IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Ignite International Brands, Ltd v. Bilzerian,* 2025 BCSC 566

Date: 20250327
Docket: S251196
Registry: Vancouver

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Between:

Ignite International Brands, Ltd.

Plaintiff

And

Dan Brandon Bilzerian also known as Dan Bilzerian

Defendant

Before: The Honourable Justice Latimer

Reasons for Judgment

Counsel for the Plaintiff:	H. Mickelson, KC G. Boothroyd-Roberts C. Gallant
Counsel for Defendant:	M. Funt J. Chan, Articled Student
Place and Date of Hearing:	Vancouver, B.C. March 5, 2025
Place and Date of Judgment:	Vancouver, B.C. March 27, 2025

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Introduction

[1] The plaintiff, Ignite International Brands, Ltd. ("Ignite"), applies for an injunction to restrain the activities of the defendant, Dan Bilzerian, pending trial of this action. Ignite is a corporation whose business includes the sale of nicotine vaporisers ("vapes").

[2] In February 2025, the plaintiff commenced this action against Mr. Bilzerian, who was the former sole director, chairman, and chief executive officer ("CEO") of the plaintiff.

[3] In the underlying action, Ignite alleges that Mr. Bilzerian has breached his fiduciary duties to Ignite in a number of ways, including by:

1. using Ignite's social media accounts, as well as his own personal social media accounts, to make posts that caused damage to Ignite;
2. wrongfully retaining control of Ignite's social media accounts after he was no longer a director or CEO of Ignite;
3. making unauthorized and threatening communications to Ignite employees after he was no longer a director or CEO of Ignite;
4. engaging in a concerted effort, since at least August 2024, to develop, manufacture, and distribute vapes that compete with Ignite (the "Competition"); and
5. misusing Ignite's confidential information.

[4] Ignite alleges that Mr. Bilzerian committed a breach of confidence against Ignite, intentionally inflicted economic harm on Ignite, and committed the tort of passing off.

[5] The only allegation that is relied on in support of the present application for injunctive relief is the alleged breach of fiduciary duties by the Competition. The relief sought in the notice of application was refined during the hearing of this application so that by the end of that hearing, the orders sought were as follows:

1. An interim and interlocutory order that Dan Bilzerian be prohibited from directly or indirectly competing with Ignite until a final order is made in this action, including refraining from:

    a. contacting Ignite's manufacturers or distributors, or retailers of vape products;

    b. lending his name or likeness to the marketing of vape products other than Ignite's products;

    c. permitting SAVH LLC (a company incorporated by Mr. Bilzerian in August 2024) to manufacture, distribute, market, sell, or transfer vape products;

    d. using or distributing images paid for or used by Ignite; and

    e. promoting vape products other than those marketed by Ignite.

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[6] Mr. Bilzerian’s position is that:

1. This Court lacks territorial competence in this matter.

2. The Competition is occurring, but it is not a breach of fiduciary duties and so Ignite fails the first stage of the test for injunctive relief.

3. Ignite has not established that it would suffer irreparable harm.

4. The balance of convenience does not favour granting the injunction.

5. It is not appropriate to issue an interlocutory injunction with extraterritorial effect.

Background Facts

[7] Ignite is a corporation, incorporated under and subject to the British Columbia *Business Corporations Act*, S.B.C. 2002, c. 57 [*BCA*].

[8] Mr. Bilzerian is a self-described “professional poker player and social media influencer”. He deposes that “a very significant portion of my income comes from utilizing my public image for the sale of vape products”.

[9] Between January 2019 and June 2024, Mr. Bilzerian was Ignite’s director, CEO, and chairman. In addition, he is a major shareholder of Ignite. He argues that he is Ignite’s majority shareholder, although that is disputed.

[10] It is not contested on this application that Ignite’s core business has been the development, manufacture, distribution, and sale of vapes. It is also not contested that until recently, that the Ignite brand has been closely linked with Mr. Bilzerian’s personal brand. Mr. Bilzerian deposes that:

> Since 2018, my brand “Ignite”, as well as my name, likeness, personality, and life story, have been the essence of the Company's business, and I have been the “public face" of the Company.

