

CANADA / JUDGMENT

British Columbia Securities Commission v. Pasquill

2024 BCSC 2337

COURT

Supreme Court of British Columbia

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2024 BCSC 2337 British Columbia Securities Commission v. Pasquill

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

British Columbia Securities Commission v. Pasquill,

2024 BCSC 2337

Date: 20241220

Docket: S241243

Registry: Vancouver

Between:

British Columbia Securities Commission

Petitioner

And

Earle Douglas Pasquill, Vicki Irene Pasquill and Canaccord Genuity Corp.

Respondents

Before: The Honourable Justice Loo

Reasons for Judgment

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December 20, 2024

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Introduction

- [1] In this petition proceeding, the British Columbia Securities Commission seeks to enforce two orders of the Commission that collectively require the respondent Earle Pasquill to pay more than \$36 million to the Commission, against certain life income fund accounts (the "LIF Accounts") owned by Mr. Pasquill and held at Canaccord Genuity Corp.

Background

- [2] On July 8, 2014, a panel of the adjudicative branch of the Commission issued a decision (the "Liability Decision") in which it found that, between February and August 2008, Mr. Pasquill and others had perpetrated frauds contrary to the Securities Act, R.S.B.C. 1996, c. 418, by raising approximately \$21.7 million from almost 700 investors in the "FIC Group," a group of companies collectively promoted as the "Freedom Investment Club," without disclosing to them the financial condition of those companies, and by raising approximately \$9.9 million from more than 300 investors in a company called "FIC Foreclosure," for the stated purpose of investing in foreclosure properties. The panel found that most of the funds raised for FIC Foreclosure had been used to make unsecured loans to other companies in the FIC Group.
- [3] According to the Commission, the frauds were among the largest ever perpetrated on capital markets in British Columbia.
- [4] On March 16, 2015, the adjudicative branch of the Commission issued a second decision (the "Sanctions Decision") in respect of Mr. Pasquill. In the Sanctions Decision, the Commission:
- banned Mr. Pasquill from participating in capital markets and from being a corporate director;
 - ordered Mr. Pasquill and the other individual respondent to the proceedings under the Securities Act, Michael Lathigee, as well as the FIC Group corporate entities, jointly and severally, to pay the Commission approximately \$21.7 million; and
 - ordered Mr. Pasquill to pay an administrative penalty of \$15 million.
- [5] The order to pay approximately \$21.7 million (referred to as the "disgorgement order") was made under s. 161(1)(g) of the Securities Act which provides that the Commission may order "that the person pay to the commission any amount obtained, or payment or loss avoided, directly or indirectly, as a result of the failure to comply or the contravention."
- [6] The administrative penalty in the amount of \$15 million was made under s. 162 of the Securities Act which authorizes the Commission to order a person who has contravened the Act to pay not more than \$1 million for each contravention.

- [7] Mr. Pasquill and the other respondents to the proceedings under the Securities Act appealed the Sanctions Decision to the Court of Appeal but were unsuccessful: *Poonian v. British Columbia Securities Commission* 2017 BCCA 207.
- [8] Mr. Pasquill acknowledges that he has not made any payment towards his debt to the Commission. To date, the Commission has collected approximately \$429,000 from Mr. Lathigee, and approximately \$242,000 from bankruptcy proceedings in respect of one of the FIC companies.
- [9] As stated above, the LIF Accounts are the focus of this petition. Mr. Pasquill deposes that these accounts were created from his pension at the Eaton's department store, where he worked in a senior management position until 1994. When he left Eaton's, the value of his pension was transferred to two locked-in RRSP accounts ("LIRAs"). From there, when he turned 71 years old, the assets in his LIRAs were transferred to the LIF Accounts, as legally required.
- [10] Mr. Pasquill deposes that he is entitled by regulation to withdraw approximately \$75,000 per year, pre-tax, from the LIF Accounts. It appears that in past years, he withdrew monthly amounts. In January 2024, he withdrew the entire amount for the year as a lump sum.
- [11] In this proceeding, the Commission seeks a forfeiture order in respect of the payments that Mr. Pasquill will receive in the future from the LIF Accounts.

Legislative history and framework

- [12] It is only in the last five years that the Commission has become entitled to obtain Court orders for the forfeiture of property against persons who have contravened the Securities Act. That entitlement has arisen because of two legislative changes.
- [13] First, in March 2020, certain amendments to the Securities Act came into force by means of the Securities Amendment Act, 2019, S.B.C. 2019, c. 38. Those amendments included the enactment of a new Part 18.1, under which the Commission was given statutory authority to seek certain court orders for the forfeiture of property, in order to satisfy monetary orders already made by the Commission against a person who has contravened securities law.
- [14] In particular, s. 164.10(1), which is found in the new Part 18.1, provides:

Application for forfeiture order

164.10 (1) If an order is made against a person under section 155.1 (b), 157 (1) (b), 161 or 162, the commission may apply to the Supreme Court for an order forfeiting to the commission

- (a) the whole of an interest in property of the person, or
- (b) a portion of an interest in property of the person.

- [15] As stated above, the disgorgement order in this case was made under s. 161(1)(g) and the administrative penalty was levied under s. 162.
- [16] In March 2020, there were also changes made to the Court Order Enforcement Act, R.S.B.C. 1996, c. 78 [COEA]. Section 71.3(2) of the COEA, which existed prior to March 2020, exempts "registered plans" from any "enforcement process." The March 2020 amendments included the enactment of s. 71.3(3)(e), which states that the exemption does not apply to any enforcement proceeding "arising from an order under the Securities Act."
- [17] I will refer to these amendments to the Securities Act and the COEA as the "2020 amendments."
- [18] When the 2020 amendments came into force, the Executive Director of the Commission sought and obtained a preservation order under another provision in the new Part 18.1 for the purpose of freezing the LIF Accounts.
- [19] Mr. Pasquill applied to the Commission for an order revoking the preservation order issued in respect of the LIF Accounts but his application was dismissed.
- [20] On August 7, 2020, the Commission filed a petition (the "2020 petition"), seeking an order that the funds in the LIF Accounts be forfeited to the Commission under s. 164.12 of the Securities Act, which provides:

Forfeiture order

164.12 Subject to section 164.13,

- (a) if proceedings are commenced under section 164.10 (1), the court must make an order forfeiting to the commission the whole or the portion of an interest in property that the court finds is property of the person
- [21] In a decision indexed as *Pasquill v. British Columbia (Securities Commission)*, 2021 BCCA 424 (the "CA Decision"), the Court of Appeal overturned the preservation order, holding that it fell outside of the Commission's statutory authority. The Court of Appeal made that decision based on s. 70 of the Pension Benefits Standards Act, S.B.C. 2012, c. 30 [PBSA], which exempted pension funds from execution, seizure, and attachment, subject to certain exceptions. As a result of the Court of Appeal's decision, the preservation order was revoked and the Commission discontinued the 2020 petition.
- [22] In 2023, the Legislature passed the second set of legislative amendments directly relevant to this petition (the "2023 amendments"): it enacted the Finance Statutes Amendment Act, 2023, which amended the PBSA to create a specific exception to the general prohibition against the attachment, seizure or execution of pension funds.

