



Citation: 2020 BCSECCOM 61

Notice of Hearing

Kenneth Edward Smith

Section 161 of the *Securities Act*, RSBC 1996, c. 418

- ¶ 1 The British Columbia Securities Commission (Commission) will hold a hearing (Hearing) at which the Executive Director will tender evidence, make submissions and apply for orders against Kenneth Edward Smith (Smith) under sections 161, 162 and 174 of the *Securities Act*, RSBC 1996, c. 418 (the Act), based on the following facts:

Summary

1. Smith contravened section 168.1(1)(a) of the Act when he made materially false or misleading statements to an investigator appointed under the Act.
2. Smith is subject to an Investment Industry Regulatory Organization of Canada (IIROC) order permanently prohibiting him from approval. The Executive Director relies on section 161(6)(c) of the Act.

Background

3. Smith resides in British Columbia.
4. Smith was the sole director, officer and shareholder of a company whose business was to trade in securities (the Company). The Company did not have employees. Smith was also the sole authorized signatory and beneficiary of the Company's bank account (the Account).

Providing False or Misleading Statements

5. Smith attended a compelled interview on November 7, 2017. At that interview, and while Smith was under oath:
 - (a) Staff investigators asked Smith whether the Account ever received any money from investors,
 - (b) Smith told the investigators that the Account only received money from himself and Investor CB,
 - (c) The investigators then showed Smith a deposit slip and cheque made out to the Company from another individual, AMC,
 - (d) Smith then admitted that he and the Company also received money for trading purposes from AMC, and



- (e) When the investigators asked Smith about the discrepancy in his responses, he admitted that he had attempted to conceal the information.
6. By making statements to investigators appointed under the Act that were, in a material respect and at the time and in light of the circumstances in they were made, false or misleading, Smith acted contrary to section 168.1(1)(a) of the Act.

IIROC order

7. On April 6, 2018, an IIROC hearing panel found that Smith (Findings):
- (a) engaged in an outside business activity without obtaining the approval of his employer,
 - (b) engaged in personal financial dealings with his client,
 - (c) placed off-book investments for his client, without the knowledge or consent of his employer,
 - (d) took \$10,000 from a former client, in order to invest the funds on her behalf, without the knowledge or consent of his employer, and
 - (e) failed to cooperate with IIROC staff during its investigation.
8. On June 4, 2018, the IIROC panel imposed the following penalty on Smith:
- (a) a permanent prohibition to approval in any capacity,
 - (b) a \$125,000 fine, and
 - (c) \$20,000 in costs (the IIROC Order).
9. As a result of the IIROC Order, the Executive Director is applying for orders under section 161(1), pursuant to section 161(6)(c) of the Act.

Hearing Process

- ¶ 2 The Respondent or his counsel is required to attend at the 12th Floor Hearing Room, 701 West Georgia Street, Vancouver, British Columbia, on **Wednesday, March 25, 2020, at 9:00 a.m.** if they wish to be heard before the Commission sets a date for the Hearing. Relevant information gathered by Commission Staff in the investigation of this matter will be disclosed to the Respondent upon request to the Executive Director.
- ¶ 3 At the Hearing, the Respondent may be represented by counsel, make submissions and tender evidence. The Respondent is requested to advise the Commission of his intention to attend the Hearing by informing the Hearing Office at PO Box 10142, Pacific Centre,



701 West Georgia Street, Vancouver, BC V7Y 1L2 phone: (604) 899-6500; email: commsec@bcsc.bc.ca.

- ¶ 4 If the Respondent or his counsel do not appear at the Hearing, the Executive Director may apply to have questions of liability and sanction heard at the same time. Determinations adverse to the Respondent may be made in his absence.

Peter J Brady
Feb 24 2020 10:24 AM -08:00

- ¶ 5 Peter J. Brady
Executive Director