

BRITISH COLUMBIA SECURITIES COMMISSION
Section 161 of the *Securities Act*, RSBC 1996, c. 418

Citation: Re Ortmann, 2023 BCSECCOM 58

Date: 20230201

Order under section 161(6)

Peter Douglas Ortmann

Introduction

- [1] This is an order under sections 161(1) and 161(6)(b) of the *Securities Act*, RSBC 1996, c. 418 (Act).
- [2] The executive director of the Commission has applied (Application) for orders against Peter Douglas Ortmann (Ortmann) under section 161(1) of the Act based upon certain orders made by the District Court, Clark County, Nevada (District Court).
- [3] The District Court sentenced Ortmann on January 27, 2016 in *The State of Nevada v. Peter Douglas Ortmann aka Tahiti Petey*, Case No: C235743, Dept. XXIII.
- [4] In his Application, the executive director tendered affidavit evidence and submissions to the Commission.
- [5] Ortmann was provided the opportunity to be heard, and on August 18, 2021, provided written submissions and supporting materials to the Commission.
- [6] Section 161(6) facilitates cooperation between the Commission and other securities regulatory authorities, self-regulatory bodies, exchanges and the courts. If the requirements of the section are met and it is in the public interest, the Commission may issue orders without the need for inefficient parallel and duplicative proceedings in British Columbia (*McLean v. British Columbia (Securities Commission)*, [2013] 3 S.C.R. 895 at para. 54).

Background

- [7] In a Plea Agreement filed November 6, 2007 in the District Court, Ortmann pled guilty to the sale of unregistered securities, a category B felony, in violation of Chapter 90 of the Nevada Revised Statutes (NRS) in violation of NRS 90.460 (Guilty Plea).
- [8] On January 27, 2016, the District Court denied Ortmann's motion to withdraw his Guilty Plea and sentenced Ortmann to:
 - a) imprisonment for 96 months, with 50 days credit for time served; and
 - b) restitution in the amount of \$100,000.

Submissions from the parties

- [9] In general, Ortmann's submissions ask us to disregard the factual admissions inherent in his Guilty Plea and suggest that Ortmann has no connection to British Columbia. We reject those arguments.
- [10] Ortmann's arguments regarding his Guilty Plea were rejected by the appropriate court and there is no evidentiary foundation or other basis to not accept that court's findings. We agree with the reasoning at paragraph 27 of *Re Pierce*, 2016 BCSECCOM 188, that in an application that relies on section 161(6)(b) (s. 161(6)(c) in *Re Pierce*), we should treat the originating body's order and findings of fact as facts when determining whether to issue an order in the public interest. The alternative – requiring the executive director to re-litigate the earlier order and findings - would result in inefficient and duplicative proceedings, which would be contrary to the public interest.
- [11] In addition, and on the issue of a connection to British Columbia, the executive director has submitted evidence that we find establishes that Ortmann, contrary to his submissions to us, does participate in business activities in British Columbia.

Order

- [12] We find that it is in the public interest to order that:
- a) under section 161(1)(d)(i), Ortmann resign any position he holds as a director or officer of an issuer or registrant for five years;
 - b) Ortmann is prohibited for a period of five years:
 - i. under section 161(1)(b)(ii), from trading in or purchasing any securities or derivatives;
 - ii. under section 161(1)(c), from relying on any of the exemptions set out in this Act, the regulations or a decision;
 - iii. under section 161(1)(d)(ii), from becoming or acting as a director or officer of any issuer or registrant;
 - iv. under section 161(1)(d)(iii), from becoming or acting as a registrant or promoter;
 - v. under section 161(1)(d)(iv), from advising or otherwise acting in a management or consultative capacity in connection with activities in the securities or derivatives markets; and
 - vi. under section 161(1)(d)(v) from engaging in promotional activities by or on behalf of
 - A. an issuer, security holder or party to derivative, or

- B. another person that is reasonably expected to benefit from the promotional activity; and
- vii. under section 161(1)(d)(vi) from engaging in promotional activities on Ortmann's own behalf in respect of circumstances that would reasonably be expected to benefit Ortmann.

February 1, 2023

For the Commission

Gordon Johnson
Vice Chair

Judith Downes
Commissioner