- [23] I will return to the relevant provisions in detail below, but broadly speaking, s. 70(1) of the PBSA provides that certain items are exempt from execution, seizure or attachment. As a result of the 2023 amendments, s. 70(4) and s. 70(4.1) now provide for exceptions or carve outs to the exemptions from attachment. The breadth of those exceptions is the primary issue on this petition.
- [24] The Commission takes the position that the PBSA, as a result of the 2023 amendments, now authorizes a forfeiture order in respect of payments that Mr. Pasquill receives from the LIF Accounts. If this position is accepted, the Commission also seeks the appointment of a receiver over the LIF Accounts. Mr. Pasquill takes the position that, despite the 2023 amendments, the LIF Accounts remain exempt from attachment in proceedings under the Securities Act.

Issues

- [25] This petition gives rise to the following issues:
- Do the Securities Act and PBSA, read together with their regulations, as amended in 2023, authorize the forfeiture order sought by the Commission?
 - Is the forfeiture order sought by the Commission unavailable because it would have retroactive or retrospective effect?
 - Is the forfeiture order sought by the Commission barred by a limitations defence?
 - Would it be clearly not in the interests of justice to make the forfeiture order sought by the Commission?
 - Should this Court make the receivership order sought by the Commission?

Discussion

Do the Securities Act and PBSA as amended in 2023 authorize the forfeiture order sought by the Commission?

- [26] This is the main issue on the petition. It requires the Court to interpret three legislative enactments: the Securities Act, the PBSA as amended in 2023, and the Pension Benefits Standards Regulation [PBSR].

The historical context of s. 70(4) and s. 70(4.1) of the PBSA

- [27] In order to assess the impact of the 2023 amendments, it is important to review the historical context. Prior to the 2020 amendments, the Commission was not permitted to attach registered plans as part of its enforcement process at all. Section 70(1) of the PBSA provides now, and has provided since before 2020:

No disposition or attachment of benefits and money

70 (1) Subject to subsections (3) to (6), the following must not be assigned, charged, alienated or anticipated and are exempt from execution, seizure or attachment:

- (a) benefits;
- (b) all or any portion of the pension fund;
- (c) money transferred under
 - (i) section 57 (4) (b), (c) or (d), 79 (1) (a) (i) or (3) or 89.1,
 - (ii) Division 7 of this Part, or
 - (iii) Part 9.

[28] It is uncontested that the LIF Accounts fall within the ambit of s. 70(1). While the precise manner in which s. 70(1) applies does not have to be determined for the purposes of this petition, it appears that the LIF Accounts constitute money transferred under "Division 7 of this Part," which includes s. 88 of the PBSA. Section 88 deals with transfers from a pension plan to a LIRA or to a LIF.

[29] As a result of the 2020 amendments, the COEA permitted the Commission to attach registered plans as part of its enforcement process. Section 71.3 of the COEA was amended to state, and still states:

Registered plans exempt from seizure

71.3 (1)

- (2) Despite any other enactment, all property in a registered plan is exempt from any enforcement process.
- (3) Subsection (2) does not apply
- (e) to an enforcement process arising from an order made under the Securities Act.

[30] At the time of the CA Decision in 2021, s. 70(1) of the PBSA contained the general prohibition against execution, seizure, or attachment described above. The only exemption, set out in s. 70(4) as it then read, was to attachments under the Family Maintenance Enforcement Act, R.S.B.C. 1996, c. 127. In the CA Decision, the Court of Appeal held that s. 71.3 of the COEA did not exempt enforcement processes arising from an order made under the Securities Act from the general prohibition in s. 70(1) of the PBSA.

[31] In reaching that conclusion, the Court of Appeal held:

[51] It would have been an easy matter for the Legislature to except debts arising under the Securities Act among the exceptions that exist in the PBS legislation, as it did with respect to orders under the Family Maintenance Enforcement Act. Having failed to do so, the

legislation must in my opinion be taken as meaning that the Commission does not have the authority to enforce judgments against plans that are derived from pension funds. These of course engage important public policy objectives and, again as the appellant notes, pension funds, like LIFs, are unlikely to be derived from participation in capital markets or breaches of the Securities Act. I do not suggest that these policy considerations are more important or pressing than the objectives underlying preservation orders under the Securities Act; but I do find that, construing the statutes in accordance modern interpretative rules, the PBS legislation prevails over the amended COEA. In this way, any conflict is resolved.

[Emphasis added]

[32] In 2023, the PBSA was amended to expressly allow, among the exceptions to s. 70(1), the attachment of certain payments or withdrawals by way of a preservation order or a forfeiture order under Part 18.1 of the Securities Act.

[33] The relevant exceptions appear in s. 70(4) and s. 70(4.1), which must be read together:

No disposition or attachment of benefits or money

70 (1)

- (4) Despite subsection (1), a payment, return or withdrawal referred to in subsection (4.1) may be attached
 - (a) by a notice of attachment under section 15 of the Family Maintenance Enforcement Act, an order of garnishment under section 18 (2) of that Act or an attachment order under section 24 of that Act,
 - (b) by a preservation order or a forfeiture order under Part 18.1 of the Securities Act, or
 - (c) in furtherance of any other process to enforce an order under the Securities Act.

(4.1) For the purposes of subsection (4), the following may be attached:

- (a) any payment in the series of payments that constitutes a pension;
- (b) a payment under section 57 (4) (a) or (6) (b);
- (c) a return of a contribution under section 59;
- (d) a withdrawal, a payment or any payments in a series of payments under section 69 (1), (2), (3) or (4);
- (e) any payment under section 76;
- (f) any payment that forms part of a phased retirement benefit within the meaning of section 83 (1).

