

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Jubilee Gold Exploration Ltd. v. Becker*,
2024 BCSC 1712

Date: 20240801
Docket: S242386
Registry: Vancouver

Between:

Jubilee Gold Exploration Ltd.

Plaintiff

And

Jeffrey Becker and Patti Michele Becker

Defendants

Before: The Honourable Madam Justice Sharma

Oral Reasons for Judgment

In Chambers

Counsel for the Plaintiff:

A.B. Richards

The Defendant Jeffrey Becker, appearing in
person:

J. Becker

The Defendant Patti Michele Becker,
appearing in person:

P. Becker

Place and Date of Trial/Hearing:

Vancouver, B.C.
August 1, 2024

Place and Date of Judgment:

Vancouver, B.C.
August 1, 2024

[1] This is the written version of judgment that was pronounced on August 1, 2024. It has been edited to improve style and grammar, and in a few places enclosed in square brackets, to add specific reference to facts in the record. However, no change has been made to the analysis or conclusions.

[2] **THE COURT:** This is an application brought by the defendants in this litigation, Jeffrey Becker and Patti Becker. The notice of application was filed on June 10, 2024, and it was originally set down without notice. However, due to circumstances I need not mention, counsel for the plaintiff, Jubilee Gold Exploration Inc. (“Jubilee”), did attend today. Jubilee has filed evidence from an unnamed party, who is its current, interim CEO, Warren Becker.

[3] Jubilee is a corporation listed on the Toronto Stock Exchange. It is incorporated in Ontario. The company was originally started by the defendant Jeff Becker. [However, he does not directly own shares in Jubilee. Instead, he is president and director of a company, Direct Business Services Ltd., that owns about 94% of Jubilee’s shares].

[4] Jeff Becker and Patti Becker are spouses. They have been married for 20 years or more. Jeff Becker, with his previous spouse, has three adult children, Warren Becker, Summer Becker and Jade Becker. I am informed by counsel that they have commenced an action seeking to have a committee appointed for Jeff Becker. It is not clear to me what stage that litigation is at, but I do understand it was only recently started.

[5] For convenience I will refer to members of the Becker family by their first name, but I intend no disrespect in doing so.

[6] A dispute arose between the parties in this litigation about some corporate assets. The plaintiff apparently owns some gold bars and silver coins that are worth over \$400,000. Those items were being held for many years in a safety deposit box to which two of Jubilee’s directors, Warren and Jeff, had access to. [Warren and Jeff were joint tenants of that safety deposit box].

[7] There was a change in the location of those corporate assets early last year. The following facts are not my findings; these are the allegations about the movement of the assets. Jeff attended at the bank and appropriately accessed the safety deposit box where the assets were located. However, he then moved the assets into a new safety deposit box to which only he and Patti had access. They explained the reasons for doing that, but I need not review those at this time. [Jeff closed the safety deposit box where the corporate assets were originally located.]

[8] Jubilee's board of directors (the "Board"), at the time, had five members. Both Jeff and Warren are on the Board, as is Summer and two people not related to the family.

[9] Minutes of meeting held after the corporate assets were moved were attached to Warren's affidavit. The Board was concerned by this move of corporate assets. The Board asked Jeff questions about it, which he answered. However, during that exchange, Board members had concerns about Jeff's capacity. The Board asked him to attend a capacity assessment. At that time, he agreed. Patti, who is not a member of the Board, was then invited into the meeting and informed of the Board's concerns and request. At that time, she also agreed that Jeff would attend the capacity assessment.

[10] The capacity assessment was set up, but it never took place. In the interim, Jeff and Patti decided not to attend, believing that it was not mandatory to do so. It is not clear to me whether it was mandatory, but in any event, it did not take place. Patti tells me today that they did not understand why a capacity assessment was required when Jeff displayed a few problems she submits are simply normal in people of Jeff's age. Accordingly, that request by the Board has not been fulfilled.

[11] There is evidence of Jubilee's attempts to put the corporate assets back in its control. There were powers of attorney over certain aspects of Jeff's affairs, but they were signed many years ago. Efforts were made through Jubilee's Ontario counsel to work with CIBC [where the safety deposit boxes at issue are located] to find a way to properly regain control of those corporate assets.

[12] However, in the meantime, Patti indicated she had a power of attorney over Jeff's affairs and it revoked all the previous powers of attorney. [Specifically, Jade and Summer both had limited powers of attorney over Jeff's property, which were executed in 2013.] The evidence in the record suggests there was some delay in Warren and/or the bank getting a copy of the power of attorney in favour of Patti, although there is a copy produced in the material.

[13] CIBC became aware of the possible power of attorney in favour of Patti and decided it would do nothing until that issue was sorted out, which is understandable. As a result, the corporate assets have not been moved since Jeff moved them into the safety deposit box to which only he and Patti have access.

[14] Before Patti's power of attorney came to light, it had been agreed to open another safety deposit box into which the corporate assets would be put, with the condition that the box would be in the name of three directors and two would need to be present to move anything. As noted, CIBC has decided to do nothing further about the corporate assets until it is assured that the dispute regarding Jeff's capacity and the validity of the powers of attorney is resolved.

[15] The notice of application in front of me today was filed by the defendants acting on their own behalf, and at its heart, it seeks a declaration that the power of attorney in Patti's name be declared valid and effective. As I explained during the hearing, the way that the notice of application has been filed [without notice] and given the relief she seeks, there are no orders I could grant today, for a number of reasons.

[16] The most important one is my knowledge that there is now outstanding litigation challenging the capacity of Jeff to control his own affairs by way of an application that a committee be appointed. In that circumstance, the issue of the validity of Patti's power of attorney may come up, and certainly, Jeff's capacity is a live issue. It would be imprudent, in my view, for this Court to make any declarations in that context.

[17] I will add that having read the affidavits filed in this matter, the Board requested Jeff attend a capacity assessment and Jeff has declined to do so. So, the issue of Jeff's capacity arises within this application regardless of the other litigation. It would be imprudent, in my respectful view, to make a declaration about the power of attorney on the basis of the limited evidence in front of me today.

[18] There is also the concern that this application was brought without notice, which is not appropriate. That, too, is a reason why, regardless of anything else, it is not appropriate to grant any of the orders sought. To be clear, I have taken into account that the defendants are representing themselves, and I am not holding them to the same standard as a lawyer in terms of how they word their material or how they draft it. However, they are still required to comply with fundamental aspects of what applications can be brought and heard. I have done my best to explain to them why none of the orders could be granted today.

[19] Accordingly, I dismiss the application in its entirety.

[20] I appreciate Ms. Richards (counsel for Jubilee) getting additional information I requested from corporate counsel, and her informing me that she had a conversation with counsel on the other litigation. Having heard from the parties and now understanding the issues at stake, I exercise my inherent jurisdiction, as well as my obligation to promote the efficient use of court resources, to order that the parties attend a case planning conference ("CPC") at a date and time convenient to all parties. Specifically, I order that the parties in this litigation and the parties in the litigation commenced by Warren (or whomsoever is seeking appointment of a committee for Jeff) attend the same CPC.

[21] I ask Ms. Richards to kindly contact counsel of the other litigation to inform them of the order that I have made today. I would ask her also to convey to that counsel the Court's request that counsel inform anybody else who ought to be given notice of that the CPC. The CPC needs to be set for one hour.

"Sharma J."