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VSE firm denied high court hearing

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B.C. Supreme Court has refused to hear an application by a Vancouver Stock Exchange company to force the exchange to reinstate trading in its shares.

Judge Albert Mackoff ruled Wednesday that GHZ Resource Corp.'s avenue of appeal is with the B.C. Securities Commission, not the court.

He said that, if the court agreed to hear GHZ's application, it would effectively "kill" the commission, which is charged with protecting the public interest in securities matters.

"Every complaint against the Vancouver Stock Exchange would end up in this court and the B.C. Securities Commission would be rendered useless," he said.

Commission lawyer Mark Skwarok said later the ruling was crucial to his client. "If I had lost this one, I would have just kept on walking and saved the commission the trouble of firing me," he said.

GHZ lawyer David Hobbs said he wasn't sure whether his client would now appeal with the commission.

The dispute began in late January when, after a prolonged trading halt, the VSE reinstated trading in GHZ stock. By Feb. 25 - a period of 15 trading days - the stock had jumped from 20 cents to \$5 1/8.

The VSE halted trading on grounds the company was "unable to provide significant information to explain the unusual trading activity. . . ."

It also said it had uncovered several potential breaches of the Securities Act - including the existence of undisclosed promoters, a scheme to manipulate GHZ stock and failure to file insider trading reports - and concluded it would be "contrary to the public interest" to resume trading.

GHZ and a group of 96 shareholders subsequently filed two separate suits against the exchange alleging it had unjustly halted trading. The company then applied to B.C. Supreme Court for an interim injunction against the VSE.

But Skwarok argued that, under the Securities Act, exchange rulings should be appealed to the commission, which has the expertise to deal with such matters and a greater range of remedies than the court, including the power to impose cease-trade orders against offending parties.

He noted that if the appellant doesn't agree with the

commission's ruling, he may then appeal to B.C. Court of Appeal.

Skwarok's submission was supported by David Church, lawyer for the exchange, who noted GHZ had not exercised its right to appeal to the commission.

Hobbs argued that Skawork had "completely missed the mark." He characterized the dispute as a "private dispute between two parties to a contract (the VSE listing agreement)."

He said the case was similar to a company that asks the court for an injunction against a union which is picketing in violation of its collective agreement.

But Judge Mackoff wasn't persuaded. "That's a pretty long bow, isn't it?" he questioned.