COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Sidhu v. British Columbia (Securities Commission),* 2026 BCCA 51

Date: 20260121
Docket: CA51045

Between:

Kuldeep Singh Sidhu

Appellant
(Respondent)

And

Executive Director of the British Columbia Securities Commission

Respondent
(Applicant)

Before: The Honourable Justice Griffin
(In Chambers)

On appeal from: A decision of the British Columbia Securities Commission, dated September 9, 2025 (*Re Sidhu*, 2025 BCSECCOM 402).

Oral Reasons for Judgment

Counsel for the Appellant:	L.D. Ridgedale M. McGarry
Counsel for the Respondent:	J.A. Dean
Place and Date of Hearing:	Vancouver, British Columbia January 20, 2026
Place and Date of Judgment:	Vancouver, British Columbia January 21, 2026

Summary:

The applicant seeks leave to appeal from an enforcement order made against him by the British Columbia Securities Commission. He contends that the Commission erred in its interpretation of the applicable limitation period under the Securities Act and in depriving him of an oral hearing. Held: Application dismissed. Neither ground of appeal is likely to resolve any contentious issue in the jurisprudence on a matter of law, provide guidance to other litigants, or result in a significant

remedy. The Commission properly followed precedent established by the Supreme Court of Canada in interpreting the limitation period. The applicant did not request an oral hearing and had no reasonable expectation of one.

GRIFFIN J.A.:

Introduction

[1] The applicant, Mr. Kuldeep Singh Sidhu, seeks leave to appeal from an enforcement order made against him by the British Columbia Securities Commission ("Commission") on September 9, 2025, indexed as *Re Sidhu*, 2025 BCSECCOM 402 ("Commission Decision"). In summary, the order places strict restrictions on his ability to act as a director or officer of a company, to trade in securities, and to act in certain management or promotional roles in the public markets.

[2] Mr. Sidhu advances two proposed grounds of appeal. He submits that the Commission erred in:

a) its interpretation of the applicable statutory limitation period; and

b) in not holding an oral hearing and in proceeding on written submissions only.

[3] The orders were made pursuant to s. 161 of the *Securities Act*, R.S.B.C. 1996, c. 418 [*Act*].

[4] The respondent, the Executive Director of the Commission, opposes the application for leave and submits there is no merit to the proposed grounds of appeal.

Statutory Regime

[5] Because the application before me raises some questions regarding the interpretation of the *Act*, I will briefly touch on the broader context of the statutory regime.

[6] The Commission has a broad public interest mandate, as described in *Pezim v. British Columbia (Superintendent of Brokers)*, [1994] 2 S.C.R. 557 at 589, 591–595, 1994 CanLII 103, and the authorities cited therein: see *Party A v. British*

Columbia (Securities Commission), 2021 BCCA 358 [*Party A*]. This includes a mandate to protect the investor, which includes ensuring that persons who carry on the business of trading in securities or acting as investment counsel are honest and of good repute. The mandate also includes promoting capital market efficiency and ensuring public confidence in the system.

[7] The order at issue today was made pursuant to ss. 161(1) and 161(6)(a) of the *Act*.

[8] These provisions give the Commission broad discretion to issue orders if it considers it to be in the public interest:

> **Enforcement orders**
>
> **161** (1) If the commission or the executive director considers it to be in the public interest, the commission or the executive director, after a hearing, may order one or more of the following:
>
> (a) that a person comply with or cease contravening, and that the directors and officers of the person cause the person to comply with or cease contravening,
>
> (i) a provision of this Act or the regulations,
>
> (ii) a decision, whether or not the decision has been filed under section 163,
>
> (iii) a bylaw, rule, or other regulatory instrument or policy or a direction, decision or similar determination made by a clearing agency, exchange, quotation and trade reporting system, self-regulatory body or trade repository, as the case may be, that has been recognized by the commission under section 24, or
>
> (iv) a bylaw, rule, or other regulatory instrument or policy or a direction, decision or similar determination made by
>
> (A) a benchmark administrator that has been designated for the purposes of a regulation referred to in section 183 *(2.2)*, or
>
> (B) an information processor that has been designated for the purposes of a regulation referred to in section 183 *(2.3)*;
>
> (b) that
>
> (i) all persons,
>
> (ii) the person or persons named in the order, or
>
> (iii) one or more classes of persons
>
> cease trading in, or be prohibited from purchasing, any securities or derivatives, a specified security or derivative or a specified class of securities or class of derivatives;

