

**ONTARIO SECURITIES COMMISSION
(Applicant)**

- and -

**PURPOSE INVESTMENTS INC. and SOM SEIF
(Respondents)**

File No. 2025-18

MOTION

(For recusal for reasonable apprehension of bias)

A. ORDER SOUGHT

The Ontario Securities Commission (the **Commission**), requests with notice, that the Tribunal make the following orders:

1. An order recusing Adjudicator Andrea Burke from the merits hearing panel in this proceeding; and
2. Such further relief as the Commission may advise and the Tribunal may permit.

B. GROUNDS

The grounds for the motion are:

3. On March 19, 2026, the Registrar of the Tribunal (the **Registrar**) advised the parties that:
 - (a) Adjudicator Burke has been appointed to the panel for the merits hearing in this proceeding;
 - (b) Adjudicator Burke has just learned that the Commission intends to call a particular witness (the **Witness**);
 - (c) Adjudicator Burke knows the Witness socially;

- (d) Adjudicator Burke worked in the litigation group at Davies Ward Philips & Vineberg LLP (**Davies**) with the Witness's spouse between approximately 2007 and early 2010;
 - (e) Adjudicator Burke has a social relationship with the Witness and his spouse;
 - (f) Adjudicator Burke attended the wedding of the Witness and his spouse; and
 - (g) Adjudicator Burke, the witness and his spouse infrequently have dinner together or connect at school events where their children are in the same grade.
4. On March 24 and 25, 2026, counsel for the Respondents advised the Registrar that they do not object to Adjudicator Burke presiding over the merits hearing in this proceeding, on the understanding that the hearing will proceed on the previously scheduled dates in May and June 2026 if Adjudicator Burke remains on the hearing panel;
5. On March 30, 2026, Commission counsel advised the Registrar that:
- (a) the Witness is a central witness to the Commission's case and the panel's credibility findings regarding the Witness's testimony at the merits hearing may have significant impact on the outcome of this proceeding; and
 - (b) it would be best for another adjudicator to be assigned to the merits hearing, in the place of Adjudicator Burke;
6. Subsequently, on March 30, 2026, counsel for Som Seif requested the Tribunal hold a hearing on the Commission's position above before he travels outside the country on April 5, 2026.
7. On March 31, 2026, the Registrar advised the parties that:
- (a) given the request from counsel for Som Seif, Adjudicator Burke is available to hold a hearing on April 2, 2026 to address the Commission's position;
 - (b) Adjudicator Burke will treat the Commission's position as a motion brought by the Commission; and

- (c) parties are requested to file materials for the hearing, if any, by April 1, 2026;
8. On April 1, 2026, counsel for the Commission advised the Registrar that:
- (a) it was the Commission's understanding that Adjudicator Burke's connection with the Witness had not been considered prior to the Tribunal's decision to appoint her to the merits hearing panel;
 - (b) the Commission was hopeful that its concerns would be addressed within the Tribunal, consistent with the processes laid out in the Tribunal's Code of Conduct, and that a final decision regarding Adjudicator Burke's appointment to the merits hearing panel would be communicated to the parties before a party is required to bring a motion concerning the composition of the merits hearing panel;
 - (c) if the decision to appoint Adjudicator Burke to the merits hearing panel has been made, despite the Commission's concerns, it should be communicated to the parties so Commission counsel may seek instructions on whether to bring a motion and, if so, on what basis;
 - (d) if a motion is required, a schedule should be set that provides sufficient time for the parties to exchange materials and prepare for a hearing; and
 - (e) there is no need to have the motion heard within the week at the expense of a proper briefing process and the Commission remains prepared to commence the merits hearing as previously scheduled;
9. Subsequently, on April 1, 2026, the Registrar advised the parties that:
- (a) it was only after Adjudicator Burke was assigned to the merits hearing panel that she learned that the Witness was on the Commission's witness list and she identified the potential conflict;
 - (b) Adjudicator Burke assessed the matter and concluded, on a preliminary basis and subject to the parties' views, that the potential conflict does not preclude her from sitting on the panel for this matter;

- (c) in light of the parties' differing positions on whether Adjudicator Burke can sit on the merits hearing panel for this matter, a hearing is required;
 - (d) Adjudicator Burke wants the hearing to be dealt with expeditiously, so that panel assignments can be confirmed and changed, as necessary; and
 - (e) Adjudicator Burke will be available at specific times between April 6 and April 10, 2026;
10. The Witness will be the only fact witness for the Commission in the merits hearing, other than the Commission's investigator whose testimony will be largely limited to introducing documents gathered during the investigation;
11. The Witness's testimony is central to the Commission's case against the Respondents, including on the key allegation that the Respondents made untrue or misleading statements that stated or suggested Purpose Investments Inc. (**Purpose**) considered environmental, social and governance (**ESG**) factors when making investment decisions for all of the investment funds it managed;
12. At the merits hearing, it is anticipated that the Witness will testify to the following effect:
- (a) the Witness was an employee of Purpose during the relevant time;
 - (b) the Witness had significant involvement in the efforts at Purpose during the relevant time to incorporate the consideration of environmental, social and governance (**ESG**) factors in the investment processes for investment funds managed by Purpose;
 - (c) the Witness made contemporaneous records tracking whether ESG factors were considered in investment funds managed by Purpose during the relevant time; and
 - (d) Purpose did not integrate ESG considerations into the investment decision-making process for every single fund in the Purpose fund lineup;

13. The summaries of anticipated evidence of fact witnesses to be called by the Respondents at the merits hearing indicate that some or all of those witnesses will challenge the anticipated testimony of the Witness and/or contemporaneous records made by the Witness;
14. “Bias” refers to anything that may reasonably lead an adjudicator to decide the case on some basis other than the evidence before the tribunal, and can include unconscious bias;
15. A reasonable and informed person, viewing the matter realistically and practically, and having thought the matter through, could reasonably apprehend bias on the part of Adjudicator Burke, including unconscious bias, in connection with any findings of fact she may make in connection with the testimony of the Witness at the merits hearing, including the credibility of the Witness, given their past and ongoing social relationship;
16. the Tribunal’s Code of Conduct, sections 3.1, 3.2 and 3.3; and
17. Such further and other grounds as the Commission may advise that the Tribunal may permit.

C. EVIDENCE

The Commission intends to rely on the following evidence for the motion:

18. The affidavit of Rita Pascuzzi to be affirmed; and
19. Such other evidence as the Commission may advise and the Tribunal may permit.

DATED this 2nd day of April, 2026.

ONTARIO SECURITIES COMMISSION

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