[Emphasis added.]

- [34] The Commission submits that it is entitled to attach payments from the LIF Accounts under s. 70(4)(b) and (c), relying specifically on s. 70(4.1)(a). The Commission has advised the Court that it does not rely on subparagraphs (b) to (f) of s. 70(4.1). Therefore, the core issue is whether a payment from the LIF Accounts is a "payment in the series of payments that constitutes a pension."
- [35] I will address Mr. Pasquill's arguments and the Commission's response to each of them in the reasons to follow. As set out below, I have concluded that the Commission's position in this regard is correct, and that a forfeiture order is available to it in respect of payments from the LIF Accounts, pursuant to s. 70(4) and s.70(4.1)(a).

Mr. Pasquill's position

- [36] Mr. Pasquill submits that payments from the LIF Accounts are not payments that constitute a pension within the meaning of s. 70(4.1)(a). In support of this argument, he relies on a series of definitions in the PBSA and the manner in which LIFs and pension plans are treated under that Act.
- [37] His submissions start with the definitions of "life income fund," "retirement income arrangement," and "RRIF" in the PBSA:

Interpretation

1 (1) In this Act:

"life income fund" means a RRIF that is prescribed to be a life income fund;

"retirement income arrangement" means

- (a) a life income fund, or
- (b) any fund, account or other arrangement that is prescribed to be a retirement income arrangement;

"RRIF" means a registered retirement income fund within the meaning of the Income Tax Act (Canada);

- [38] It follows from these definitions that all LIFs are RRIFs but not all RRIFs are LIFs. All LIFs are also retirement income arrangements.

- [39] Next, Mr. Pasquill relies on the following definition of "pension" in of the PBSA:

Interpretation

1 (1) In this Act:

"pension" means a series of periodic payments that, under the terms of the plan text document of a pension plan, is payable,

- (a) in the case of payments under a benefit formula provision, for the life of a retired member, whether or not the pension is continued to another person, and
- (b) in the case of payments under a defined contribution provision, until the earlier of
 - (i) the date on which the member dies, and
 - (ii) the date on which the balance in the member's account referred to in paragraph (a) of the definition of "defined contribution provision" is zero;

[40] Under s. 1 of the PBSA, "plan text document," in relation to a pension plan, means the record referred to in section 8(1) that sets out the rights, obligations, and entitlements under the plan. It is common ground that the LIF has no plan text document.

[41] Further, Mr. Pasquill relies on the definition of "pension plan" in the PBSA:

Interpretation

1 (1) In this Act:

"pension plan" means a plan, scheme or arrangement organized and administered to provide pensions to members, but does not include

- (a) a pooled registered pension plan, as defined in the Pooled Registered Pension Plans Act, or
- (b) a prescribed plan, scheme or arrangement;

[42] Of importance to Mr. Pasquill's argument is the reference to a "prescribed plan, scheme or arrangement" in subparagraph (b) of this definition. The prescribed plans, schemes or arrangements for the purpose of this definition are described in s. 7(2) of the PBSR which states in part:

Plans, schemes and arrangements not constituting pension plans

7 (1)

(2) The following plans, schemes and arrangements are not pension plans for the purposes of the Act and this regulation:

- (g) a RRIF.

[43] Recall from the definitions above that all LIFs are RRIFs. As a result of s. 7(2) of the PBSR quoted above, a LIF is not a pension plan. Following on this analysis, Mr. Pasquill submits that a payment from the LIF Accounts cannot be a "payment in the series of payments that constitutes a pension" under s. 70(4.1)(a).

[44] Further, Mr. Pasquill cites numerous ways in which pensions and LIFs are treated differently by the Securities Act, demonstrating, he submits, that they are not the same thing and that the Legislature did not intend for them to be dealt with in the same way. For example, pensions are addressed in Parts 2-6 of the PBSR, while LIFs are addressed in Part 9 and schedule 2 to the PBSR. Section 88 provides that, in certain circumstances, assets can be

transferred from a pension plan to a retirement income arrangement. As stated above, LIFs are retirement income arrangements.

- [45] The upshot of all of these arguments is that, in Mr. Pasquill's submission, since a LIF is unequivocally not a pension plan and LIFs and pension plans are treated separately and differently by the Legislation, the Legislature could not have intended that a payment from a LIF would fall within the words "payment in the series of payments that constitutes a pension" in s. 70(4.1)(a).
- [46] Mr. Pasquill combines this submission with an argument relying on the language of s. 70(4.1) and the definition of "pension" set out above. To reiterate, s. 70(4.1) permits attachment of "any payment in the series of payments that constitutes a pension." Pension means "a series of periodic payments that, under the terms of the plan text document of a pension plan, is payable."
- [47] Mr. Pasquill observes that while the Eaton's pension plan from which the funds in the LIF Accounts were derived once had a plan text document, it no longer does. He submits that the series of periodic payments from the LIF Accounts is not payable under the terms of the plan text document of a pension plan and therefore cannot be said to be a "series of payments that constitutes a pension."
- [48] Mr. Pasquill also relies on an addendum set out in schedule 2 to the PRSR (which was not changed by the 2023 amendments). Under s. 116(1) of the PBSR, a contract for a LIF must include the addendum in schedule 2. Section 116(2) provides that a contract for a LIF that does not contain the addendum is deemed to include it. Section 4 of the addendum provides as follows:

Limitation on payments and transfers from this life income fund

4 (1) Money in this life income fund, including investment earnings, is for use in the provision of retirement income.

- (2) Despite subsection (1), money may be paid or transferred from this life income fund in the following circumstances:
- (a) by way of a transfer to another life income fund on the applicable conditions set out in this addendum;
 - (b) by way of a transfer to a locked-in retirement account;
 - (c) by way of a transfer to an insurance company to purchase an annuity in accordance with section 7;
 - (d) by way of a transfer to a pension plan if the plan text document of the plan allows the transfer;
 - (e) in accordance with Part 4 of this addendum.

- (3) Without limiting subsections (1) and (2) of this section and in accordance with section 70 of the Act, money in this life income fund must not be assigned, charged, alienated or anticipated and is exempt from execution, seizure or attachment.

[Emphasis added.]

