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Citation : *New Brunswick (Financial and Consumer Services Commission) v. Pierre Emond and Armel Drapeau*, 2015 NBFCSST 11

PROVINCE OF NEW BRUNSWICK  
FINANCIAL AND CONSUMER SERVICES TRIBUNAL  
IN THE MATTER OF THE *SECURITIES ACT*, S.N.B. 2004, c S-5.5

Date: 2015-12-01  
Docket: 2300-E1

BETWEEN :

**Financial and Consumer Services Commission,**

Applicant,

- and -

**Pierre Emond and Armel Drapeau,**

Respondents.

**ORDER**

PANEL: Enrico A. Scichilone, Panel Chair  
Jean LeBlanc, Panel Member  
Gerry Legere, Panel Member

DATE OF HEARING: November 24, 2015

APPEARANCES: Brian Maude for the Applicant  
Armel Drapeau personally  
Pierre Emond personally by teleconference

**ORDER**

**WHEREAS** this proceeding was commenced on August 19, 2009 by the filing of a preliminary motion with the Office of the Secretary of the New Brunswick Securities Commission;

**WHEREAS** the Statement of Allegations in this proceeding was filed on June 24, 2010 with the Office of the Secretary of the New Brunswick Securities Commission;

**WHEREAS** as of July 1, 2013, the New Brunswick Securities Commission is continued as the Financial and Consumer Services Commission and the adjudicative functions of the New Brunswick Securities Commission are now performed by the Financial and Consumer Services Tribunal ["Tribunal"];

**WHEREAS** on August 27, 2013, the Tribunal issued an order adjourning this proceeding for one year, after which the parties would provide the Tribunal with a status update with respect to the progress of the civil actions involving the former New Brunswick Securities Commission, after which the Tribunal would have the right to issue a new order with respect to the conduct of this proceeding;

**WHEREAS** on November 26, 2014 the Tribunal issued a Notice of Status Hearing setting December 15, 2014 for the status hearing to determine whether the adjournment of this proceeding should be maintained;

**WHEREAS** Armel Drapeau requested an adjournment of the December 15, 2014 status hearing on the grounds of family health and the Tribunal granted this request and adjourned the status hearing to June 19, 2015;

**WHEREAS** the Tribunal held the status hearing on June 19, 2015 to determine whether the adjournment of this proceeding should be maintained;

**WHEREAS** the Tribunal issued an order on June 19, 2015 quashing the adjournment of this proceeding and indicating that there would be no adjournment of the hearing on the merits unless exceptional circumstances were demonstrated and stating that reasons for the order would follow;

**WHEREAS** the Tribunal issued a Notice of Hearing on July 2, 2015 setting October 5, 6, 26, 27 and November 24 and 25, 2015 for the hearing on the merits;

**WHEREAS** on August 27, 2015, the Tribunal issued the reasons for its June 19, 2015 order quashing the adjournment of this proceeding;

**WHEREAS** Armel Drapeau filed a motion for leave to appeal the Tribunal's August 27, 2015 decision with the Court of Appeal and the hearing of that motion was set for October 15, 2015;

**WHEREAS** the Tribunal adjourned its October 5 and 6, 2015 hearing dates to await the decision of the Court of Appeal on the leave to appeal motion filed by Armel Drapeau;

**WHEREAS** on October 16, 2015 the Court of Appeal dismissed the motion for leave to appeal and that same day the Tribunal advised the parties that the hearing in this proceeding would proceed on October 26 and 27, 2015;

**WHEREAS** on October 20, 2015, Armel Drapeau requested an adjournment of the hearing on the merits to retain a lawyer;

**WHEREAS** on October 23, 2015, the Tribunal issued an order granting Armel Drapeau's adjournment request and setting November 24 and 25, December 17 and 18, 2015 and January 18 and 19, 2016 as the new dates for the hearing on the merits;

**WHEREAS** on November 23, 2015, Armel Drapeau requested a further adjournment of the hearing on the merits to retain a lawyer;

**WHEREAS** this proceeding was stayed from August 27, 2013 to June 19, 2015 and that prior to the latter date, there was no indication that this proceeding would proceed to a hearing on the merits in the foreseeable future;

**WHEREAS** Armel Drapeau has made considerable efforts to retain a lawyer since September 2015 by contacting at least 8 lawyers;

**WHEREAS** the one month adjournment granted in the October 23, 2015 order was not sufficient in light of Armel Drapeau's efforts to find a lawyer;

**WHEREAS** the Tribunal heard Armel Drapeau's new request for an adjournment on November 24, 2015 during the preliminary matters of the hearing on the merits;

**WHEREAS** the Tribunal granted the adjournment on November 24, 2015 and indicated that a written order would follow;

**IT IS HEREBY ORDERED THAT:**

1. the hearing is adjourned to allow Armel Drapeau to continue his efforts to retain a lawyer;
2. the November 24 and 25, December 17 and 18, 2015 and January 18 and 19, 2016 hearing dates are cancelled;
3. the hearing on the merits will be held from May 2 to 6, 2016;

4. the hearing will be held on the dates identified in paragraph 3 of this Order regardless of whether or not Armel Drapeau has retained a lawyer;
5. the lawyer retained by Armel Drapeau must be available and able to proceed with the hearing on the merits on the dates identified in paragraph 3 of this Order;
6. Armel Drapeau shall provide a copy of this Order to the lawyer he retains ; and
7. there will be no further adjournments of this matter unless exceptional circumstances are demonstrated.

**DATED** at Saint John, New Brunswick, this 1<sup>st</sup> day of December, 2015.

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"original signed by"

Christine M. Bernard

Registrar

Signed pursuant to subsection 40(3) of the *Financial  
and Consumer Services Commission Act*