

During the hearing, Wharram had the investigator admit that part of the evidence she gave to the Executive Director was based on an assumption! This is the level of work that led to the allegation Wharram made a false statement to an investigator—how is this even possible? Here is a portion of the submissions tendered by Wharram. Interesting enough—the Panel ruled in their favour despite this fact!

The BCSC Investigator Admits to Assuming

209. Oxford Dictionaries defines ASSUMPTION as:

“A thing that is accepted as true or as certain to happen, without proof”

Source: <http://www.oxforddictionaries.com/definition/english/assumption>

210. During the cross examination of the Lead BCSC investigator, she admits to giving information to the Executive Director that was based on an assumption; which ultimately lead to the allegation of making a False Statement to an Investigator in the Notice of Hearing:

Q Is it possible the information you gave the executive director that caused him to make a notice of hearing was based on an assumption that I was trying to raise capital from Gerry Schacher?

A Yes.

Hearing Transcripts, April 9, 2014, p. 60 Lines 1-5 [Emphasis Added]

211. This testimony of Chan is profound on so many levels. After a 33-month investigation by the Staff at the Commission, we have assumptions being made by the lead investigator in a case where the Executive Director has alleged the Respondent made a False Statement to an Investigator. Chan (knowing that the Executive Director was bringing forward the allegation of *Making a False Statement to an Investigator* in the Notice of Hearing), gave information she ought to have known that was not accurate or only partially completed to the Executive Director, causing the allegation under section 168.1 of the Act.

212. In addition, she indicates she has “*no particular reason*” to not following up with Schacher after her initial two attempts on June 5 and 6. Assumptions and the apparent lack of effort in attempting to complete her investigation are not cogent – as it is certainly not compelling or convincing. The Respondents respectfully submit there are many reasons the investigator should have followed up with Schacher including but not limited to, the seriousness of the allegations against the Respondents.

213. Schacher mistakenly had the bank representative write “investment” on the memo line on the wire transfer and the investigator **assumed** this was accurate BUT never determined whether or not this was factual. It was as simple as picking up a phone or sending an email to Schacher but she failed to do so, and caused the Executive Director to rely on a theory rather than fact – this is most certainly NOT cogent evidence. Chan had made contact with Schacher in December 2012 (both via email and a phone call) so she most certainly had his correct contact information.

Hearing Transcript, April 9, 2014, p.55 Lines 15-17