- [49] Mr. Pasquill notes that the Legislature made no amendment to the PBSR in its 2023 Amendments and, in particular, no amendment to schedule 2. He points to the words "in accordance with" in s. 4(3) above and submits that they denote agreement or congruence between the words in s. 4(3) and the correct interpretation of s. 70. He submits that the use of the words "in accordance with" in s. 4(3) supports the proposition that s. 70, read as a whole, provides that money in a LIF "must not be assigned, charged, alienated or anticipated and are exempt from execution, seizure or attachment."

The Commission's position

- [50] The Commission's position is, broadly speaking, that even though a LIF and a pension plan are different things, payments from the LIF Accounts in this case can still be "payments that constitute a pension." Further, it argues that the meaning of s. 70(4.1)(a) can and must be discerned by examining subparagraphs (b) to (f) of that subsection.
- [51] First, the Commission observes that almost all of the statutory references relied upon by Mr. Pasquill are to the term "pension plan." It concedes that the definition of "pension plan" in s. 1 of the PBSA read together with s. 7(2) of the PRSR make it clear that a LIF is not a pension plan. The Commission says, however, that Mr. Pasquill's argument conflates the terms "pension" and "pension plan."
- [52] The Commission observes that s. 70(4.1)(a) does not use the words "pension plan," and submits that the words actually used ("payments that constitute a pension") are not limited to payments from a pension plan. The Commission submits that the Legislature could have used the words "any payment from a pension plan," but it did not.
- [53] In support of its position that "a series of payments that constitutes a pension" must include payments from LIF accounts, the Commission relies on other parts of s. 70(4.1) and in particular on subsection (d). That subsection provides that the following may be attached:

No disposition or attachment of benefits and money

70 (1)

(4.1) For the purposes of subsection (4), the following may be attached:

- (d) a withdrawal, a payment or any payments in a series of payments under section 69 (1), (2), (3) or (4);

[54] Subsections 69 (1) and (3) set out provisions that must be included in a plan text document of a pension plan. Subsections 69(2) and (4) deal with provisions that must be included in contracts for LIRAs, which include LIFs.

[55] Section 69(2) provides that:

Exceptions to locking in commuted value of benefits

69 (1)

(2) The contract in relation to a locked-in retirement account or retirement income arrangement must provide that the owner of the account or arrangement, or, if the owner is deceased, the owner's surviving spouse, is, if the prescribed conditions are met, entitled to receive payment of a lump-sum amount equal to the commuted value of the benefit to which the owner or surviving spouse is entitled.

[56] The prescribed conditions relevant to s. 69(2) are set out in s. 126(1) of the PBSR and involve an assessment of whether the balance of the LIF exceeds a certain percentage (depending on the applicant's age) of the "Year's Maximum Pensionable Earnings for the calendar year in which the application is made."

[57] Section 69(4) provides for the withdrawal of funds from a LIRA or retirement income arrangement (which, again, include LIFs) in other specified circumstances. Section 69(4)(a) refers to situations wherein the owner of the account has an illness or disability that is terminal or is likely to shorten the person's life considerably. Section 69(4)(b) provides withdrawal rights to owners who become non-residents of Canada. Section 69(4)(c) allows for withdrawals in cases of financial hardship.

[58] Whenever these conditions are applicable, they permit the owner of a LIF to withdraw funds from the LIF. Sections 69(2), (4)(b) and (4)(c) permit funds to be withdrawn as lump sums. Section 69(4)(a) permits the withdrawal of "all or part of the money held in the account or arrangement by way of a payment, or a series of payments for a fixed term, to that person."

[59] As stated above, and critically for the Commission's argument, it appears clear that as a result of s. 70(4)(b) and s. 70(4.1)(d), any of the lump sums or payments under s. 69(2) or (4) made from a LIF to its owner may be attached by a forfeiture order under Part 18.1 of the Securities Act.

[60] In these circumstances, the Commission submits that it makes no sense that the Legislature would have permitted the attachment of lump sums and other payments made from a LIF under s. 69(2) or (4) but did not intend to permit "regular" withdrawals from a LIF to be attached. The Commission submits that the words of s. 70(4.1)(a) must be read to permit attachment of those regular withdrawals.

Discussion

- [61] Both parties cite the CA Decision for the proposition that the PBSA "is clearly public policy legislation establishing a carefully calibrated legislative and regulatory scheme": para. 31. However, that proposition does not necessarily help in interpreting the words in s. 70(4.1)(a). I have been provided with no authority that directly assists the Court in interpreting the words "payments that constitute a pension."
- [62] When interpreting any statute, the Court must have regard to the modern principles of statutory interpretation. The parties cite the decision in *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42 at para. 26, for the proposition that a statutory provision must be read contextually, in a manner that reflects the grammatical and ordinary meaning of the text, harmoniously with the scheme and object of the Act and the intention of the legislator.
- [63] A more recent authority in respect of the modern approach to statutory interpretation is *La Presse inc. v. Quebec*, 2023 SCC 22 [*La Presse*], wherein the Supreme Court of Canada held:
- [23] First, the plain meaning of the text is not in itself determinative and must be tested against the other indicators of legislative meaning -- context, purpose, and relevant legal norms (*R. v. Alex*, 2017 SCC 37, [2017] 1 S.C.R. 967, at para. 31). The apparent clarity of the words taken separately does not suffice because they "may in fact prove to be ambiguous once placed in their context. The possibility of the context revealing a latent ambiguity such as this is a logical result of the modern approach to interpretation" (*Montréal (City) v. 2952-1366 Québec Inc.*, 2005 SCC 62, [2005] 3 S.C.R. 141, at para. 10).
- [24] Second, a provision is only "ambiguous" in the sense contemplated in *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42, [2002] 2 S.C.R. 559, if its words can reasonably be interpreted in more than one way after due consideration of the context in which they appear and of the purpose of the provision (paras. 29-30). This is to say that there is a "real" ambiguity -- one that calls for the use of external interpretive aids like the principle of strict construction of penal laws or the presumption of conformity with the Canadian Charter of Rights and Freedoms -- only if differing readings of the same provision cannot be decisively resolved through the contextual and purposive approach set out by Driedger (*ibid.*).
- [64] Similarly, in *R. v. McColman*, 2023 SCC 8, the Court held:
- [35] Under the modern approach to statutory interpretation, "the words of a statute must be read 'in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament'": *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653, at para. 117, citing *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 (SCC), [1998] 1 S.C.R. 27, at para. 21, and *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42, [2002] 2 S.C.R. 559, at para. 26, both quoting E. Driedger, *Construction of Statutes* (2nd ed. 1983), at p. 87; see also *Canada v. Alta Energy Luxembourg S.A.R.L.*, 2021 SCC 49, at para. 37. In determining the meaning of the text, a court cannot read a statutory provision in isolation, but must read the provision

in light of the broader statutory scheme: Rizzo, at para. 21.

