



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue queen ouest
Toronto ON M5H 3S8

File Nos.: 2020-40

**IN THE MATTER OF
STABLEVIEW ASSET MANAGEMENT INC. and COLIN FISHER**

NOTICE OF MOTION

(For an Order compelling further and better witness summaries under Rule 27(3))

A. ORDER SOUGHT

The Moving Party, Staff of the Enforcement Branch (**Staff**) of the Ontario Securities Commission (**Commission**), request that the Commission make the following order:

- a) An order requiring Colin Fisher to deliver further and better summaries of the evidence that certain of Fisher's witnesses are expected to give at the hearing of this matter within one week of the Commission's decision on this motion as follows:
 - i. for the witnesses interviewed by Staff, the witness summaries are to confirm that the documents to be referred to during the merits hearing are limited to those marked as exhibits during their respective interviews;
 - ii. alternatively for witnesses interviewed by Staff, the witness summaries are to contain a list of documents to which the witness is expected to refer;
 - iii. for the witnesses not interviewed by Staff, the witness summaries are to contain a list of documents to which the witness is expected to refer;
 - iv. Fisher's witness summary shall provide sufficient particularity of the areas he is anticipated to testify that are beyond those contained in his interview with Staff and provide a list of documents he is expected to refer; and
 - v. The following witness summaries shall be amended to provide the substance of their anticipated evidence:
 - a. Colin Fisher;
 - b. Art Meshner;

- c. Darrell Cox;
 - d. Dave Guebert;
 - e. Gary Yeoman;
 - f. Sheldon Pollack;
 - g. Tom Signorello; and,
 - h. Willem Galle.
- b) Such further relief as Staff may advise and the Commission may permit.

B. GROUNDS

The grounds for this motion are:

1. Pursuant to an Order of the Commission dated July 19, 2021, Fisher was required to file and serve a witness list and summary of each witness's anticipated evidence on Staff by no later than September 30, 2021;
2. On September 30, 2021, Fisher served a witness list and summary of each witness's anticipated evidence (the **Witness Summaries**);
3. On October 7, 2021, Staff wrote to Fisher's counsel advising that the Witness Summaries did not provide meaningful disclosure as contemplated by the Ontario Securities Commission *Rules of Procedure and Forms* (the **Rules**) (the **October 7 Letter**);
4. The October 7 Letter outlined three deficiencies (the **Deficiencies**) in the Witness Summaries and invited Fisher's counsel to provide further and better witness summaries by October 25, 2021;
5. On October 25, 2021, Fisher's counsel sent an email indicating that Fisher disagrees with Staff's position set out in the October 7 Letter;
6. No further witness summaries were provided;

7. Without further and better witness summaries, a just, expeditious and cost-effective hearing is not possible;
8. Rule 27(3) of the Rules; and,
9. Such further and other grounds as Staff may advise and the Commission may permit.

C. EVIDENCE

Staff intends to rely on the following evidence at the hearing:

- a. The affidavit of Sherry Brown, sworn November 11, 2021; and
- b. Such other evidence as counsel may advise and the Commission may permit.

November 11, 2021

Staff of Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, ON M5H 3S8

Robert Gain
Senior Litigation Counsel
Tel: (416) 593-3653
Email: rgain@osc.gov.on.ca