

CANADA / JUDGMENT

## Williams (Re)

2025 BCSC 1128

COURT

Supreme Court of British Columbia

DECIDED

3 June 2025

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2025 BCSC 1128 Williams (Re)

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Williams (Re),

2025 BCSC 1128

Date: 20250603

Estate No.: 11-2739027

Docket: B230207

Registry: Vancouver

In the Supreme Court of British Columbia

In Bankruptcy and Insolvency

In the Matter of the Bankruptcy of

Thomas Arthur Williams

Before: The Honourable Justice G.C. Weatherill

Oral Reasons for Judgment

In Chambers

Counsel for the BC Securities Commission:

A. Paczkowski

W. Roberts

Thomas Arthur Williams, appearing in person:

T.A. Williams

Place and Date of Hearing:

Vancouver, B.C.

June 3, 2025

Place and Date of Judgment:

Vancouver, B.C.

### June 3, 2025

[1] THE COURT: By notice of application filed May 9, 2025, the British Columbia Securities Commission (the "Commission") seeks the following:

- 1) a declaration that the disgorgement order in the amount of \$6.8 million made against the bankrupt by the Commission in a decision dated August 17, 2016, and registered with the Supreme Court of British Columbia in S.C.B.C. Action No. L-160324, is a debt or liability resulting from false pretences or fraudulent misrepresentation for the purposes of s.178(1)(e) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3 [BIA]; and
  - 2) a declaration that pursuant to s.178(1)(e) of the BIA, the amounts owing by the bankrupt to the Commission pursuant to the disgorgement order shall not be released by any order of discharge granted to the bankrupt.
- [2] The bankrupt in question is Thomas Arthur Williams, who appeared in person on the application. Although his response filed on May 21, 2025 opposes the declaration sought, it does not set out any substantive basis for doing so. Moreover, he was unable to provide a reason for why the declaration should not be granted when given an opportunity to do so during the course of the hearing. The most he could do was to advise that he is on a pension and cannot afford to make the payments.

### Background

- [3] Briefly, the background to this matter is as follows. In 2016, Mr. Williams was found by a panel of Commissioners of the Commission to have been the mastermind of a fraudulent investment scheme involving a group of companies referred to as the Global Group of Companies or the Global Entities.
- [4] On January 14, 2016, after nine days of hearings in May and June 2015, during which 11 witnesses were heard, including nine investors, the panel found that between February 2007 and April 2010, Mr. Williams and his associates induced 123 investors to invest approximately \$11.7 million into this group of companies, promising them that their money would be put into safe investments and would earn them handsome returns.

- [5] In fact, Mr. Williams engaged in a scheme whereby some of the money that was provided by "later investors" was used to pay returns to "earlier investors". Some of the money was used to pay commissions to Mr. Williams and to those he had recruited to lure investors to the scheme. Some of the money was sent by Mr. Williams to entities controlled by individuals with a history of criminal or securities regulatory fraud. The panel found that none of the investors' money was invested in any investments, safe or otherwise. Indeed, the Global Entities had no actual revenues whatsoever.
- [6] Of the \$11.7 million that was invested into the scheme, \$4.9 million was returned to various investors as part of the scheme. The balance, being \$6.8 million, was never recovered.
- [7] The panel found that Mr. Williams was the principal and sole directing mastermind of the scheme, which the panel described variously as sham and a Ponzi scheme. The panel determined that there was clear and convincing evidence that Mr. Williams had deliberately and knowingly deceived the investors.
- [8] In May 2016, the Commission made an order (the "Sanctions Decision") imposing permanent market prohibitions on Mr. Williams and, among other sanctions, ordered him to disgorge the sum of \$6.8 million under s.161(1)(g) of the Securities Act, R.S.B.C. 1996, c. 418. The Sanctions Decision was filed in this court under s.163 of the Securities Act on September 22, 2016, Court File No. L160324.
- [9] To date, Mr. Williams has not paid any of that amount.
- [10] On May 20, 2021, Mr. Williams made an assignment in bankruptcy and BDO Canada Limited was appointed Trustee. Mr. Williams remains an undischarged bankrupt. The Commission filed a proof of claim and notice of opposition to Mr. Williams' discharge. Mr. Williams' application for discharge in May 2023 was opposed by both the Commission and the Trustee. The application was adjourned on May 31, 2023.

## Discussion and Disposition

- [11] The BIA permits an honest but unfortunate debtor to obtain a discharge from debts and a fresh start. However, any debt or liability arising from obtaining property or services by false pretences or fraudulent misrepresentations (other than a debt or liability that arises from an equity claim) is not discharged: BIA s. 178(1)(e); *Poonian v. British Columbia (Securities Commission)*, 2024 SCC 28 at paras. 1 and 21.
- [12] The Supreme Court of Canada in *Poonian*, at para. 54, set out the test for determining whether a debt or liability survives bankruptcy pursuant to s. 178(1)(e). The creditor (in this case, the Commission), must establish that:
- 1) the bankrupt was engaged in false pretences or fraudulent misrepresentation;
  - 2) a passing of property or provision of services; and

3) a link between the debt or liability and the fraud.

