

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *EAM Global Logistics Ltd. v. Khataw*,
2023 BCSC 1575

Date: 20230907
Docket: S249172
Registry: New Westminster

Between:

EAM Global Logistics Ltd. and Hasan Gokal

Plaintiffs

And

**Muhammad Azim Khataw, Fatim Khataw, BRK Properties Ltd., Giotto Trade
Ltd., Ancor Log Limited, Inovo Rawmaterials Ltd., GFR Health Ltd. and
GFR Imports**

Defendants

Before: The Honourable Chief Justice Hinkson

Reasons for Judgment

Counsel for the Plaintiffs:

M. Canofari

Counsel for the Defendants, Muhammad
Azim Khataw, Giotto Trade Ltd., Ancor Log
Limited, Inovo Rawmaterials, and GFR
Health Ltd.:

J. Gellis
R. Sim
R. Gill

Counsel for the Defendants Fatim Khataw
and BRK Properties Ltd.:

J. Hernaez
S. Hanif, Articling Student

Counsel for the Defendants GFR Imports:

No one appearing

Place and Date of Hearing:

Vancouver, B.C.
June 29 and July 17, 2023

Place and Date of Judgment:

New Westminster, B.C.
September 7, 2023

I. INTRODUCTION

[1] On April 18, 2023, I granted an *ex parte* Mareva order to the plaintiffs (the “Order”). The Order included terms freezing and limiting the use of the defendants’ assets and their removal from British Columbia: *EAM Global Logistics Ltd. v. Khataw* (18 April 2023), New Westminster 249172. The initial term of the Order was six months, subject to being renewed. Otherwise, the defendants affected by the Order could apply to vary or discharge the Order. The terms of the Order are set out at Appendix A of these reasons.

[2] The parties appeared before me on May 4, 2023, the plaintiff seeking orders with respect to certain banking institutions utilized by one or more of the defendants, and all parties seeking clarification of some of the terms of the Order I granted on April 18, 2023. I adjourned the application concerning the banks, and declined to clarify the term respecting accessibility by the defendants to bank accounts, other than to say that the amounts set out in my Order were one pot of funds for all defendants. I also clarified that the Order gave possession, but not access to the information contained in the computers of the personal defendants.

[3] On June 16, 2023, following the service of my Order upon them, the defendants, other than GFR Imports, made the present application to set my Order aside on the basis that the plaintiffs failed to provide full and frank disclosure of the facts, and made material misrepresentations that were relevant to the application of April 17–18, 2023.

[4] The defendants assert that the plaintiffs presented their allegations as if Mr. Gokal was preyed upon by them. They contend that had the plaintiffs made full and frank disclosure, it would have been apparent that the facts were not as one sided as presented. In an apparent concession that they engaged in a fraudulent scheme, they argued that Mr. Gokal was a knowing participant in the scheme to create false documents to effectuate the transactions.

[5] For the reasons below, I decline to vary the Order. While I am satisfied that the plaintiffs made a material misrepresentation at the April 17–18 proceedings, the Mareva order is nonetheless warranted.

II. BACKGROUND

[6] EAM Global Logistics Ltd. (“EAM”) is a Singapore company that specializes in international logistics and supply chain solutions.

[7] Hasan Gokal is the majority shareholder and director of EAM and is a Canadian citizen. He personally guaranteed the investments made by EAM that funded the impugned scheme for the purchase and sale of cod liver oil and other health supplements promoted by the defendants or some of them.

[8] The defendants Muhammad Azim Khataw and Fatim Khataw are husband and wife and are, respectively, the uncle and aunt of Mr. Gokal.

[9] Mr. Khataw is the director of Ancor Log Limited, Inovo Rawmaterials Ltd., GFR Health Ltd. Mr. Khataw was also the director of Giotto Trade Ltd. (“Giotto”) and its directing mind. In his affidavits, Mr. Khataw described Giotto as “now-dissolved”. The plaintiffs alleged that Mr. Khataw’s various related companies were created for the purpose of impersonating other companies with similar names.

