

**NOVA SCOTIA COURT OF APPEAL**

**Citation:** *Electronic Benefits Inc. v. Nova Scotia (Securities Commission)*,  
2009 NSCA 6

**Date:** 20090122

**Docket:** CA 294529

**Registry:** Halifax

**Between:**

Electronic Benefits Inc., Advantage Financial Group Inc.,  
and Everett R. Stuckless

Appellants

v.

Nova Scotia Securities Commission

Respondent

---

**Judge:** The Honourable Justice M. Jill Hamilton

**Appeal Heard:** November 13 and December 3, 2008, in Halifax, Nova Scotia

**Subject:** Sections 134 and 135A of the **Securities Act**

**Summary:** The appellants appealed the decision of the Securities Commission which found that it was in the public interest to continue cease trade orders against them, until the decision was rendered for Advantage and Mr. Stuckless and indefinitely for EBI, to impose a \$10,000 penalty on EBI and to order the appellants jointly and severally to pay \$7,500 costs for not having met the registration and prospectus requirements of the **Act**.

**Issue:** The main issue on appeal related to the continuation of the temporary cease trade order against Mr. Stuckless, as an officer and director of the corporate appellants, until the decision was rendered and the requirement that he pay costs jointly and severally with the other appellants.

**Result:** Appeal dismissed. The Commission did not err in finding that Mr.

Stuckless' actions as CEO, President and a director of the corporate appellants, which actions or lack thereof set in motion the process for sending letters and emails soliciting loans to EBI from the public and then failed to ensure his staff knew when and in what form they were to be sent, fell below the required standard of care required in the securities law context. Nor did it err in exercising its considerable discretion under the public interest section of the **Act**, s. 134, to extend the cease trade order against Mr. Stuckless until the decision was rendered and to require Mr. Stuckless to pay costs.

**This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 29 pages.**