

VANCOUVER

MAY 13 2019

COURT OF APPEAL  
REGISTRY

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Court of Appeal File No. \_\_\_\_\_

CA 46084

**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 decision dated April 18, 2019, of a hearing panel of the British Columbia Securities Commission ("BCSC") the Appellant's MALICIOUS PROSECUTION APPLICATION.
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 Ex-parte Liability Decision dated August 29, 2014 and the Ex-parte 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 has the opportunity to defend himself against the allegations of BCSC, while setting aside the Ex-parte Liability Decision dated August 29, 2014 and the Ex-parte Sanction Decision dated March 13, 2015, against ROBERT JOSEPH LEYK;
  3. an order that, a declaration of constitutional invalidity of the Panel's application of section 57(a) of the Securities Act, R.S.B.C 1996, c 418 (the "Securities Act") and BC Policy 15-601 in the Ex-parte Liability Decision dated August 29, 2014, the Ex-parte 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 Decision dated April 18, 2019 dismissing MALICIOUS PROSECUTION APPLICATION, 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 in Canada. Robert Joseph Leyk has never been given an opportunity to defend himself from the allegations by British Columbia Securities Commission;

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 Ex-parte Liability Decision dated August 29, 2014, the Ex-parte 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 decision dated April 18, 2019 dismissing MALICIOUS PROSECUTION APPLICATION, 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;
5. an order that the Appellant be granted their costs of the Appeal and further relief as this Honourable Court may grant.

**THE GROUNDS FOR APPEAL ARE THAT THE PANEL:**

1. erred in law in failing to observe the principles of natural justice and procedural fairness as set out by Supreme Court of Canada and requisite disclosure obligation as per BC Policy 15-601 Sec 2.6, by refusing to order the Executive Director to make complete disclosure of all documents in existence and in his possession;
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 Joseph Leyk as per BCSC Policy 15-601 Sec 2.6 were not required;
3. erred in law and exceeded its jurisdiction in ordering a Ex-parte 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 Ex-parte 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 violating Sec 173 of the Securities Act, Sec 3 of the Administrative Tribunals Act of British Columbia, and Ethical Principles for Judges as set out by the Canadian Judicial Council, in ordering decisions against the Appellant by not providing decision makers that were valid, 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, and are contrary to the public interest.
6. erred in law and exceeded its jurisdiction, in its interpretation and application of Sec 57 (a) of the Securities Act in its rulings on Ex-parte Liability Decision dated August 29, 2014, the Ex-parte Sanction Decision dated March 13, 2015, Decision dated October 31, 2017 dismissing BCSC's requirements for disclosure, and Decision dated December 5, 2018 dismissing BCSC's requirement to provide notice of service, incorporated as part of its decision dated April 18, 2019 on the Appellant's MALICIOUS PROSECUTION APPLICATION;
7. erred in law and exceeded its jurisdiction, by breaching the Appellants rights to natural and fundamental justice in denying the Appellant the consideration and treatment required, as set out by the Supreme Court of Canada, of self-represented parties;
8. such further grounds as Appellant may advise and this Honourable Court may permit.

**The hearings of this proceeding occupied 11 days. The Liability Decision dated August 29, 2014, and the Sanction Decision dated March 13, 2015 were done by the BCSC panel in ex-parte proceedings, without any participation from the Appellant, Robert Joseph Leyk.**

**To the Respondents and to its solicitors:**

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To: The Honourable Carole James  
BC Minister of Finance

To: The Honourable David Eby  
BC Attorney General

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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 153<sup>rd</sup> St, Surrey, BC, V3R 0B5, email: [leyk.robber@gmail.com](mailto:leyk.robber@gmail.com)

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

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

Dated May 13, 2019 at Vancouver, British Columbia.

  
Signature of Robert Joseph Leyk  
Appellant