(c) that any or all of the exemptions set out in this Act, the regulations or a decision do not apply to a person;

(d) that a person

(i) resign any position that the person holds as a director or officer of an issuer or registrant,

(ii) is prohibited from becoming or acting as a director or officer of any issuer or registrant,

(iii) is prohibited from becoming or acting as a registrant or promoter,

(iv) is prohibited from advising or otherwise acting in a management or consultative capacity in connection with activities in the securities or derivatives markets,

(v) is prohibited from engaging in promotional activities by or on behalf of

(A) an issuer, security holder or party to a derivative, or

(B) another person that is reasonably expected to benefit from the promotional activity,

(vi) is prohibited from engaging in promotional activities on the person's own behalf in respect of circumstances that would reasonably be expected to benefit the person,

(vii) is prohibited from voting a security or exercising a right attaching to a security or a derivative, or

(viii) is prohibited from engaging in any activity in relation to the administration of a benchmark or the provision of information to a benchmark administrator in relation to the determination of a benchmark;

(e) that a person

(i) is prohibited from disseminating to the public, or authorizing the dissemination to the public, of any information or record of any kind that is described in the order,

(ii) is required to disseminate to the public, by the method described in the order, any information or record relating to the affairs of the registrant or issuer that the commission or the executive director considers must be disseminated, or

(iii) is required to amend, in the manner specified in the order, any information or record of any kind described in the order before disseminating the information or record to the public or authorizing its dissemination to the public;

(f) that a registration or recognition be suspended, cancelled or restricted or that conditions, restrictions or requirements be imposed on a registration or recognition;

(g) if a person has not complied with this Act, the regulations or a decision of the commission or the executive director, 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;
>
> (h) that a person referred to in subsection (7) submit to a review of its practices and procedures;
>
> (i) that a person referred to in subsection (7) make changes to its practices and procedures;
>
> (j) that a person be reprimanded.
>
> …
>
> (6) The commission or the executive director may, after providing an opportunity to be heard, make an order under subsection (1) in respect of a person if the person
>
> (a) has been convicted in Canada or elsewhere of an offence
>
> (i) arising from a transaction, business or course of conduct related to securities or derivatives, or
>
> (ii) under the laws of the jurisdiction respecting trading in securities or derivatives,
>
> (b) has been found by a court in Canada or elsewhere to have contravened the laws of the jurisdiction respecting trading in securities or derivatives,
>
> (c) is subject to an order made by a securities regulatory authority, a self-regulatory body or an exchange, in Canada or elsewhere, imposing sanctions, conditions, restrictions or requirements on the person, or
>
> (d) has agreed with a securities regulatory authority, a self-regulatory body or an exchange, in Canada or elsewhere, to be subject to sanctions, conditions, restrictions or requirements.
>
> [Emphasis added.]

[9] Also relevant is s. 159(1) of the *Act*, which sets out the applicable limitation period for the s. 161 enforcement proceeding as follows:

> **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.
>
> [Emphasis added.]

[10] The Commission has the power to issue policy statements pursuant to s. 188 of the *Act*.

[11] It has done so with respect to the procedure to be followed for hearings, BC Policy 15-601 (“Hearing Policy”).

[12] Under Part 5 and the heading “Enforcement Orders Under Section 161(6)”, the Hearing Policy sets out the applicable procedure for hearings pursuant to s. 161(6), including:

> **5.1 Power**
>
> The Commission may make orders against a person under section 161(1) of the Act, after providing the person an opportunity to be heard under section 161(6), if:
>
> - a person has been convicted in Canada or elsewhere of a securities related offence,
> - another securities regulatory authority in a hearing or under a settlement sanctions a person, or
> - a court makes a securities related finding against a person.
>
> **5.2 Procedure**
>
> In these circumstances, the executive director sends the person notice of an application to the Commission for orders under section 161(1) of the Act. The notice includes records from the underlying proceeding, any submissions, and a draft of the order sought by the executive director. The person will have a reasonable time to make written submissions.
>
> While many of these hearings proceed in writing, the Commission may proceed with an oral hearing at the request of the parties.
>
> [Emphasis added.]

