

VANCOUVER

MAY 06 2019

**COURT OF APPEAL
BETWEEN
REGISTRY**

CA 46062

Court of Appeal File No.

BCSC No. 2019 BCSECOM 123

COURT OF APPEAL

**Mountainstar Gold
Inc. and Brent Hugo
Johnson**

Appellants

AND:

British Columbia Securities Commission

Respondent

**NOTICE OF APPLICATION FOR LEAVE TO APPEAL
[Pursuant to s.167(1) Securities Act,1996, c.418]**

Take notice that **Mountainstar Gold Inc. and Brent Hugo Johnson**, hereby apply for leave to appeal to the Court of Appeal for British Columbia from the order of Judith Downes, Audrey T. Ho, and Don Rowlatt, Commissioners, of the British Columbia Securities Commission, pronounced the 9th day of April, 2019 at Vancouver, British Columbia.

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. Leave be granted to appeal the above-noted decision(s) as to liability and penalty, and a further order that the decision be stayed pending appeal;

2. Such other and further relief as counsel may advise and this Honourable Court grant.

The grounds of appeal are:

1. That the Commission erred, in law, in its interpretation and application of ss.168.1(1)(b), and 168.2 of the *Securities Act* in its ruling on liability on October 12th, 2018, incorporated as part of its decision pronounced April 9th, 2019;
2. That the Commission erred, in law, in violating s.173 of the *Securities Act*, and by breaching the Appellants' rights to natural and fundamental justice in denying the Appellants the opportunity to tender relevant and material evidence bearing on the issues before it;
3. That the Commission erred, in law, by breaching the appellants' rights to natural and fundamental justice in denying the Appellants the right to full disclosure;
4. That the Commission erred, in law, by breaching the Appellants' rights to natural and fundamental justice by acting on perjured evidence;
5. That the Commission erred, in law, by breaching the Appellants' rights to natural and fundamental justice in denying the Appellants the consideration and treatment required, as set out by the Supreme Court of Canada, of self-represented parties;
6. That the Commission erred, in law, by breaching the Appellants' rights to natural and fundamental justice by its palatable errors in not giving regard to evidence, ignoring and suppressing evidence, and wholly misapprehending the evidence before it, relevant and material to the issues and findings by it;
7. Such further and other grounds as counsel may advance and this Honourable Court entertain.

The hearing of this proceeding occupied seven (7) days.

Dated at Vancouver, British Columbia, this 5th day of May, 2019.



Lawrence Wong/ Rocco Galati
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Solicitor for the Appellants

To the respondent(s): British Columbia Securities Commission

And to its solicitor: Stephen Zolnay/ Nicholas Isaac

This Notice of Leave to Appeal is given by Lawrence Wong/ Rocco Galati,
whose address for service is: 215-8600 Cambie Road, Richmond, B.C. V6X 4J9

To the respondent(s):

British Columbia Securities Commission

P.o. Box 10142, Pacific Centre

701 West Georgia Street

Vancouver, B.C. V7Y 1L2

Tel:604-899-6500: Fax: 604-899-6506

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) 660-951