- [65] Mr. Pasquill's position is that the words of the s. 70(4) and (4.1) do not provide for any ambiguity. His strongest argument, in my view, rests on the language of s. 70(4.1)(a) combined with the definition of "pension."
- [66] To reiterate, s. 70(4.1)(a) permits attachment of "any payment in the series of payments that constitutes a pension." Mr. Pasquill submits that if this Court were to read the words "series of payments that constitute a pension" to include payments from a LIF account, such a reading of that word would be inconsistent with the definition of "pension" in s. 1: "a series of periodic payments that, under the terms of the plan text document of a pension plan, is payable." He submits that the same word ought not to mean different things in different parts of the same statute.
- [67] In response, the Commission submits that the funds now in the LIF Accounts originated from a pension plan and, as a result, the series of payments from the LIF Accounts constitute a pension. In the CA Decision, the Court of Appeal held:
- [33] Unlike a regular RRIF, then, the assets in an LIF must be derived from a registered pension plan (as is the case in this instance) and are subject to both an annual minimum withdrawal obligation and a maximum withdrawal limit: see s. 123 of the Regulation.

[Emphasis in original.]

- [68] In relation to this issue, it might also be noted that dictionaries define the word "pension" to mean a fixed sum paid regularly to a person following retirement from service (Merriam-Webster), or a regular payment made during a person's retirement from an investment fund to which that person or their employer has contributed during their working life (Oxford English Dictionary). In that general sense of the word, it appears that the payments from the LIF Accounts are indeed payments that constitute a pension.
- [69] As stated in *La Presse*, the first question to be asked is whether the words can reasonably be interpreted in more than one way after due consideration of the context in which they appear and of the purpose of the provision. The context in which the words appear is particularly important in this case, because of the argument advanced by the Commission based on the other subsections of s. 70.
- [70] At the end of the day, it is my view that the interaction between s. 70(4.1)(a) and the definition of pension on one hand, and the contextual arguments advanced by the Commission on the other, provide for ambiguity. The language used by the Legislature and the context in which s. 70(4.1)(a) is found arguably lead to different conclusions.
- [71] In these circumstances, in my view, this Court must be guided by the words of the Supreme Court of Canada cited above from *La Presse*: "that the plain meaning of the text is not in itself determinative and must be tested against the other indicators of legislative meaning -- context, purpose, and relevant legal norms."

- [72] Applying these principles, I have concluded that the Commission's argument based on s. 70(4.1)(b) and (d) must prevail. The Legislature has decided to permit the attachment of lump sums and other "special" payments withdrawn from a LIF account under s. 69(2) and s. 69(4). It must follow, in my view, that the Legislature must have also intended for "regular" withdrawals from a LIF to be attached by a forfeiture order under Part 18.1 of the Securities Act. As stated in *La Presse*, the text is not in itself determinative.
- [73] In response to this argument, Mr. Pasquill suggests that s. 70(4.1)(d) provides only for the attachment of the amounts withdrawn in excess of the regular withdrawals permitted from LIF accounts. If that premise were correct, there might be a viable argument that s. 70(4.1)(d) is not inconsistent with the proposition that LIFs may not generally be attached under s. 70(4.1)(a). In particular, it seems arguable that there could be a legitimate public policy basis to allow excess withdrawals to be attached while still exempting regular withdrawals from attachment.
- [74] However, the premise of Mr. Pasquill's argument in this regard is not correct, because s. 70(4.1)(d) and s. 69(4) do not refer to amounts in excess of regular withdrawals. In particular, s. 69(4)(b) specifically allows the owner to "withdraw as a lump sum the money held in the account." Section 69(4)(a) permits the withdrawal of "all or part of the money held in the account or arrangement by way of a payment, or a series of payments for a fixed term, to that person." Therefore, s. 69(4)(a) and (b) permit all of the money in a LIF account to be withdrawn and s. 70(4.1)(d) entitles the Commission to attach all of those monies pursuant to a forfeiture order under Part 18.1 of the Securities Act.
- [75] As submitted by the Commission, the proposition that the entire contents of a LIF account can be attached if withdrawn under s. 69(4) is inconsistent with Mr. Pasquill's contention that the attachment of regular payments from a LIF account is prohibited.
- [76] I should address, briefly, Mr. Pasquill's argument based on the addendum set out in schedule 2 to the PRSR. To reiterate, s. 4(3) of the addendum set out in schedule 2 to the PRSR provides, in part, that "in accordance with section 70 of the Act", money in a life income fund must not be assigned, charged, alienated or anticipated and is exempt from execution, seizure or attachment.
- [77] Mr. Pasquill submits that the words of s. 4(3) of the addendum imply that s. 70 provides that money in a LIF is exempt from execution, seizure or attachment. However, in my view, the words "and in accordance with section 70 of the Act" must be words of limitation. Otherwise, they would be meaningless.
- [78] If the intention of s. 4(3) is simply to say that money in this life income fund must not be assigned, charged, alienated or anticipated and is exempt from execution, seizure or attachment, without qualification, then the quoted words are unnecessary. In my view, the purpose of the quoted words is to import whatever limitations on the exemptions are found in s. 70, including in s. 70(4) and (4.1), into s. 4 of the addendum.

[79] Finally, the Commission has advanced evidence from Hansard citing parts of the legislative debates regarding the 2023 amendments. In the second reading of the bill leading to the passage of those amendments, one of the Ministers said:

the bill addresses a gap in the intended outcome of the 2019 amendments that allowed the BCSC to collect fines from registered accounts. A recent Court of Appeal decision imposed restrictions on which funds the BCSC can collect from registered accounts of people who violated security laws. These amendments address that decision and ensure that these people are unable from protection offered to funds withdrawn from accounts like a locked in pension.

