

MAR 23 2018

S=184073

No. _____
Vancouver Registry



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

KWANTLEN PUBLIC INTEREST RESEARCH GROUP SOCIETY (KPIRG)

PLAINTIFF

AND:

RICHARD HOSSEIN

DEFENDANT

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiffs for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must:

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and**
- (b) serve a copy of the filed response to civil claim on the plaintiff.**

If you intend to make a counterclaim, you or your lawyer must:

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and**
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.**

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,**

- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

Parties

1. The plaintiff, Kwantlen Public Interest Research Group Society (KPIRG), is a non-profit society incorporated pursuant to the *Societies Act* on or about December 20, 2013.
2. The defendant, Richard Hossein, is a founder and former employee of the plaintiff.

Background

3. The plaintiff operates in association with the Kwantlen Student Association (the “KSA”), which operates as the student union for Kwantlen Polytechnic University. The plaintiff is a student-funded and student-directed resource organization dedicated to advancing social and environmental justice.
4. Before the plaintiff was incorporated, the defendant was a prominent participant in student politics at Kwantlen Polytechnic University and was a director of the KSA.
5. The defendant was a founding board member of the plaintiff. In or about mid-2014 he resigned as a director. At or about that time, he was hired as the administrative coordinator of the plaintiff.
6. The board of directors of the plaintiff is ordinarily composed of students of Kwantlen Polytechnic University selected by way of an electoral process.
7. The decision to hire the defendant to the position of administrative coordinator was due, at least in part, to a number of factors, including:
 - (a) student organizations experience regular turnover of membership due to the limited time students spend at Kwantlen Polytechnic University before graduating (interest in participation in student organizations is often more prominent among

upper-year students after they have had exposure to students organizations and initiatives);

- (b) because of the regular turnover in membership, student organizations often have very limited institutional memory;
- (c) many students are young and lack experience with managing and overseeing an organization; and
- (d) students' attention is often directed at meeting academic requirements.

For these reasons, and because the defendant was a founder of the plaintiff, it was decided that he would fill the role of administrative coordinator. The defendant's role in founding the plaintiff, his prominent involvement as a participant in student politics and his position as a director of KSA made it appealing to the plaintiff to have him occupy an administrative position with the plaintiff.

- 8. The defendant was paid a salary in accordance with an employment agreement (the "Employment Agreement").
- 9. The defendant's role was day-to-day administration of the affairs of the plaintiff, including:
 - (a) record keeping;
 - (b) recording minutes of meetings of the board of directors; and
 - (c) overseeing bookkeeping and accounting matters.

Payments to CPGA Consulting

- 10. In 2017 the plaintiff made a series of representations to the board of directors, including:
 - (a) that the board of directors of the plaintiff had previously, before the tenures of the (then) sitting board members, authorized the plaintiff to enter into an agreement with CPGA Consulting ("CPGA") for various consulting services;
 - (b) that CPGA was an experienced consulting firm;
 - (c) that CPGA's consulting services were required for the operation of the plaintiff and that CPGA had in fact provided consulting services to the plaintiff;
 - (d) that CPGA was owed outstanding fees for said consulting services;

- (e) on one or more occasion the defendant represented that there was urgency to pay the accounts of CPGA as CPGA had threatened to sue the plaintiff in respect of its delinquent invoices; and
- (f) that because of previously delays in payment, CPGA had advised the defendant that it would only accept payment in cash and that cheques should be written to the defendant who would cash them and that he intended to then remit payment to CPGA on behalf of the plaintiff.

(the "CPGA Representations")

11. In reliance on the CPGA Representations, the plaintiff made the following payments to the defendant in respect of purportedly outstanding CPGA accounts:

- (a) \$1,050.00 on May 9, 2017;
- (b) \$1,050.00 on May 9, 2017;
- (c) \$770.00 on May 9, 2017;
- (d) \$1,050.00 on May 9, 2017;
- (e) \$1,050.00 on May 9, 2017;
- (f) \$770.00 on May 9, 2017;
- (g) \$770.00 on May 9, 2017;
- (h) \$1,050.00 on May 9, 2017;
- (i) \$8,600.00 on July 6, 2017; and
- (j) \$6,300.00 on July 17, 2017,

for total of \$22,460.00 (the "CPGA Payments").

12. The CPGA Representations were false or misleading, and the defendant knew they were false or misleading at the time they were made, in particular:

- (a) the plaintiff never entered into an agreement with CPGA for consulting services;
- (b) CPGA was not a professional consultancy, rather and unbeknownst to the plaintiff at the time, CPGA was not a legal entity at all but was a proprietorship and the defendant was the sole proprietor thereof;

- (c) the plaintiff did not require CPGA's services, and CPGA provided no valuable or required consulting services to the plaintiff; and
 - (d) the plaintiff owed no fees to CPGA.
13. At no time did the defendant disclose to the plaintiff that he and CPGA were one and the same.
14. In furtherance of the CPGA Misrepresentations, the defendant, on one or more occasion(s), altered previous meeting minutes of the board of directors to indicate or suggest that an agreement had been entered with CPGA and/or that the board of directors previously had authorized or approved the payments to CPGA.

Payment to Sunny Dhillon Ltd.