Test for Leave to Appeal

[13] Section 167 of the *Act* gives a person the right to seek leave of this Court to appeal an order made pursuant to s. 161. It reads:

> **Appeal of commission decision**
>
> **167** (1) A person directly affected by a decision of the commission, other than
>
> (a) a decision under section 48 or 76,
>
> (b) a decision under section 165 in connection with the review of a decision of the executive director under section 48 or 76, or
>
> (c) a decision by a person acting under authority delegated by the commission under section 7,
>
> may appeal to the Court of Appeal with leave of a justice of that court.
>
> (2) The commission or the Court of Appeal may grant a stay of the decision appealed from until the disposition of the appeal.
>
> (3) If an appeal is taken under this section, the Court of Appeal may direct the commission to make a decision or to perform an act that the commission is authorized and empowered to do.

[14] The proper approach to an application for leave to appeal of this nature is the test in *Queens Plate Dev. Ltd. v. Vancouver Assessor, Area 09* (1987), 16 B.C.L.R. (2d) 104, 1987 CanLII 2626 (C.A.) [*Queens Plate*], as set out in *Party A v. British Columbia (Securities Commission)*, 2020 BCCA 382 (Chambers) [*Party A (Chambers)*]:

> [26] The governing authority on leave applications from statutory tribunals is *Queens Plate Development Ltd. v. Vancouver Assessor, Area 09* (1987), 1987 CanLII 2626 (BC CA), 16 B.C.L.R. (2d) 104, 22 C.P.C. (2d) 265 at 109–110; see also *British Columbia Securities Commission v. McLean*, 2010 BCCA 454 at para. 4. In *Queens Plate*, Taggart J.A. (in Chambers) outlined the following factors which may be considered in determining leave in statutory appeals:
>
> (a) whether the proposed appeal raises a question of general importance as to the extent of jurisdiction of the tribunal appealed from …;
>
> (b) whether the appeal is limited to questions of law involving:
>
> (i) the application of statutory provisions ...;
>
> (ii) a statutory interpretation that was particularly important to the litigant ...; or,
>
> (iii) interpretation of standard wording which appears in many statutes …;
>
> (c) whether there was a marked difference of opinion in the decisions below and sufficient merit in the issue put forward ...;
>
> (d) whether there is some prospect of the appeal succeeding on its merits ... although there is no need for a justice before whom leave is argued to be convinced of the merits of the appeal, as long as there are substantial questions to be argued;
>
> (e) whether there is any clear benefit to be derived from the appeal ...; and
>
> (f) whether the issue on appeal has been considered by a number of appellate bodies …
>
> [Internal citations omitted.]

[15] This approach duplicates many of the standard factors for leave, which also apply. It includes whether the appeal will unduly hinder the progress of the action, which typically weighs against granting leave: *Party A (Chambers)* at para. 27. Here, there is no ongoing action, so this factor does not weigh against granting leave.

[16] The overarching factor in granting leave is the interests of justice. This includes considering whether it would be “likely to ‘cause great injustice to a party

if leave was not granted'": *Party A (Chambers)* at para. 29; *Dunn v. British Columbia (Securities Commission)*, 2021 BCCA 431 at para. 21 (Chambers).

[17] In considering the merits, the standard of review on a statutory appeal such as this is the traditional appellate standard of review: *Party A* at para. 109; *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at paras. 36–37.

[18] Here, the foundation for Mr. Sidhu's grounds of appeal is his interpretation of the *Act,* on both the limitation issue and the question of whether he had a right to an oral hearing. For questions of statutory interpretation, the standard of review is correctness: *Party A* at para. 111.

[19] In advancing a complaint that there was no oral hearing, Mr. Sidhu also advances a ground of appeal based on procedural fairness. The question of whether there has been a breach of procedural fairness is also a question of law: *Green Light Solutions Corp. v. Kern BSG Management Ltd.*, 2025 BCCA 408 at paras. 48, 54.

Background

[20] On September 27, 2018, Mr. Sidhu entered into a plea agreement with the United States Attorney, in California, in which he agreed to plead guilty to conspiracy to commit securities fraud. He agreed to a number of underlying facts regarding his participation in a "pump and dump" scheme. He was represented by counsel.

[21] By Order of the United States District Court for the Southern District of California dated March 4, 2019, and filed March 6, 2019, the Court accepted his guilty plea.