[10] The plaintiffs also alleged that the defendant BRK Properties Ltd. is a BC registered company that participated in the impugned scheme by accepting and using funds that were fraudulently obtained to finance business operations. Ms. Khataw is the director of BRK Properties Ltd.

[11] In this action, the plaintiffs allege that the defendants partnered with them to, in their belief, intermediate cod liver oil sales, but in reality, the plan was a fraudulent “Ponzi” scheme where no goods were sold. The plaintiffs allege that they have lost millions as a result of the defendants fraud.

[12] The plaintiffs stated that in or around 2015, Mr. Gokal was contacted by Mr. Khataw, who was allegedly seeking an investor for the purchase and sale of cod

liver fish oil and other health supplement products through a US company identified as Tyler Global Trading LLC (“Tyler Global”).

[13] According to the plaintiffs, Mr. Khataw represented to Mr. Gokal that EAM was an excellent candidate to benefit from the purchase and sale of cod liver fish oil and other health supplements due to Mr. Gokal’s familiarity with the logistical aspects of that business.

[14] The narrative for the transaction, allegedly represented to Mr. Gokal was that each of the following entities played the following role:

- a) Icelandirect was the manufacturer of the fish oil. This was a legitimate company that was unaware of the scheme.
- b) Tyler Global had a distribution agreement with Icelandirect and also had business relationships with the alleged customers. This too was a legitimate company that was unaware of the scheme.
- c) Natural Factors and GFR Pharma were the alleged customers. Both are legitimate companies who were unaware of the scheme.
- d) Ancor Transport was responsible for the transportation and is a legitimate company that was unaware of the scheme.

[15] The plaintiffs further allege that the defendants represented that the transactions would work in the following manner:

- a) Tyler Global's customer would issue a purchase order;
- b) the purchase order would contain the amount purchased and the price;
- c) the defendants would then email the purchase orders to the plaintiffs;
- d) the plaintiffs then secured the financing and provided the funds to the defendants who were supposed to transmit the funds to Tyler Global;
- e) Tyler Global would then use the funds to purchase the fish oil from Icelandirect;
- f) Tyler Global would arrange for the fish oil to be delivered from the Icelandirect warehouse in New Jersey, USA, to the customers;
- g) the customers would pay Tyler Global directly for the fish oil; and
- h) Tyler Global would then transmit the proceeds from the sale back to the plaintiff.

[16] These arrangements appeared to operate seamlessly for a period of some eight years, throughout which time each transaction was documented by purchase orders, wire transfers, invoices and other necessary documentation that was routinely sent between the parties.

[17] Tyler Global regularly paid the plaintiffs. For 2020 and 2021, Tyler Global confirmed in writing that it owed and paid the plaintiffs the sums of 5,484,777 USD and 7,417,800 USD, but stopped payments in January 2023. EAM asserts that it is presently owed a sum by Tyler Global that it estimates to be in the range of 9,400,000 USD.

[18] On November 21, 2022, Mr. Khataw emailed Mr. Gokal representing that there was a purchase order for some 1,200 drums of fish oil from GFR Pharma Ltd. (“GFR Pharma”) and an amount of 1,504,800 USD was needed from the plaintiffs to accommodate the purchase.

[19] On November 23, 2022, the plaintiff EAM wired 1,404,800 USD to Giotto, and Giotto's bank records confirm receipt of the sum on that date.

[20] On January 11, 2023, Mr. Khataw forwarded an email to Mr. Gokal purporting to be from one Chris Lantos, who was referred to as the operations manager for Icelandirect. The email represented that Icelandirect was no longer going to sell cod liver oil to Tyler Global.

[21] Mr. Gokal received the email and after receiving it spoke with Mr. Khataw who represented that all of the plaintiffs' funds that had been invested were frozen as a result of Icelandirect's refusal to sell Tyler Global any further product.