[80] Further, before the Committee as a whole, the same Minister said:

In 2021, in the Pasquill case, the B.C. Court of Appeal held that this ability to enforce against registered plans did not extend to the items exempted from the enforcement under section 70 of the Pension Benefits Standards Act, such as pension funds that are life income funds, known as LIFs.

The proposed amendment closes this gap, allowing the BCSC to ensure against the pension payments currently excluded by section 70 of the Pension Benefits Standards Act.

[81] It is clear from these passages that at least this Minister intended for the 2023 amendments to overcome the result of the CA Decision. Notwithstanding this Minister's intention, however, the case law is replete with statements that evidence of legislative debates ought to be regarded with caution. In *Murray v. British Columbia (Superintendent of Motor Vehicles)*, 2013 BCCA 363, leave to appeal to SCC ref'd, 35581 (January 23, 2014), the Court of Appeal held:

[26] Ultimately, the question is not what the minister understood the legislation to mean, but what the meaning of the legislation is, interpreted in its grammatical and ordinary sense and harmoniously with the scheme of the Act and the intention of the Legislature.

[82] Accordingly, I have reached the conclusions set out above not on the basis of the words spoken by the Minister, but rather by reference to the words of the statute read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of the Legislature.

Is the forfeiture order sought by the Commission unavailable because it would have retrospective effect?

[83] In *Thow v. British Columbia (Securities Commission)*, 2009 BCCA 46 at para. 13, the Court of Appeal held that in Canada, the "retrospective application of laws is limited by applying an interpretive presumption that laws operate only prospectively."

[84] In that case, Mr. Thow, like Mr. Pasquill, was found to have committed fraud contrary to the Securities Act. The Commission made a number of orders against Mr. Thow, including the imposition of a \$6 million administrative penalty. Mr. Thow appealed from the imposition of the administrative penalty on the basis that when the offences were committed by him, the

Securities Act provided for a maximum administrative penalty of \$250,000, compared to \$1 million per contravention at the time of the penalty hearing. The Court of Appeal agreed with his position, holding that the Commission was seeking to retrospectively apply the increased administrative penalty provision.

[85] The discussion of the presumption against the retroactive application of statutes in E.A. Driedger, "Statutes: Retroactive Retrospective Reflections" (1978) 56 Canadian Bar Review at p. 264 has been cited with approval in numerous cases, including in Thow, in which the Court of Appeal quoted from the Driedger article as follows:

[20] The presumption against retrospectivity does not apply to all statutes. In his article, at p. 271, Driedger describes the application of the presumption as follows:

[T]here are three kinds of statute that can properly be said to be retrospective, but only one that attracts the presumption. First, there are the statutes that attach benevolent consequences to a prior event; they do not attract the presumption. Secondly, there are those that attach prejudicial consequences to a prior event; they attract the presumption. Thirdly there are those that impose a penalty on a person who is described by reference to a prior event, but the penalty is not a consequence of the event; these do not attract the presumption.

[86] Once the presumption applies, a statute is not to be construed as having retrospective operation unless required expressly or by necessary implication as found in the language of the legislation: *Gustavson Drilling (1964) Ltd. v. Minister of National Revenue*, [1977] 1 S.C.R. 271, 1975 CanLII 4 (SCC); R. Sullivan, *The Construction of Statutes*, 7th ed (LexisNexis, 2022) at §25.05.

[87] The Commission submits that in this case, retrospective operation is required expressly by the language of the statute. Section 164.02 of the Securities Act provides as follows:

Application

164.02 (1) This Part applies to unlawful activity that occurred before, on or after the coming into force of this section, whether or not an order has been made under section 155.1 (b), 157 (1) (b) or 161 (1) (g) in respect of the unlawful activity.

(2) This Part applies to property, whether or not

- (a) the acquisition of the whole or the portion of an interest in the property,
- (b) the increase in the value of the whole or the portion of an interest in the property, or
- (c) the decrease in the debt obligation,

as referred to in section 164.16, occurred before, on or after the coming into force of this Part.

- [88] The reference to "this Part" in s. 164.02 above is to Part 18.1, the part of the Securities Act added in 2020 to give the Commission statutory authority to seek certain court orders for the forfeiture of property against persons who have contravened securities law. The Commission submits that it is seeking a forfeiture order under Part 18.1 of the Securities Act and that s. 164.02 expressly applies.
- [89] On the other hand, Mr. Pasquill submits that if the Commission's interpretation of the 2023 amendments is accepted, the 2023 amendments will impose a new prejudicial consequence on Mr. Pasquill arising from his past breaches of the Securities Act. Those prejudicial consequences would be the forfeiture of payments from the LIF Accounts, which according to the CA Decision were exempt from forfeiture in 2021.
- [90] He argues that it is the 2023 amendments, and in particular the amended language in s. 70(4) and (4.1) of the PBSA that impose retrospective consequences upon him -- not Part 18.1 of the Securities Act. As discussed above, general exemptions to the forfeiture right are set out in s. 70(1) of the PBSR, and exceptions or carve-outs to the exemption are set out in s. 70(4) and (4.1). Mr. Pasquill submits that since there is no express language in the 2023 amendments requiring retrospective operation, the presumption against retrospectivity is not overcome.
- [91] This issue requires this Court to return to the modern principles of statutory interpretation, stated above. As discussed, the words of a statute must be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of the Legislature.
- [92] Reading s. 164.02 together with the other provisions of the PBSA and Part 18.1 of the Securities Act, it is my view that the Legislature intended, broadly, that property of a person who has contravened the Securities Act may be forfeited to the Commission under s. 164.10 and s. 164.12 despite the fact that the unlawful activity occurred before 2020 when Part 18.1 came into force.
- [93] This application is advanced under s. 164.12 and so, in my view, the presumption against retrospective application is overcome by s. 164.02. In answer to Mr Pasquill's argument, it is unreasonable, in my view, to expect the Legislature to include a new retroactivity provision every time an amendment which may expand the scope of the enforcement mechanism in Part 18.1 is enacted, in circumstances wherein the Legislature has already made it clear that this particular enforcement mechanism has retrospective application.
- [94] For these reasons, in my view, Mr. Pasquill's argument regarding retrospectivity does not assist him in these circumstances.

Is the forfeiture order sought by the Commission barred by a limitations defence?

- [95] Mr. Pasquill submits that the forfeiture order sought by the Commission is statute barred by s. 159 of the Securities Act. Section 159(1) states:

Limitation period

159 (1) Proceedings under this Act, other than an action referred to in section 140 or 140.94, must not be commenced more than 6 years after the date of the events that give rise to the proceedings.