[22] On February 12, 2025, the Director of Enforcement of the Commission sent Mr. Sidhu a letter informing him that the Executive Director was applying for orders against him pursuant to s. 161(6)(a) and s. 161(1) of the *Act* (the "Application Letter"). This marks the commencement of the proceeding below.

[23] The Application Letter indicated that the Executive Director was relying on Mr. Sidhu's United States conviction and s. 161(6)(a).

[24] The supporting materials provided with the Application Letter included materials from the United States proceeding: the court docket, indictment, guilty plea, order accepting guilty plea, judgment and transcript, and amended judgment.

[25] The materials attached to the Application Letter were not attached to an affidavit.

[26] Near the conclusion of the Application Letter, it stated:

> 45. You are entitled to respond to this application. To do so, you must deliver any response in writing, together with any supporting materials, to the Commission Hearing Office by **Monday, March 24, 2025**.
>
> …
>
> 47. If you do not respond within the time set out above, the Commission will decide this application and may make orders against you without further notice.

[27] As it turned out, the Commission granted Mr. Sidhu an extension of time to provide his response.

[28] The exchange of written submissions occurred as follows in 2025: the Commission provided the Application Letter in February; after extensions were granted and Mr. Sidhu retained counsel, his written response was provided on May 1; and the Executive Director provided reply submissions on May 20.

[29] The Executive Director's reply submission stated that Mr. Sidhu had not provided evidence to support his claim that the requested orders would impact his livelihood.

[30] The Commission issued its decision on September 9, 2025, granting the Executive Director's application and issuing the enforcement order against Mr. Sidhu.

[31] Counsel for Mr. Sidhu then wrote to the Commission on September 11, 2025, stating that Mr. Sidhu had not been granted an opportunity for a hearing as required by ss. 161(1) and (6) of the *Act*. Counsel for Mr. Sidhu asked that the order be rescinded and a hearing scheduled. The letter did not mention the Hearing Policy.

[32] On September 17, 2025, the Commission responded to Mr. Sidhu's counsel. The Commission pointed out that the Hearing Policy does not require an oral hearing when one has not been requested. The Commission stated that Mr. Sidhu had not requested an oral hearing, so it had conducted the hearing in writing, meeting the requirements for a hearing in s. 161(6). The Commission also referred to several of its reported decisions in which it conducted a s. 161(6) hearing in writing.

Analysis

[33] As mentioned, Mr. Sidhu wishes to advance two arguments on appeal, one having to do with the limitations period, the other with the hearing process.

[34] I appreciate that it can be said from a high level that both arguments, as framed, raise questions of law involving statutory interpretation, and in this regard could raise issues of general importance affecting other parties before the Commission. This may weigh in favour of granting leave.

[35] However, in my view, when one looks closely at the issues, the outcome of an appeal is unlikely to resolve any contentious issue in the jurisprudence on a matter of law, provide guidance to other litigants, or result in a significant remedy.

[36] There ought to be little confusion on the governing legal principles, and there is little merit to the proposed appeal.

Limitation Issue

[37] The commencement of the proceeding below, by way of the Application Letter, was more than six years after Mr. Sidhu's agreement to plead guilty in the United States but less than six years after the California Court ordered that it accepted his guilty plea and convicted him.

[38] Mr. Sidhu submits that the enforcement proceeding was commenced outside of the six-year limitation period. He argues that the limitation period began to run when he made his guilty plea agreement in the United States because pursuant to s. 159, that was the "date of the events that gave rise to the proceedings". This argument was advanced before the Commission and rejected.

[39] The Executive Director submits that the limitation period did not begin to run until Mr. Sidhu's conviction in the United States because under s. 161(6)(a), the Commission may only make an order where a person "has been convicted" of an offence. Mr. Sidhu has not filed any expert evidence of the law of the United States that would treat a guilty plea as being the date of conviction. The United States court order accepting the plea occurred at a later time.

[40] In my view, the proposed appeal does not raise a novel or unresolved issue of statutory interpretation, and there is little merit to Mr. Sidhu's argument.

[41] To the extent the statute might give rise to a question — is it the underlying misconduct giving rise to the conviction that begins the running of the limitation period under s. 161(6), or the conviction itself — the Supreme Court of Canada has indicated the answer to this question already in *McLean v. British Columbia (Securities Commission)*, 2013 SCC 67. There, the issue was in relation to a settlement agreement giving rise to an enforcement proceeding, pursuant to s. 161(6)(d). But the analysis is equally applicable to a conviction giving rise to an enforcement proceeding, pursuant to s. 161(6)(a).