[22] Icelandirect, through its legal counsel, Robert Lee, confirmed on April 13, 2023, that the documents pertaining to Icelandirect were false and forged.

[23] On March 20, 2023, Valerie Keller, GFR Pharma's senior accounts payable representative responded to an email from Bobby Hawkins, the plaintiffs' counsel in

Texas, about purchases for cod liver oil from Tyler Global that were purported to have been authorized by “Amber Nicholson” and advised:

We do not have Tyler Global Trading as a vendor in our system and the PO's you have attached are not GFR Pharma issued PO's.

The format is different, our PO's start with 5 and the address is incorrect. We also do not have an employee buy [sic] the name Amber Nicholson, who has apparently authorized these PO's.

[24] On March 28, 2023, Surjit Hundal, GFR Pharma's vice president of finance and IT wrote to Mr. Hawkins:

Please be advised that the attached purchase orders are not legitimate.

GFR does not do business with Tyler Global Trading and did not place the attached PO's. The purchase orders have been modified to use our logo and an old address from which we moved in 2017.

III. NEW EVIDENCE

[25] The defendants other than GFR Imports, tendered new evidence on their application. However, this evidence does not affect many of the facts that I relied upon in granting my order of April 18, 2023.

[26] In his affidavit of April 17, 2023, used to support the application for the Mareva injunction, Mr. Gokal deposed that:

The defendant, Fatim Khataw is the wife of Azim Khataw and conspired with him to perpetuate the fraud. This is my understanding based upon information and belief relating to their very close relationship and the transfer into her name of their family home located at [...] 164th Street, Surrey, B.C.

[27] Mr. Gokal also deposed in his affidavit that Mr. Khataw stated to him that he intended to leave British Columbia to live in Pakistan, Dubai, Kenya or elsewhere. Mr. Khataw apparently resides at the property located at 164th Street, Surrey, B.C., he is not a registered owner of that property.

[28] The defendants filed a title search printout from the New Westminster Land Title Office, dated May 23, 2023, that shows that the Surrey property is, and has since September 30, 2013, been owned by Mohamedraza Hussein Jagani and Nazma Mohamedraza Jagani, who are the parents of the defendant Fatim Khataw.

[29] I will discuss the plaintiffs' duties in an *ex parte* application for a Mareva order below. It will suffice to say at this point that there was a clear failure to make full and frank disclosure by the plaintiffs and their counsel. A lands title search was a reasonable step that should have been taken before making the false allegation that Mr. Khataw transferred his family home to his wife.

[30] Mr. Khataw also denied any intention of leaving the jurisdiction. He conceded that in or around November 2022, he told Mr. Gokal that he and his wife were considering a vacation to visit his wife's family in Kenya; however, he denied ever telling Mr. Gokal, either expressly or impliedly, that he intended to move to Pakistan, Dubai, Kenya or elsewhere.

[31] That evidence, in part, was to support the defendants' assertions of an essential co-conspiracy involving Mr. Gokal, and included:

- a) An email chain from February 11, 2015 between Mr. Gokal and Mr. Khataw that starts with Mr. Khataw stating:

Hi Hassan,

Here are the bank details:

[Mr. Khataw then provided details for a bank account for "Sajjad Premjee"]

Mr. Gokal replied:

Please also send me the invoice so we can put invoice number with our payments.

If not you can't then I will just put payment for inv. 786110

To which Mr. Khataw replied:

Actually you can put 786110 as invoice nbr.

To which Mr. Gokal replied:

Thanks,

Can you send me the invoice now. We have the funds and are ready to transfer.

Or I can make it, should we do from Iceland company, allied foods??

Please call me when you are free

Thanks;

Mr. Khataw replied:

Hi Hassan,

You can make a transfer now. Use Allied Foods LLC. Invoice to follow within the hour.

Regards,

Azim.

Mr. Khataw followed up later with:

Hi Hasan,

Please see attached for your records.