15. In April of 2017, the defendant represented member(s) of the board of directors that:
- (a) the shelving was required at the plaintiff's premises;
 - (b) Sunny Dhillon Ltd. had been retained to perform the installation;
 - (c) Sunny Dhillon Ltd. had in fact installed, or was in the process of installing, the shelving;
 - (d) Sunny Dhillon Ltd. was owed outstanding fees for the shelving installation; and
 - (e) he had paid or intended to pay Sunny Dhillon Ltd.'s invoice on the plaintiff's behalf and thus any cheque should be made payable to him.
- (the "Sunny Dhillon Representations")
16. In reliance on the Sunny Dhillon Representations, the plaintiff paid the defendant \$7,070.53 in respect of purportedly outstanding account of Sunny Dhillon Ltd. (the "Sunny Dhillon Payment").
17. The Sunny Dhillon Representations were false or misleading, and the defendant knew they were false or misleading at the time they were made, in particular:
- (a) the plaintiff did not require shelving at the plaintiff's premises;
 - (b) Sunny Dhillon Ltd. did not install any shelving at the plaintiff's premises;
 - (c) the plaintiff owed no fees to Sunny Dhillon Ltd.;
 - (d) the plaintiff never remitted any payment to Sunny Dhillon Ltd.; and

- (e) unbeknownst to the plaintiff at the time, no such company exists under the name "Sunny Dhillon Ltd."

Payments for "Severance"

18. In or about mid-2017, the defendant advised the board of directors that he intended to resign from the position of position of administrative coordinator.
19. At or about that time, the defendant approached the plaintiff's bookkeeper and represented that:
- (a) the board of directors had authorized a "severance" payment to him in recognition of his service to the plaintiff; and
 - (b) in that respect he represented a memorandum drafted to resemble meeting minutes of the board which purportedly authorized the payments to the defendant (the "Memorandum").

(the "Severance Representations")

20. In reliance on the Severance Representations, in or about July of 2017 the plaintiff made the following payments to the defendant and others:
- (a) a total of \$56,381.22 was paid to the defendant; and
 - (b) a total of \$17,209.58 was paid to the Receiver General in respect of tax remittances associated with the foregoing.

(the "Severance Payments")

21. The Severance Representations were false or misleading, and the defendant knew they were false or misleading at the time they were made. At no time did the board of directors pass any motion authorizing the Severance Payments. The Memorandum was defendant drafted by the defendant without the knowledge or approval of the board of directors.

RRSP Contributions

22. At or about the same time, the defendant represented to the board of directors that:
- (a) pursuant to the terms of the Employment Agreement, he was entitled to a contributions to his registered retirement savings plan; and

(b) in that respect, the defendant presented to the board of directors a copy of the Employment Agreement which he altered to purportedly supported his claim to the foregoing benefit.

(the "RRSP Representations")

23. In reliance on the RRSP Representations, the plaintiff made a payment to the defendant in the amount of \$8,400.00 on or about July 15, 2017 (the "RRSP Payment").
24. The RRSP Representations were false or misleading, and the defendant knew they were false or misleading at the time they were made, in particular:
 - (a) the defendant was not entitled to any contributions to his registered retirement savings plan under the terms of his employment; and
 - (b) the Employment Agreement made no provision for contributions to his registered retirement savings plan.
25. The Employment Agreement was entered into well before the tenure of any of the (then) sitting board members.
26. Unbeknownst to the plaintiff at the time, the defendant improperly prepared or caused to be prepared and submitted to the Canada Revenue Agency on the plaintiff's behalf a record of employment indicating that his employment had been discontinued due to lack of work. It also overstated the defendant's insurable earnings.
27. It is noteworthy that the CPGA Payments, the Sunny Dhillon Payment, the Severance Payments and the RRSP Contribution were all made between annual audits. The plaintiff only became aware after the defendant had left the employment of the plaintiff that the CPGA Representations, the Sunny Dhillon Representations, the Severance Representations and the RRSP Representations (collectively, the "Representations") were false or misleading, including that:
 - (a) CPGA was not a consultancy but rather a proprietorship with the defendant being the sole proprietor thereof;
 - (b) no company was registered under the name "Sunny Dhillon Ltd."; and
 - (c) that the defendant had altered various documents upon which the plaintiff had relied in making various payments to the defendant.

Part 2: RELIEF SOUGHT

1. Judgment against the defendant in the amount of CPGA Payments, the Sunny Dhillon Payment, the Severance Payments and the RRSP Contribution (collectively, the "Payments").
2. General, aggravated and/or punitive damages.
3. Special costs, alternatively costs at the highest allowable scale.
4. Such further relief as may seem just to the Court.

Part 3: LEGAL BASIS

1. The defendant has perpetrated a fraud upon the plaintiff, in particular:
 - (a) the defendant made the Representations which were false or misleading at the time they were made;
 - (b) the defendant knew or ought to have known that the Representations were false or misleading at the time they were made;
 - (c) the plaintiff relied on the Representations and was induced thereby to make the Payments; and
 - (d) the defendant's conduct resulted in damage and loss to the plaintiff.
2. Further an alternatively, the defendant has committed the tort of deceit by concealing or omitting to state material facts, with intent to deceive, by reason of which omission or concealment the plaintiff was induced to consent to the Payments which it would not otherwise have done.
3. Further an alternatively, the Payments made to the defendant constitute conversion.
4. Further an alternatively, the defendant has been enriched, the plaintiff has suffered a corresponding deprivation and there is no juristic reason for the said enrichment.
5. Further an alternatively, the defendant owed the plaintiff duties including duties of a fiduciary nature and by causing or inducing the plaintiff to make the Payments, the defendant has breached those duties.

Plaintiffs' address for service:

Vertlieb & Co.
Suite 16 - 988 Beach Avenue
Vancouver, BC, V6Z 2N9
Attention David K. Georgetti

The address of the Court Registry is: 800 Smithe Street, Vancouver, British Columbia

Dated: March 23, 2018



Counsel for the plaintiff,
David K. Georgetti

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
 - (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
 - (b) serve the list on all parties of record.