

# BRITISH COLUMBIA SECURITIES COMMISSION

*Securities Act*, RSBC 1996, c. 418

Citation: Re Mesidor, 2020 BCSECCOM 515

Date: 20201221

## Application Re Jefferson Franklin Mesidor (Part 2)

<b>Panel</b>	Gordon Johnson	Vice Chair
	Deborah Armour, QC	Commissioner
	George C. Glover, Jr.	Commissioner

**Submissions Completed** November 3, 2020

**Date of Decision** December 21, 2020

### Appearing

Chris Cairns For the Executive Director

Investor C Self-represented

## Decision

### I. Introduction

- [1] This proceeding was initiated by an application brought by Investor C seeking payment under section 15.1 of the *Securities Act*, RSBC 1996, c. 418 out of funds paid to the Commission pursuant to a section 161(1)(g) order (Order) made by the Commission on January 6, 2014. On May 20, 2020 this panel made a preliminary decision in this matter (*Re Mesidor*, 2020 BCSECCOM 164) (Preliminary Decision), which forms part of this decision. We adjourned the balance of the proceeding pending the receipt of certain further information, which we have now received.

### II. Factual Background

- [2] On October 21, 2013 the Commission found that Mesidor was liable for perpetrating fraud on two investors, Investor C and Investor S. The Commission found, among other things, that Mesidor had fraudulently disbursed \$16,000 of the funds received from the investors for personal and other unauthorized purposes. The Order which followed required Mesidor to pay \$16,000 to the Commission pursuant to section 161(1)(g) of the Act.
- [3] Commission staff made efforts to collect funds from Mesidor. Those efforts were limited to some extent by a consumer proposal made by Mesidor, but eventually Mesidor's insolvency trustee paid a total of \$6,029.53 (Funds) to the Commission in instalments which continued into late 2017.
- [4] In November of 2017, the Commission posted notice to the public that a claim for the Funds could be made by applying to the Commission. Investor C applied for the Funds. Investor S had died in 2011 and no application was received on behalf of the estate of Investor S.

- [5] A more detailed history together with our analysis of why this application met the technical requirements of the Act for payment can be found in the Preliminary Decision.

### **III. Analysis**

- [6] The conclusion expressed in the Preliminary Decision was that although the Commission has the discretion to order payment to Investor C of the entire amount of the Funds, there was still a possibility that the estate of Investor S might still bring a claim before the expiry of the statutory deadline for such a claim. That deadline was then only a few months away. As a result we ordered that only one half of the Funds be promptly paid to Investor C. We also requested that the Executive Director send a further notice to the last known address of the Executor of Investor S's estate and deliver a supplementary report to us after the statutory deadline had passed.
- [7] The statutory deadline has now passed and we have received the supplementary report of the Executive Director. The supplementary report confirms that the steps we required have been taken. The supplementary report confirms that no claim on behalf of Investor S or any other investor has been made within the statutory period. The supplementary report includes the Executive Director's recommendation that the balance of the Funds collected from Mesidor, including any accrued interest, now be paid to Investor C.
- [8] Our analysis regarding the statutory scheme which applies here is contained in the Preliminary Decision. We will not repeat our analysis. It is sufficient to say that in the circumstances the statutory requirements have been met which allow the granting of the application. It is in the public interest to order that the remaining Funds recovered from Mesidor be paid to Investor C, the eligible applicant that was a victim of Mesidor's fraud.

### **IV. Conclusion**

- [9] We order that the balance of the Funds held by the Commission from the Order, including interest, be paid to Investor C.

December 21, 2020

**For the Commission**

Gordon Johnson  
Vice Chair

Deborah Armour, QC  
Commissioner

George C. Glover, Jr.  
Commissioner