Regards,

Azim

Mr. Khataw attached an invoice supposedly from Allied Foods showing them as the exporters of 44 drums of fish oil and Sajjad Premjee as the shipper.

- b) An email chain between Mr. Gokal and Mr. Khataw dated February 2 and 3, 2016, wherein they discussed *pro forma* invoices for “Tyler” and the creation of a logo for that entity;
- c) An email exchange between Mr. Gokal and Mr. Khataw dated October 16, 2017, with respect to a purchase order from “Tyler” that Mr. Gokal intended to edit;
- d) An email chain between Mr. Gokal and Mr. Khataw dated March 5 and May 22, 2018, respecting the form of Tyler Global purchase order for future use;
- e) An email from Mr. Gokal to Mr. Khataw dated March 5, 2018, attaching *pro forma* Giotto invoices;

- f) An email from Mr. Gokal and Mr. Khataw dated May 10, 2019, attaching a revised purchase order for Tyler Global with the customer number and vendor number changed;
- g) An email from Mr. Gokal and Mr. Khataw dated July 27, 2017, attaching a Bill of Lading from Giotto Trade to Ancor Fleet; and
- h) An email exchange between Mr. Gokal and Mr. Khataw dated September 19 and 20, 2018, concerning the modification of a Tyler purchase order.

[32] On July 5, 2023, the plaintiffs filed a sixth affidavit from Mr. Gokal. It was objected to by the defendants, but I exercised my discretion to allow paras. 12–34, and 41–42 into evidence. The permitted portions included further emails between Mr. Gokal and Mr. Khataw, and some of the plaintiffs’ banking records.

IV. PARTIES’ SUBMISSIONS

[33] While the bulk of the submissions that I heard were made by counsel for Mr. Khataw, Giotto Trade Ltd., Ancor Log Limited, Inovo Rawmaterials, and GFR Health Ltd., they were also relied upon by counsel for Fatim Khataw and BRK Properties Ltd., so I will refer to all of those defendants hereafter collectively as “the defendants”. That is, all of the defendants except GFR Imports.

[34] The defendants’ central contention was that the plaintiffs made material non-disclosures in the April 17–18, 2023 application which misled me into erroneously granting the Mareva injunction.

[35] The defendants assert that the email exchanges, set out above, demonstrate that Mr. Gokal created false purchase orders from Tyler Global, changed customer names, vendor names, and modified fonts “for consistency”, and even asked for logo ideas for Tyler Global to create the purchase orders. This was allegedly for the purpose of inducing banks to lend funds.

[36] They also contend that the emails show that Mr. Gokal created invoices for cod liver fish oil and animal feed products, bills of lading for Ancor Log Ltd., despite

swearing in his affidavit that Mr. Khataw incorporated Ancor Log Ltd. to pose as a company called Ancor Transport. They further contend that the emails demonstrate that Mr. Gokal created invoices for Giotto, and precedent purchase order forms and directed Mr. Khataw with regard to what information was needed on the falsified documents.

[37] In sum, the defendants assert that the plaintiffs were aware of every element of the transactions and they took various steps to create documents to impersonate legitimate companies in order to effectuate the transactions.

[38] The defendants also assert that the plaintiffs misstated the risk of the dissipation of the assets of the personal defendants. They assert that the information in Mr. Gokal's affidavit supporting the risk of dissipation of assets, and in particular the sale of real property owned by the Khataws was false, as was the assertion that Mr. Khataw intended to leave the jurisdiction.

[39] The plaintiffs maintain that they were victims of a Ponzi scheme perpetuated by the defendants and have lost approximately 10 million USD. Mr. Gokal again deposed that he honestly believed that EAM was providing financing for Tyler Global's cod liver oil purchases by sending funds to Giotto, as instructed by Mr. Khataw. The plaintiffs contend that the allegation that Mr. Gokal was a co-conspirator in the fraudulent scheme is false and without any factual foundation.

