

COURT OF APPEAL FOR BRITISH COLUMBIA

FORM 1

NOTICE OF APPEAL (RULE 6(1))



Court of Appeal File No.
(For Registry Use Only)

Case File No. **CA50117**

Supreme Court File No.

The file number can be found on the upper right corner of the Supreme Court documents

Supreme Court Registry Location

To the respondent(s)

A Court proceeding has been commenced against you in the Court of Appeal. See the final page of this form for details on how to respond.

1. PARTIES TO THE APPEAL

Appellant(s)

List the party(ies) appealing the Supreme Court or tribunal order.

Identify their roles in the proceeding below in brackets.

E.g., Jane Doe (plaintiff, petitioner, etc.)

David Smillie (Respondent)

Respondent(s)

List the other party(ies) in the Supreme Court or tribunal order you are appealing who are affected by the appeal. Identify their roles in the proceeding below in brackets. E.g., Jane Doe (defendant).

Executive Director of the British Columbia Securities Commission (Executive Director), British Columbia Securities Commission, and 1081627 B.C. Ltd. operating as ezBtc (Respondent)

2. THE ORDER YOU ARE APPEALING

Is leave to appeal required? <i>Court of Appeal Rule 12 explains when you need leave to appeal. If you are unsure, check "Yes".</i>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Who made the order? <i>Name the justice or other decision maker who pronounced the order you are appealing.</i>	Audrey T. Ho, James Kershaw, and Marion Shaw (Commissioners)	
What court and/or tribunal pronounced the order(s)?	<input type="checkbox"/> Supreme Court <input checked="" type="checkbox"/> Tribunal	British Columbia Securities Commission Name of tribunal
Date the order was pronounced <i>Include the day, month and year that the order being appealed was pronounced (not the date the order was entered).</i>	07/08/2024 DD/MM/YYYY	
City where the order was pronounced	Vancouver	
Length of lower court hearing <i>Indicate in days or hours the length of the hearing that led to the order you are appealing from. For example, if you are appealing a judgment from a trial that took two hours, enter "two hours."</i>	4 days	
What type of proceeding are you appealing from? <i>Check one only.</i>	<input type="checkbox"/> Trial Judgment <input checked="" type="checkbox"/> Order of a Tribunal <input type="checkbox"/> Summary Trial Judgment <input type="checkbox"/> Chambers Judgment	

3. RELIEF SOUGHT

If leave to appeal is not required, fill out Part A. If you are seeking leave to appeal, fill out Part B.

PART A: LEAVE NOT REQUIRED

Part of the order being appealed
If you only want to appeal one part of an order, enter the part that is being appealed.

Order(s) you are seeking on appeal

*Briefly list the order(s) you will ask this Court to make on appeal
For example: "Set aside the trial judgment and order a new trial".
Include any order as to costs.*

PART B: SEEKING LEAVE TO APPEAL

Part of the order being appealed

If you are only seeking leave to appeal one part of an order, enter the part that you are seeking leave to appeal.

The Decision by a Hearing Panel of the British Columbia Securities Commission (the "Panel") dated August 7, 2024. In particular, the Decision that:

- a) that the Applicant perpetrated a fraud relating to securities;
- b) that the British Columbia Securities Commission had jurisdiction over the Applicant's alleged conduct; and
- c) that the Applicant contravened section 57(b) of the British Columbia Securities Act, RSBC 1996, c 418 ("Securities Act").
- d) dismissing the Appellant's applications for an adjournment and bono-fucation of the jurisdiction question whether the British Columbia Securities Commission had jurisdiction over the conduct of the Appellant

Grounds for leave to appeal

Be as specific as possible. For example, if you believe the trial judge used an incorrect legal test or otherwise misapplied the law, indicate that here.