- [96] A similar limitations issue is the subject of a decision by Justice Crerar in a case related to this one (relating to the Commission's claim for forfeiture of "undervalue benefits" allegedly transferred from Mr. Pasquill to his wife).
- [97] In *British Columbia Securities Commission v. Pasquill*, 2023 BCSC 2150, Ms. Pasquill brought an application to strike that claim on the basis that the proposed cause of action against her was time-barred pursuant to s. 159 of the Securities Act. Her position was that the event that gave rise to the proceedings against her was the issuance of the Sanctions Decision on March 16, 2015, and that the six-year limitation period applicable to Securities Act proceedings started running on that date. That position was rejected by Justice Crerar who held, inter alia, that the limitation period did not start running until the 2020 amendments came into force: paras. 97 to 101.
- [98] On the hearing of this petition, Mr. Pasquill candidly conceded that I am bound by the principle of horizontal stare decisis to follow the decision of Justice Crerar on this issue. Accordingly, I have concluded that I am bound by the decision of Justice Crerar to dismiss Mr. Pasquill's limitations defence on this petition.
- [99] The limitations issue is one of the subjects of an appeal from Justice Crerar's decision currently pending before the Court of Appeal. That appeal was heard on December 10, 2024, and judgment was reserved.

Would it be clearly not in the interests of justice to make the forfeiture order sought by the Commission?

- [100] Section 164.12 of the Securities Act provides that if proceedings are commenced under s. 164.10(1) (as they have been in this case), the Court must order forfeiture unless it determines under s. 164.13 that forfeiture of the whole or a portion of a person's interest in property is "clearly not in the interests of justice."

- [101] Section 164.13 provides:

Relief from forfeiture

164.13 (1) If a court determines that the forfeiture of property or the whole or a portion of an interest in property under this Division is clearly not in the interests of justice, the court may do any of the following:

- (a) refuse to issue a forfeiture order;
- (b) limit the application of the forfeiture order;

(c) put conditions on the forfeiture order.

[102] I am advised that the meaning of the phrase "clearly not in the interests of justice" has not been considered in the context of s. 164.13, but it has been considered in the context of a similar provision in the Civil Forfeiture Act, R.S.B.C. 2024, c. 1 [CFA]. Section 7 of the CFA provides that the court may refuse, put limits on the application, or put conditions on the forfeiture of property if it is shown that forfeiture would be "clearly not in the interests of justice."

[103] Despite this similarity in language, it is common ground between the parties on this petition that the jurisprudence in relation to this issue under the CFA may be relevant but should be applied with caution. The primary distinguishing feature between the two statutes is that under the Securities Act there is no requirement that the property be linked to unlawful activity, as there is under the CFA.

[104] In *British Columbia (Director of Civil Forfeiture) v. Wolff*, 2012 BCCA 473 [Wolff], decided under a previous version of the CFA which contained identical language as the current CFA, the Court of Appeal held:

[38] As mentioned earlier, the question for the court under s. 6 is not whether the Director is able to demonstrate that forfeiture would serve any or all of the statutory purposes. Rather, it is whether the offender is able to show that forfeiture would in all the circumstances be "clearly not in the interests of justice", or would be manifestly harsh and inequitable.

[39] Obviously, the purposes of the legislation will be relevant to the interests of justice. As the Court stated in *Saskatchewan (Seizure of Criminal Property Act, 2009, Director) v. Mihalyko*, 2012 SKCA 44 at para. 34, the "interplay between the purposes of the legislation and the exercise of the interests of justice discretion" must be considered. But so must several other factors. In *Rai*, the Court provided a "non-exhaustive list":

1. proportionality;
2. fairness;
3. the degree of culpability, complicity, knowledge, acquiescence, or negligence;
4. the extent of the problem in the community of the sort of unlawful activity in question;
5. the need to remove profit motive;
6. the need for disgorgement of wrongfully obtained profits;
7. the need for compensation;
8. prevention of future harm;
9. general deterrence. [At para. 111.]

To this list one might add the offender's personal or family circumstances and the effect of forfeiture on them, the relationship between the property sought to be forfeited and the unlawful conduct in question, and the reputation of the administration of justice.

[40] Rai rightly suggests that the principles of proportionality and fairness will be the "dominant considerations" in most cases.

[105] In support of his position on this issue, Mr. Pasquill refers to the nature of the LIF Accounts. As noted above, s. 4(1) of the addendum in Schedule 2 of the PBSR provides:

Limitation on payments and transfers from this life income fund

4 (1) Money in this life income fund, including investment earnings, is for use in the provision of retirement income.

[106] On the basis of this provision, Mr. Pasquill submits that it is not only in Mr. Pasquill's private interest that he be permitted to use the LIF Accounts for the provision of his retirement income: there is a public interest recognized in the PBSA and PBSR that he be permitted to do so.

[107] On the other hand, the Commission refers to an affidavit recently sworn by Mr. Pasquill in which he concedes that he or his spouse recently transferred the 2024 lump sum withdrawal from his LIF Account (a sum exceeding \$50,000) to his daughter in El Salvador.

[108] He deposes that he and his wife "did not intend to withdraw proceeds from our joint account for this transaction." However, the more important point to be taken from Mr. Pasquill's evidence on this issue is that he and his spouse do not appear to require the funds generated by withdrawals from his LIF Accounts. Indeed, Mr. Pasquill conceded through his counsel during the hearing that he does not "need" payments from the LIF Accounts to pay his living expenses. In his recent affidavit, Mr. Pasquill deposes:

When we realized this withdrawal had occurred, my wife and I agreed, rather than attempting to reverse the transaction, that my wife would help pay for my living expenses for 2024.

[109] I note that the Commission spent some time in submissions attacking Mr. Pasquill's credibility and arguing that evidence he has given regarding his living expenses ought not to be accepted. Given the conclusions that I have reached above arising from his recent affidavit, it is not necessary to address these arguments and I decline to do so.

[110] Mr. Pasquill in his written submissions also argues that:

the property in the LIF is completely unrelated to the conduct that gave rise to the Commission's orders. The LIF was created from the pension benefits Mr. Pasquill earned as an employee of Eaton's until 1994. The property in the LIF is not connected to Mr. Pasquill's contraventions of the Securities Act. It is also not connected to Mr. Pasquill's participation in the securities markets.