[42] In *McLean*, the Court rejected the argument that the limitation period for secondary proceedings under s. 161(6) commences on the date of the underlying conduct. Rather, the Court focused on the "triggering event" for an enforcement proceeding under s. 161(6) as the start date of the running of the limitation period. The Court reasoned that to hold otherwise could mean the limitation period could expire even before a triggering event occurred, if the offending conduct occurred more than six years prior to the triggering event.

[43] The Court in *McLean* held at para. 54:

> … In other words, s. 161(6) achieves the legislative goal of facilitating interprovincial cooperation by providing a triggering "event" *other than the underlying misconduct*. The corollary to this point must be the ability to actually rely on that triggering event — that is, the other jurisdiction's settlement agreement (or conviction or judicial finding or order, as the case may be) — in commencing a secondary proceeding. But the appellant's reading of s. 159 as it applies to s. 161(6) leads to the troublesome conclusion that the Commission could be time-barred from proceeding under this provision *before the triggering event even exists*.
>
> [Underlined emphasis added.]

[44] The same reasoning was reached in a concurring judgment in *McLean* at para. 74.

[45] The Commission Decision held that the reasoning in *McLean* applies equally here. I see little merit in a challenge to that conclusion. The “triggering event” in s. 161(6)(a) is a conviction, not a guilty plea. Mr. Sidhu has identified no reason to interpret s. 161(6)(a) differently from s. 161(6)(d) in respect of the limitation period.

[46] Mr. Sidhu suggests that the decision of *Re Fielder*, 2023 BCSECCOM 316 at para. 53, is authority for the proposition that the triggering event for purposes of the limitation period in a proceeding brought based on s. 161(6)(a) is the guilty plea.

[47] Mr. Sidhu’s argument based on *Fielder* was rejected in the Commission Decision. I see no prospect of Mr. Sidhu succeeding in an argument that the Commission was in error in this regard.

[48] In *Fielder*, the Commission’s reasons identified that the guilty plea and conviction were on the same day. The Commission in *Fielder* cited *McLean* for the correct approach to the limitation period in a s. 161(6) enforcement proceeding. It is clear, therefore, that in *Fielder* the Commission simply misspoke or was loose in its language when it stated in paragraph 53 that the triggering event was the guilty plea and that the Commission was using the notion of a guilty plea interchangeably with the conviction that occurred the same day.

[49] In summary, accepting it is not my role to resolve the merits, I do not see that Mr. Sidhu has raised a substantial argument based on the limitation period.

Deprivation of an Oral Hearing Issue

[50] Second, Mr. Sidhu submits that the Commission erred in making the order because he was deprived of an oral hearing. He submits that he is entitled to a hearing pursuant to s. 161(1) of the *Act*, which refers to an enforcement order being made “after a hearing”, and s. 161(6), which refers to providing the person an “opportunity to be heard”.

[51] The Executive Director agrees that Mr. Sidhu was entitled to a hearing but submits such a hearing may be in writing.

[52] I see next to no chance of Mr. Sidhu succeeding in an argument that the only type of hearing envisioned by s. 161 is an oral hearing and that the language of the statute precludes a written hearing.

[53] A written hearing can still be a “hearing”, particularly where, as happened here, each party is given the opportunity to state their argument, present evidence, and respond to the other side’s argument and evidence. It is not uncommon for tribunals to proceed by written hearing. For example, under the *Court of Appeal Act*, S.B.C. 2021, c. 6, the court may order that a hearing proceed in writing: s. 26(1)(a)(i).

[54] That leads to the question of whether there is merit to an argument that Mr. Sidhu was denied procedural fairness because he had a basis for expecting an oral hearing or because the issues could only be decided based on an oral hearing.

[55] According to Mr. Sidhu’s evidence in support of the present leave application, it was his “understanding” that the exchange of submissions would be subject to a further oral hearing before the Commission made a decision, and so he would have the opportunity to present evidence and test the evidence of the Executive Director.

