

BCSC Rejects Request to Unlock Registered Retirement Accounts

Shayna L. Clarke

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On November 5, 2020, a panel of the British Columbia Securities Commission (the BCSC Panel) dismissed Earle Douglas Pasquill's application (the Applicant) under section 171 of the *Securities Act*, RSBC 1996, c.418 (the Act) to remove a preservation order (the Preservation Order). The Preservation Order concerns property held by the Applicant in two registered life income accounts (the Accounts) at a Canadian wealth management firm, and has the effect of preventing the Applicant from withdrawing or transferring funds from the Accounts.

The Applicant contended that the Preservation Order violated BC's *Pension Benefits Standards Act* (the PBSA) and BC's *Court Order Enforcement Act* (the COEA), as those laws exempt registered accounts from enforcement actions. The BCSC Panel rejected the Applicant's submission, holding that a preservation order does not amount to an enforcement action – it simply maintains the status quo. Although the PBSA exempts registered accounts from seizure, the BCSC Panel held that a preservation order is *not* a seizure. Lastly, despite the Applicant's affidavit setting out his basic living expenses, the BCSC Panel found that the Applicant failed to provide sufficient evidence to establish that he would suffer hardship if the Preservation Order was not revoked or varied.

The COEA and the Act were recently amended to allow the BCSC to impose preservation orders on registered accounts during enforcement. These amendments provide the BCSC with some of the strongest powers among securities regulators in Canada and the BCSC Panel's decision in this case exemplifies those powers.

Cassels will be making submissions in a forthcoming Stated Case hearing challenging the constitutionality of section 151 of the Act (now section 164.04) as it relates to the BCSC's authority to freeze property.

More information can be found [here](#).

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