- [111] As noted above, the forfeiture regime under the Securities Act differs from that under the CFA in that under the Securities Act there is no requirement that the property be linked to unlawful activity, as there is under the CFA. For this reason, the references in Wolff to the relationship between the property sought to be forfeited and the unlawful conduct in question are not directly applicable to forfeiture proceedings under the Securities Act, or at least do not weigh heavily in the analysis.
- [112] Finally, Mr. Pasquill argues that refusing to order forfeiture would not undermine achievement of the statutory purposes of the orders made against him. He relies on a statement in Poonian at para. 111 that the purpose of disgorgement orders under s. 161(1)(g) is "to deter persons from non-compliance by removing the prospect of receiving and retaining moneys from non-compliance" and "not to punish or compensate."
- [113] Mr. Pasquill submits there is no present risk that he will cause future harm to the capital markets. Mr. Pasquill argues that he has not participated in the capital markets since the Sanctions Decision was made on March 16, 2015. He is 81 years old and deposes that he has no intention of any longer participating in the capital markets. He argues that there is no need to deter him from non-compliance.
- [114] In my view, however, it is not only Mr. Pasquill who requires deterrence from non-compliance. One of the objectives of disgorgement orders and administrative penalties is to deter potential wrongdoers generally. Further, while it may not be the primary purpose of disgorgement orders under s. 161(1)(g), it is noted that s. 15.1 of the Securities Act provides a mechanism to return monies to investors when disgorgement orders are paid. It is in the interests of the scheme that investors be compensated to the extent possible for their losses.
- [115] The Commission submits that there are three broad points to be considered in assessing whether the forfeiture of payments from Mr. Pasquill's LIF Accounts would be clearly not in the interests of justice.
- [116] The Commission emphasizes that Mr. Pasquill has not made any effort to pay any of the amounts owing. It submits that Mr. Pasquill's reasoning is that there is no possible way that he will ever be able to satisfy the entirety of the award and so he has chosen to pay none of it.
- [117] Second, as indicated above, it appears on the evidence that Mr. Pasquill does not need the payments from the LIF Accounts to pay his living expenses.
- [118] Third, the Commission submits that there are approximately 700 investors who are entitled to some compensation if it can be collected.

[119] I agree with Mr. Pasquill that, in this case, considerations of individual deterrence are not particularly significant. On the other hand, the degree of Mr. Pasquill's culpability in the conduct giving rise to the Sanctions Decision, the need for compensation, and the objective of general deterrence weigh heavily in favour of forfeiture. Further, and importantly, it does not appear that the forfeiture of payments from the LIF Accounts will have a substantially prejudicial impact on Mr. Pasquill's personal or family circumstances.

[120] On the basis of these considerations, I have concluded that the principles of proportionality and fairness do not, on balance, support the granting of relief from forfeiture as sought by Mr. Pasquill. I am unable to find that forfeiture in all the circumstances would be "clearly not in the interests of justice," or that it would be "manifestly harsh and inequitable."

Should the receivership order sought by the Commission be granted?

[121] As indicated above, the enforcement mechanism provided to the Commission by the Securities Act and the PBSA, read together, is the entitlement to attach payments from the LIF Accounts under s. 70(4.1)(a) of the PBSA.

[122] The Commission seeks, as an ancillary order, the appointment of a receiver to direct the payment of funds to it from the LIF Accounts. It submits that this Court has the jurisdiction to make that order under s. 179.1(1) of the Securities Act:

Receiver manager

179.1 (1) If any of the circumstances referred to in section 164.04 (2) or (3) exist, the commission may apply to the Supreme Court for an order appointing a person to act as a receiver, receiver manager or trustee for property or the whole or a portion of an interest in property of a person.

[123] In my view, it is clear that this Court possesses the jurisdiction to make the order sought by the Commission, as one of the circumstances set out in s. 164.04(2) is that the Commission "has made an order under section 161, 162 or 162.04 in respect of the person." It is unclear, however, why a receiver is needed in the circumstances of this case, given the attachment order being made. Upon questioning from the Court, counsel for the Commission conceded that the appointment of a receiver would be largely for administrative convenience.

[124] I have been provided with no authority regarding the appointment of a receiver under s. 179.1 of the Securities Act, but it is clear, in my view, from authorities regarding the appointment of a receiver in other contexts that such an appointment ought not to be made simply for the convenience of a party. At least in the corporate and insolvency context, this Court has consistently held that the appointment of a receiver is extraordinary relief which should be granted cautiously and sparingly: see *Maple Trade Finance Inc. v. CY Oriental Holdings Ltd.*, 2009 BCSC 1527 at para. 25.

[125] In this case, there is no evidence that an order against Canaccord to redirect any payments from the LIF Accounts to the Commission will not be effective. Further, there is no evidence as to the cost of a receiver or whether that cost may be proportionate to the benefit achieved.

[126] For these reasons, I am not prepared to order the appointment of a receiver.

Conclusion

[127] The forfeiture order sought by the Commission in its petition is granted. The application for the appointment of a receiver is dismissed.

[128] There were some submissions advanced during the course of the hearing about whether s. 70(4.1)(a) only allows for the attachment of one payment or whether the order, if granted, would mean all future payments. In my view, this question is answered by the wording of the subsection. It uses the words "any payment" which, in my view, mean any and all future payments, when they are made.

[129] This Court grants an order in favour of the Commission in the following terms:

Pursuant to section 164.12 of the Securities Act, R.S.B.C. 1996, c. 418 and s. 70(4) and (4.1) of the Pension Benefits Standards Act, S.B.C. 2012, any payment to Earle Douglas Pasquill from life income accounts identified by numbers 36L-36PT-1 and 36L-36PT-2 at Canaccord Genuity Wealth Management at 2200 - 609 Granville Street, Vancouver, British Columbia is forfeit to the British Columbia Securities Commission.

[130] I note that the wording of this Order differs from the relief sought in the Notice of Application in that it refers only to "any payment" and not to "any payment, return or withdrawal." It is unclear whether the words "return" or "withdrawal" would make any practical difference in this case but the attachment order has been sought and granted pursuant to s. 70(4.1)(a) and those words do not appear in that subsection.

[131] Costs of the petition shall be payable by Mr. Pasquill to the Commission at Scale B.

"The Honourable Justice Loo"

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