[40] Once he began to borrow from banking institutions to finance the venture, Mr. Gokal said that he was obliged to obtain the documents that the institutions required, which he said resulted in the exchange of emails between him and Mr. Khataw, which he asserts were entirely innocent. He explained that the exchange regarding assisting Tyler Global with setting up their business documents, letterhead and logo in a format acceptable to his banks was initiated by Mr. Khataw.

[41] It is apparent that one or more of the plaintiffs' banks were the source of some funds for the plaintiffs' payments to one or more of the defendants. The initial payments from these banks were exclusively funds belonging to the plaintiffs, but by

2016 the payments were made using borrowed funds, allegedly guaranteed by Mr. Gokal. The plaintiffs submit that it clearly is not a perpetrator of the fraud given that it is the “only” party that lost money in the scheme.

[42] To support their claim that they were not knowing parties to the fraud, the plaintiffs contend that they reported all income from the impugned transactions on EAM's financial ledgers and disclosed all the transactions on their annual Singapore tax filings. These tax filings were not, however, placed into evidence.

[43] The plaintiffs complain that the terms of my Order of April 18, 2023 have not been complied with. I find that before I can entertain their application for relief for the defendants' alleged failure to comply with the terms of that Order, I must first determine whether that Order should be set aside.

V. DISCUSSION

A. Legal Principles

[44] The test to be met when seeking a Mareva order was set out by Chief Justice Finch, in *ICBC v. Patko*, 2008 BCCA 65 at para. 25 [*Patko*], and requires the moving party to establish:

- a) a strong *prima facie* or good arguable case on the merits;
- b) the existence of assets belonging to the defendant within British Columbia or outside, and a real risk of their disposal or dissipation, so as to render nugatory any judgment;
- c) that the granting of an injunction is just and equitable in all the circumstances.

[45] A strong *prima facie* case is higher than an arguable case, but less than a threshold of one that is bound to succeed: *Tracy v. Instalozans Financial Solutions Centres (B.C.) Ltd.*, 2007 BCCA 481 at para. 54 [*Tracy*].

[46] An application for a Mareva injunction is *ex parte*. Therefore, the applicant seeking a Mareva type of order, which is accepted as an extraordinary remedy, has an “exceptional duty” to make full and frank disclosure of all material facts and law, even if they tend to favour the opposing, non-present, party. *Pixhug Media Inc. v. Steeves*, 2016 BCSC 1714 at para. 19 [*Pixhug Media*].

[47] A material fact is one that "may or might affect the outcome of an application": *Pixhug Media* at para. 22. The duty of disclosure applies to all facts known to the applicant, or facts they ought to have known had they made reasonable inquiries: *Pixhug Media* at para. 24.

[48] When the subject of the Mareva injunction applies to set aside the order, the court will consider if there was a material non-disclosure at the initial *ex parte* hearing. If not, the party that initially applied for the order must still prove the order is warranted: *Northwestpharmacy.com Inc. v. Yates*, 2018 BCSC 41 at para. 15 [*Yates*].

[49] Material non-disclosures will vary from innocent to intentional. Yet, even if there is a material non-disclosure, the court retains the discretion to continue the existing order or make a new order. However, the gravity of the non-disclosure is a relevant consideration in exercising the court’s discretion: *MacLachlan v. Nadeau*, 2017 BCCA 326 at paras. 35, 37.

[50] In this case, it is also relevant to consider whether the Mareva injunction should be set aside because the plaintiff came to the court with unclean hands. A Mareva order is an equitable remedy, which would be unavailable to a party who did not come before the court with “clean hands”, as discussed by Justice Saunders, for a unanimous Court in *Wang v. Wang*, 2020 BCCA 15 at para. 46:

[46] The clean hands doctrine decrees that "[h]e who comes to equity must come with clean hands": *Mayer v. Mayer*, 2012 BCCA 77. The doctrine is narrowly applied, however, and does not entitle a court to canvass all aspects of the party's behaviour known to the court. Its use must be kept to the circle of behaviour related to the relief sought [...]