1. The Hearing Panel did not have jurisdiction under the Securities Act to make the Orders against the Applicant.
2. The Hearing Panel erred in law and principle, or in the alternative was clearly wrong, in finding that the Applicant contravened section 57(b) of the Securities Act.
3. The Hearing Panel erred in law and principle by failing to fully present and apply the correct legal test to determine whether agreements to buy and sell cryptocurrency are futures contracts. In the alternative, the Hearing Panel erred in mixed law and fact in applying the test for a futures contract.
4. The Hearing Panel erred in law and fact in finding that the Expert Report of David Lam indicated that the Applicant had appropriated 935.46 customer bitcoin and 159 customer ether from ezBtc for his own purposes.
5. The Hearing Panel erred in its applicable and law for bifucation of the jurisdiction issue prior to the liabilities hearing
6. the Hearing Panel erred in law and fact in denying the request for an adjournment application by the Appellant
7. The Hearing Panel erred in law, or in mixed fact and law, in finding that the delay between the investigation order and notice of hearing was not inordinate and did not affect the fairness of the hearing; and
8. Such other grounds as may be advised prior to the hearing of the Application seeking Leave to Appeal.

4. ADDITIONAL INFORMATION

Sealing order

*Is there an order sealing any part of the trial court or tribunal file?
If yes, add date(s).*

☐

Yes

☒

No

Date

DD/MM/YYYY

Anonymity order/publication ban

Are there orders that protect the identity of a party or parties? If yes, add date(s).

☐ Yes ☒ No

Date

DD/MM/YYYY

Areas of law raised in the appeal

You may check more than one box if appropriate. For example, you should check "motor vehicle accidents" and "torts" for a personal injury claim involving a motor vehicle accident.

☒ Constitutional/Administrative
☐ Motor Vehicle Accidents
☒ Torts
☐ Divorce Act (Canada)

☒ Civil Procedure
☐ Municipal Law
☐ Equity
☐ Family Law Act

☒ Commercial
☐ Real Property
☐ Wills and Estates
☒ Other

Appeals involving children

Does this appeal involve the rights or interests of a child? E.g., Parenting order

☐ Yes ☒ No

5. SERVICE**Are you representing yourself?**

☐ Yes ☒ No

Name(s) and address(es) within BC for service of appellant(s).

If you have a lawyer, include the law firm's address; otherwise provide your own residential address.

Reedman Law
 1030 W Georgia St #800a
 Vancouver, BC V6E 2Y3
 (attention: Cody G. Reedman)

Phone number(s) of appellant(s)

604-570-0005

Email address(es) for service of appellant(s)

If you provide an email address, you are consenting to have documents served on you by email.

creedman@reedmanlaw.com
 cc: service@reedmanlaw.com

Date form completed

Date

04/09/2024

DD/MM/YYYY

Name of lawyer or party authorizing filing of this form

Cody Reedman

To the appellant(s):

You must file and serve this form on each respondent named in this document within the timelines required by the *Court of Appeal Act* and Court of Appeal Rules. You must file a Notice of Hearing **not more than one year** after filing this Form 1 or your appeal will be placed on the inactive list (Rule 50(1)(a)).

To the respondent(s)

If you intend to participate in this proceeding, **you must give notice** of your intention by doing the following **not more than 10 days** after receiving this Notice of Appeal: (1) file a "Notice of Appearance" (Form 2 of the *Court of Appeal Rules*) in a Court of Appeal registry and; (2) serve the Notice of Appearance on the appellant.

If you fail to file and serve a Notice Appearance:

- (a) You are presumed to take no position on the appeal, or the application for leave to appeal (if leave is required).
- (b) The parties are not obliged to serve you with any further documents related to the appeal, including an order granting leave to appeal (if leave is required).

You are presumed to take no position if you fail to file and serve a Notice of Appearance within the time described above. The filing registries for the British Columbia Court of Appeal are as follows.

Central Registry:

B.C. Court of Appeal
Suite 400, 800 Hornby St.
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 St.
Kamloops BC V2C 6K4

Inquiries should be addressed to (604) 660-2468.