[13] A court cannot take judicial notice of fraud or infer fraud in a cursory manner: Poonian at paras. 66-67. However, where, as here, the fraud has been determined by an administrative panel, there is no need for the court to conduct a full rehearing or carry out a full review of the record that was before the panel. The court is entitled to rely on the panel's findings of fact for its determination of whether those facts constitute false pretenses or fraud: Poonian at paras. 69, 97-99 inclusive.

[14] It is noteworthy that following release of the Supreme Court of Canada's decision in Poonian, the bankrupts in that case filed a motion for an amendment of the judgment or rehearing of the appeal on the basis that the court failed to consider that the chambers judge who decided the Commission's application at first instance "did not have an independent record of the proceedings before the [Commission]". Rather, the chambers judge relied on the administrative panel's determination of the facts in determining the requisite fraud had occurred.

[15] It is clear from the Supreme Court of Canada's judgment in Poonian that the approach taken by the chambers judge in Poonian was endorsed. The rehearing application was dismissed.

[16] In this case, the panel determined in a detailed 40-page decision, inter alia, that:

- a) Mr. Williams was the principal and sole directing mind of the global entities;
- b) over time investors lent money to differing global entities under varying agreements pursuant to which they were promised monthly returns of between two per cent and six per cent;
- c) Mr. Williams hired people to persuade investors to lend them money;
- d) investors were told that their money was being invested and that their money was secured and sitting in a financial institution and that they would not be put at risk; and
- e) in actual fact, the money was never invested. Rather, it was used, as I have described, above. The investors as a group lost \$6.8 million.

[17] I have no difficulty finding on the facts as were determined by the panel in this case that Mr. Williams obtained the \$11.7 million from investors by false pretences or fraudulent misrepresentation, indeed by both. His conduct as determined by the panel was, by any measure, fraud.

[18] I also have no difficulty finding that Mr. Williams' conduct resulted in a loss in the form of a transfer of property, namely money, as well as a debt or liability corresponding to that loss. Section 178(1)(e) does not require that the bankrupt be the recipient of the property of which a person was deprived. The property need not have been obtained or retained by the bankrupt and may have passed directly or indirectly from the person to a third party at the bankrupt's direction or on his or her behalf. What is required is that the fraud induced a

person to give the property to the bankrupt or someone associated with the bankrupt.  
Poonian at para. 73.

- [19] The facts as determined by the panel demonstrate that that is precisely what occurred here. The investors were induced by Mr. Williams' fraudulent conduct to provide money to the Global Entities at his direction or at the direction of his associates.
- [20] Moreover, the debt or liability captured by the disgorgement order was created as a result of Mr. Williams' false pretences or fraudulent misrepresentation and that the debt or liability represents the value of the property obtained by false pretences or fraudulent misrepresentation.
- [21] The creditor, in this case, the Commission, who was not directly victimized by the fraudulent conduct, falls within the provisions of s.178(1)(b) provided the claim is the result of a person being deprived of property or services after having detrimentally relied on the debtor's false pretences or fraudulent misrepresentation. There is no requirement that the creditor be the direct recipient of the deceitful conduct: Poonian at paras. 94-95.
- [22] The disgorgement order in this case represents the value of Mr. Williams' liability caused by his fraudulent conduct: Poonian at para. 112. There is a direct link between the disgorgement order debt and Mr. Williams' deceitful conduct.
- [23] The declarations sought by the Commission in Part 1 of its notice of application filed May 9, 2025 are granted.
- [24] Mr. Williams, is there anything unclear about my decision?
- [25] THE BANKRUPT: No. I am clear.
- [26] THE COURT: All right. Counsel.
- [27] CNSL A. PACZKOWSKI: Justice, I don't have a form of order to hand you today. May I request that an order dispensing with Mr. Williams' signature be made in connection with your declarations today.
- [28] THE COURT: So granted. I will review the order. And I am here on Thursday if it is available for my signature by then.
- [29] CNSL A. PACZKOWSKI: Yes, Justice.
- [30] THE COURT: All right. Very good. Thank you.
- [31] THE CLERK: Justice, just to confirm. So, this would be both the orders that were sought in the notice of application filed on May 9, 2025. So, order 1 and 2.
- [32] THE COURT: Correct. Both.
- [33] THE CLERK: Thank you, Justice. Order in chambers.

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"G.C. Weatherill J."

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