[51] If the plaintiffs were knowing participants in a fraudulent scheme, they cannot be said to have come before me on April 17, 2023, or at any other time, with clean hands, and thus would not have been entitled to the orders that I granted that day.

B. The Mareva Injunction

[52] I accept that the defendants have shown that Mr. Gokal's assertions that there was the risk of dissipation of assets, in particular, by Mr. Khataw, were largely incorrect. Counsel for the plaintiffs agreed that that evidence could not and should not have been relied upon as a basis for my Order of April 18, 2023.

[53] As I noted above, the plaintiffs' unreasonable failure to search the land titles office to determine who owned the Surrey property was material. However, if that is the only unreliable aspect of the evidence relied upon to support my Order, none of the specific terms of the Order need to be set aside.

[54] Notwithstanding the unreliable assertions, based upon the admitted participation of Mr. Khataw in fraudulent transactions, I remain of the view that if all of the terms of the Order were set aside, there is a real risk that the assets of the defendants could be dissipated.

[55] The more important focus of the defendants' position is their contention that the plaintiffs were knowing participants in what has been referred to as a Ponzi scheme.

[56] Tyler Global advanced over \$12 million to the plaintiffs for alleged cod oil sales in 2020 and 2021. On February 28, 2023, former counsel for the plaintiffs asserted to Tyler Global that they were owed a further 9,399,930 USD by Tyler Global. The plaintiffs now say that, like them, Tyler Global was a victim of the fraudulent scheme orchestrated by Mr. Khataw.

[57] It is common ground between all parties that at no time was any cod liver oil or any other health supplements purchased, transported or sold by Icelandirect,

Natural Factors, GFR Pharma or Ancor Transport at the request of any of the parties.

[58] On the evidence before me, it is clear that by late 2022, millions of dollars in US funds were deposited to the account of Giotto by EAM.

[59] As I have set out above, the emails between Mr. Gokal and Mr. Khataw disclose that the two men discussed *pro forma* invoices for Tyler Global and the creation of a logo for that company, editing a purchase order from the company, with the customer number and vendor number changed, the use of *pro forma* Giotto invoices, and a Bill of Lading from Giotto Trade to Ancor Fleet.

[60] Insofar as GFR Pharma is concerned, on the evidence before me from its lawyers, purchase orders 14392 and 14537 to Tyler Global, each for 1,200 drums of cod liver oil, bills of lading numbered 36652 and 36731 purporting to relate to those shipments of cod liver oil to GFR Pharma, and Customs Canada invoices relating to such orders, were all falsified documents not authorized, issued or otherwise generated, signed, or acknowledged by GFR Pharma.

[61] There is no evidence before me that Mr. Gokal prepared any documentation pertaining to GFR Pharma or Customs Canada.

[62] While Mr. Khataw advised Mr. Gokal on more than one occasion that he was in touch with Natural Factors and GFR Pharma, there is no evidence before me that an enterprise named Natural Factors ever even existed, and it is doubtful that GFR Pharma ever did business with Mr. Khataw or any of his companies.

[63] I have concluded that while the new evidence adduced by the defendants raises questions about the role played by the plaintiffs in the cod liver oil and health supplements enterprise, it does not convince me that Mr. Gokal was a knowing participant in the fraud. In other words, the emails are not as incriminating as the defendants contend. For example, the February 11, 2015, exchange of emails can be read as Mr. Gokal inquiring about an invoice before he sent payment to the alleged shipper, Sajjad Premjee.

[64] On the whole of the evidence now before me, the plaintiffs still meet the test set in *Patko*. The plaintiffs have a strong *prima facie* or good arguable case on the merits, as that threshold was defined in *Tracy*, that they have been defrauded by the defendants, particularly so given that the defendants have apparently conceded that they orchestrated a fraud. Further, as I have said, I remain of the view that there is a real risk of the dissipation of Mr. Khataw's assets, and those of his family and related companies in British Columbia, absent a Mareva order.

