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Citation: *New Brunswick (Financial and Consumer Services Commission) v. Pierre Emond and Armel Drapeau*,  
2016 NBFCST 3

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: 2016-04-26  
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: Written hearing on the basis of written submissions.

APPEARANCES: Brian Maude, for the Applicant;  
I. Gérald Lévesque, for Armel Drapeau;  
Pierre Emond, in his own capacity.

**ORDER**

**WHEREAS** this proceeding was commenced on August 19, 2009, with 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 (the "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, at which time 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 held on October 15, 2015;

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

**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 of this matter 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** on November 24, 2015, the Tribunal granted Armel Drapeau's adjournment request and, on December 1, 2015, issued an order confirming the adjournment and setting the dates for the hearing on the merits from May 2 to May 6, 2016, indicating also that, barring exceptional circumstances, there would be no further adjournment of the matter;

**WHEREAS** on April 25, 2016, the Commission requested an adjournment of the hearing on the merits on the ground that its witness, Ed LeBlanc, would not be available to testify on May 2, 2016, because of damages to the roof of his Florida residence which required immediate repairs;

**WHEREAS** the period of May 2 to May 6, 2016, was scheduled for the hearing on the merits taking into account precisely the availability of the Commission's witness, Ed LeBlanc, following, among other things, his return from vacationing in Florida;

**WHEREAS** the Tribunal is of the view that the Commission has the financial means to provide Ed LeBlanc with a plane ticket so as to allow him to participate in the hearing while minimizing his period of absence from Florida;

**WHEREAS** the Tribunal does not consider the repairs to Ed LeBlanc's residence as exceptional circumstances;

**IT IS HEREBY ORDERED THAT:**

1. The adjournment request is denied;

2. The hearing will be held from May 2 to May 6, 2016;
3. Barring exceptional circumstances, there will be no further adjournment of this matter.

DATED at Saint John, New Brunswick, on April 26, 2016.

“original signed by”

Christine M. Bernard

Registrar

Signed for Panel Members Enrico Scichilone, Jean LeBlanc and Gerry Legere, pursuant to subsection 40(3) of the *Financial and Consumer Services Commission Act*.