decision against the Appellant that is in pith and substance, penal and not administrative, which is not in the public interest and contrary to section 7, 11, 12 and 24 of the Charter and principles of fundamental justice;
4. erred in law and exceeded its jurisdiction in ordering a Liability decision against the Appellant that is arbitrary, overly broad and disproportionate and contrary to section 7, 11, 12, and 24 of the Charter and principles of fundamental justice;
5. erred in law and exceeded its jurisdiction in ordering decisions against the Appellant by not providing decision makers that were objective, independent, un-biased, and transparent. As of July 2014, the Panel Chair Wiltshire's appointment was illegal. Therefore Ms Wiltshire was not objective, independent, un-biased and transparent to adjudicate. Furthermore Ms Wiltshire's compensation between July 2014 to December 31, 2018 from BCSC can be

considered proceeds of crime. Any decisions she has made after July 2014 are tainted and self-serving, are not in the public interest and contrary to section 7, 11, 12 and 24 of the Charter and principles of fundamental justice;

6. erred in law and exceeded its jurisdiction by failing to provide a decision on the Appellant's MALICIOUS PROSECUTION APPLICATION dated January 26, 2018 and are not in the public interest and contrary to section 7, 11, 12 and 24 of the Charter and principles of fundamental justice;
7. such further grounds as counsel may advise and this Honourable Court may permit.

The hearings of this proceeding were done by the panel without any participation from the Appellant, Robert Joseph Leyk.

To the Respondents and to its solicitors:

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This Notice of Application for Leave to Appeal is given by Robert Joseph Leyk, Appellant, whose address for service is suite 231- 10180 153rd St, Surrey, BC, V3R 0B5, email: leyk.robber@ gmail.com ph: 778-386-0961

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 registry for British Columbia Court of Appeals is:

Central Registry:

**BC Court of Appeal
Suite 400, 800 Hornby Street
Vancouver, BC V6Z 2C5**

Inquires should be addressed to 604-660-2468, fax filing 604-660-1951

Dated December , 2018 at Vancouver, British Columbia.

**Signature of Robert Joseph Leyk
Applicant**