[65] I am satisfied that the granting of the Mareva order remains just and equitable in all the circumstances, and dismiss the defendants' applications to set it aside.

VI. SPECIAL COSTS

[66] Rule 14-1(14)(b) of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009, provides that "if anything is done or omitted improperly or unnecessarily, by or on behalf of party, the court or a registrar may order that the party pay the costs incurred by any other party by reason of the act or omission."

[67] It is well established law that special costs can be awarded for misconduct in the course of litigation that is reprehensible in the sense of "deserving of reproof or rebuke": *WBH v. HEH*, 2018 BCSC 1615 at para. 93 [*WBH*].

[68] Where a plaintiff obtains an *ex parte* order on the basis of intentionally or carelessly false, misleading, or unforthcoming materials, the standard requiring reproof or rebuke may be met: *WBH* at paras. 94–95.

[69] The plaintiffs obtained the Orders of April 18, 2023 on the basis of careless, and false assertions with respect to the potential for the dissipation of assets. However, as I have said above, I remain concerned about the potential for such dissipation.

[70] While the plaintiffs misconducted themselves with respect to the issue of dissipation, that has not altered the Orders that I am prepared to continue. In the

circumstances I am not prepared to make any award of costs, at this stage, to address the plaintiffs' misconduct.

[71] Nor am I prepared, at this stage to make any award of costs to either party.

VII. CONCLUSION

[72] In sum, I decline to set aside the Order, and will also not make an order for special costs against the plaintiffs. Thus, I dismiss the applications brought by the defendants and the Mareva injunction is continued as initially ordered on April 18, 2023.

“The Honourable Chief Justice Hinkson”

VIII. APPENDIX A**Freezing Order**

1. This Order does not prohibit the defendants, Azim and Fatim Khataw from spending \$3,500.00 per month on ordinary [living expenses].
2. Except as permitted by this Order, the defendants must not:
 - (a) remove from British Columbia or in any way dispose of or deal with or diminish the value of any of their assets that are in British Columbia whether in their own names or not and whether solely or jointly owned;
 - (b) in any way dispose of or deal with or diminish the value of any of their assets whether they are in or outside British Columbia whether in their own names or not and whether solely or jointly owned.
 - (c) this prohibition applies to all of the defendant's assets, and includes the following assets in particular:
 - (i) any real property held in the name of or for the benefit of the defendant;
 - (ii) the property and assets of the defendant's businesses or the net proceeds from the sale of the asset or assets if any of them have been sold; and
 - (iii) any money in bank accounts or safety deposit boxes within British Columbia.
3. If the total value of the defendants' assets in British Columbia, net of all secured interests, exceeds \$10 million, the defendants may remove any of those assets from British Columbia or may dispose of or deal with them so long as the total net value of their assets still in British Columbia remains above \$10 million.
4. If the total net value of the defendants' assets in British Columbia does not exceed \$10 million, the defendants must not remove any of those assets from British Columbia and must not dispose of or deal with any of them, but if they have other assets outside British Columbia the defendant may dispose of or deal with those assets so long as the total net value of all their assets whether in or outside British Columbia remains above \$10 million.

Exceptions to this Order

5. This Order does not prohibit the defendants, Azim and Fatim Khataw from spending \$3,500.00 per month on ordinary living expenses and a total of \$25,000.00 per month on legal advice and representation. Before spending any money on living, business or legal expenses, the defendants must advise the plaintiffs solicitors in writing of the intended source of the funds.
6. The defendants may agree with the plaintiff that the above spending limits should be increased or that this Order should be relaxed in any

other respect but any such agreement will be effective only if confirmed in writing and signed by all parties.