[56] Mr. Sidhu submits that it was unfair for the Commission to deny him the opportunity to call evidence. He notes the Commission criticized his submission that the prohibition order would prevent him “from financially supporting himself”, because he did not provide evidence of this: Commission Decision at para. 36. He also points out that the Commission noted he did not provide any evidence about the structure of three companies connected to him using the name “Platinum” or details about several IPO investments: Commission Decision at para. 40.

[57] On the present leave application, Mr. Sidhu provides no evidence as to the basis for his “understanding” that he would have an oral hearing and additional opportunities to present evidence. For example, he points to no provision in Commission policies or practices that indicates that oral hearings are automatically undertaken; and he points to no correspondence that suggested

there would be an oral hearing. Further, Mr. Sidhu points to nothing to suggest that he asked to file evidence or that the Commission refused such a request. He also did not refer to any underlying facts in his written submission before the Commission in support of the submission that the prohibition order would prevent him from financially supporting himself.

[58] At best, Mr. Sidhu's position seems to rest on the fact that no one from the Commission expressly told him there would not be an oral hearing unless he requested one and the implication that he held back important evidence waiting for such an oral hearing.

[59] In light of the Hearing Policy, I cannot see any merit to Mr. Sidhu's complaint of procedural unfairness. When Mr. Sidhu did not make a request for an oral hearing, and no one from the Commission told him there would be an oral hearing, he cannot complain that there was no oral hearing.

[60] Further, I do not see anything about the nature of the enforcement application in this case that made an oral hearing necessary. The facts forming the basis of the enforcement application were readily proven by the written record of the United States proceedings and Mr. Sidhu's plea agreement. Mr. Sidhu has not demonstrated any basis upon which he could have challenged that record by having an oral hearing.

[61] Where Mr. Sidhu might have supplemented the record before the Commission has to do with the potential effects on him of the sought-after enforcement orders. However, there was nothing preventing him from providing additional evidence with his written submissions as to the potential impacts of the enforcement order, including on the points for which the Commission ultimately found the evidence lacking.

[62] It is not unreasonable for a tribunal to expect a party to educate itself about the process and rules that apply to a given issue. I cannot see any merit in an argument that the Commission's failure to direct Mr. Sidhu to read the Commission's policy on hearings made the written hearings process procedurally unfair.

[63] Again, recognizing that it is not my role to resolve the merits, I do not consider the procedural fairness ground to raise substantial questions on appeal.

[64] As well, for the reasons I have set out, on both grounds of appeal I do not see this proposed appeal as: raising questions of statutory interpretation or other issues of general importance; resolving controversial issues arising before the Commission; or resolving issues that have been considered by a number of appellate bodies.

[65] I turn to what seems to be the heart of the complaint motivating the present application. Mr. Sidhu submits that some of the terms of the s. 161 order, as currently crafted, negatively impact his ability to sell pre-existing IPO investments. It appears to me that what Mr. Sidhu hopes to accomplish on appeal is a variation of the details of the s. 161 order based on evidence he did not place before the Commission.

[66] While it is true that a s. 161 order can have profound impacts on an individual, the record establishes that due to his conviction, a s. 161 order was well-founded here. Given the expertise of the Commission and its discretion to craft suitable terms of a s. 161 order, this Court is unlikely to consider evidence that Mr. Sidhu did not place before the Commission at first instance and to then vary the Commission's order.

[67] In the unlikely result Mr. Sidhu succeeded on appeal, the remedy would probably be to send the matter back to the Commission for reconsideration. However, Mr. Sidhu already has the right to apply to the Commission for an order revoking or varying the terms of the Commission Decision pursuant to s. 171 of the *Act*. The Commission practically invited this by noting that Mr. Sidhu could bring an application to vary the Commission order if he wished to trade his IPO investments: Commission Decision at para. 42. A variation application remains available to Mr. Sidhu if he wishes to persuade the Commission to vary any of the terms of the s. 161 order.

[68] I will add an observation. If Mr. Sidhu's failure to file evidence about his IPO investments was simply a mistake because he mistakenly believed he would have a chance to present this evidence at an oral hearing, there would be nothing to prevent him from putting this explanation in an affidavit on an application to vary pursuant to s. 171. On such an application, when considering his evidence, the Commission might consider the fact that the Application Letter did not expressly refer Mr. Sidhu to the Hearing Policy.

Disposition

[69] In the circumstances set out above and considering all of the *Queen's Plate* factors, I do not grant Mr. Sidhu leave to appeal.

"The Honourable Justice Griffin"