Duration of this Order

7. Unless this Order is varied or discharged or extended by order of the Court, this Order shall remain in force for six months from the date of this order, with liberty to the petitioners to apply to renew or extend the injunction order on or before the expiry of those six months.
8. This Order will cease to have effect if the defendants provide security by paying the sum of \$10 million into Court or makes provision for security in that sum by some other method agreed in writing with the plaintiff.

Variation or Discharge of this Order

9. Anyone affected by this Order may apply to the Court at any time to vary or discharge it, or to request that the plaintiff be required to post security for the undertaking, on giving no less than 24 hours' notice to the plaintiffs solicitor of his or her intention to do so, but this Order will remain in force until further Order even if such an application is pending.
10. All applications to vary or discharge this Order, or arising out of the issuance or enforcement of this Order, shall be heard by the Judge who issued this Order with the exception of:
 - (a) urgent matters for which the Judge is not available; or
 - (b) as otherwise directed by the Judge.

Third Parties

11. Except as permitted by this Order, no person or other legal entity with notice of this Order may deal with any bank or other accounts of the defendants (including money market, retirement savings plan accounts, investment certificates, treasury bills and deposits) or with other assets of the defendant in his or her possession or control.
12. No person or other legal entity with notice of this Order shall breach or permit a breach of this Order.
13. To the extent that any person or other legal entity holds assets of the defendant in excess of \$20 million, that person or other legal entity is not restrained from dealing with that part of the assets held by that person or other legal entity which is in excess of \$20 million.
14. The terms of this Order do not affect any person or legal entity outside the jurisdiction of this Court unless and until this Order is declared enforceable or is enforced by a Court in the relevant jurisdiction, except that this Order is enforceable as against a person or other legal entity who or which:
 - (a) is a defendant or an officer or an agent of a defendant; or is subject to the jurisdiction of this Court and has been given written notice of this Order.

- (b) This Order does not prevent any bank, financial institution or secured party from exercising any rights to claim interest, to levy service charges, to claim set off, to enforce security, or to enforce any other contractual right, arising from contracts made before being notified of this Order.
- 15. This Order does not prevent any bank, financial institution or secured party from exercising any rights to claim interest, to levy service charges, to claim set off, to enforce security, or to enforce any other contractual right, arising from contracts made before being notified of this Order.
- 16. No bank or financial institution needs to enquire as to the application or proposed application of any money withdrawn by the defendants if the withdrawal appears to be permitted by this Order.
- 17. This Order binds every defendant and every other person who is subject to this Order and obtains notice of the Order, as of the time such defendant or person first receives notice of the Order, and whether or not such defendant or person has been served with a copy of the Order.
- 18. Each of the defendants must, within seven days of service of this Order, provide the plaintiffs solicitor with a list (the "Defendants' Asset Lists"), verified by his, her or its affidavit setting out all of the defendants' assets as of the date of this Order whether in or outside British Columbia and whether in that defendant's own name or not and whether solely or jointly owned, and details of all such assets, including the nature of each asset, all identifying numbers and other identifying information, its exact location as of the date of this Order, and whether the asset is held in the defendant's name or jointly held with another person, or by another on his, her or its behalf.
- 19. If a defendant holds any assets over which he or she has no beneficial interest, that asset shall be included in the list, along with an indication that the asset is held in trust for others.
- 20. The plaintiffs solicitor shall not disclose the Defendant's Asset Lists or the information contained in them to any person (including the plaintiff) except for the purpose of this proceeding. Before making such disclosure, counsel shall obtain a written undertaking from the person to whom disclosure is to be made in the form attached to this Order as Schedule "2".
- 21. On or before the day following the pronouncement of final judgment in this matter by this Court, or such later date as provided in a further Order, the plaintiff's solicitor shall destroy all copies of the Defendants' Asset Lists received from the defendant and take reasonable steps to ensure that any copies released to anyone else are destroyed, except that the plaintiff is at liberty to file with the Court a sealed copy of the Defendants' Asset Lists, to be retained in the Court file so that it will be available on further court order.