[11] There was a licensing agreement in place to facilitate this linkage between Ignite’s brand and that of Mr. Bilzerian. A current director of Ignite, Mr. Gurjinder Dhadwar deposes:

> 6. The Licensing Agreement reflects the longstanding synergistic relationship between Dan Bilzerian's social media presence and personality and the development of the corporate Ignite products, initially involving cannabis and CBD products and, since 2020, principally involving vape devices and related products.
>
> 7. By design, and with Dan Bilzerian's full involvement as former chairman and director of Ignite, the company's branding has been inextricably connected to Dan Bilzerian's social media personality and the demographic he attracts, who are users of Ignite's previous cannabis products and, since 2020, vape products. This branding effort has been funded by Ignite.
>
> 8. The results of Ignite's efforts to advance its connection to Dan Bilzerian's social media personality resulted in a significant growth in Ignite's Instagram account following. Dan Bilzerian and former directors of Ignite relied upon Ignite's social media following and the interconnection between Dan Bilzerian's social media presence and Ignite products in their efforts to attract investment in Ignite.

[12] The reason for this linkage has been explained by Mr. Bilzerian in his written submissions:

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> 26. …The vape industry is heavily reliant on marketing and promotion rather than product differentiation. Disposable vape devices are simple products, mass produced and throw [*sic*] away after a couple days' use. There is nothing proprietary and there are no secret formulations. The major manufacturers offer a host of common and standard features for customization, and most vape companies offer vape devices with similar features.
>
> …
>
> 74. Ignite primarily sells vaping and related products, largely by using the social media celebrity status of Mr. Bilzerian as its marketing platform…

[13] The evidence demonstrates that Ignite's marketing strategy has been to use social media to market its products and to help its distributors to grow Ignite's business. One such social media account is Ignite's Instagram account (@Ignite), which has approximately 3.7 million followers. Since 2018, Ignite has invested over $43 million to produce social media content for both Ignite and Mr. Bilzerian's Instagram accounts. All of this has been done with the full cooperation and assistance of Mr. Bilzerian.

[14] In June 2024, Mr. Bilzerian was removed as Ignite's director. The circumstances and legitimacy of that removal are hotly contested between the parties and need not be determined on this application. I accept that Mr. Bilzerian's removal in June 2024 was against his wishes. I take note of Justice Tammen's observation in a related proceeding (unreported, 30 October 2024, Vancouver, S245663, S.C.), about which I will say more momentarily:

> [5] On June 2, 2024, D.B. [i.e., Mr. Bilzerian] was removed as sole director and CEO by a majority shareholder vote. There seems to be little doubt that such a method of removal was not in keeping with the corporate articles, and thus, D.B. has a strong case that his ouster was not properly done.
>
> [6] Unfortunately, in his efforts to regain his positions with Ignite and, by extension, control of the company, D.B. and his original lawyers, *not* counsel who appeared before me, have made a series of serious missteps which have led to D.B. either wittingly or unwittingly abusing the process of this court. It is those missteps which I will not outline. A thorough review of the pleading and litigation history will make plain the reasons I say D.B.'s overall conduct has been an abuse of the court process. Distilling that to its essence would produce a fine law school exam fact pattern, but would serve no useful purpose in these reasons.

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[15] I too will refrain from outlining the entire litigation history. However, I will note some key events.

[16] In July 2024, Mr. Bilzerian initiated a petition on behalf of Ignite in this Court with Court File No. S244508 ("July Petition"). The July Petition challenged, among other things, his termination as Ignite's director, chairman, and CEO, and sought his reinstatement to Ignite. The respondents named in the July Petition were certain Ignite shareholders.

[17] In August 2024, while the July Petition was extant, Mr. Bilzerian incorporated SAVH LLC. In the application response in this proceeding, Mr. Bilzerian pleads that he incorporated SAVH LLC "with the intention of entering the vape industry" and that "SAV manufactures and sells vape products under the brand 'Sex Addict'". Although I make no finding on this point, there is some evidence that may suggest Mr. Bilzerian's involvement in the development of this brand may date back to July 2024.

[18] In September 2024, Mr. Bilzerian initiated a second petition in this Court with Court File No. S245663 in his own name seeking substantially the same relief as sought in the July Petition ("September Petition"). The respondents named in the September Petition are the same shareholders named in the July Petition, as well as Ignite.

[19] On October 25, 2024, the July Petition was dismissed. Justice Tammen held that Mr. Bilzerian had no right or authority to initiate those proceedings. He ordered costs against Mr. Bilzerian. I am advised that those costs have not yet been paid.

[20] In or around October 2024, the shareholder respondents in the September Petition proceeding applied, among other things, to restrain Mr. Bilzerian from competing with Ignite.

[21] In response to that application, and despite his recent incorporation of SAVH LLC, Mr. Bilzerian swore an affidavit in October 2024 in which he deposed:

> 8. I am not promoting, marketing or developing any competing brands or products to Ignite's brand and products.

[22] Justice Tammen did not grant the broad injunctive relief sought by the respondent shareholders (unreported, 30 October 2024, Vancouver, S245663, S.C.). In refusing to do so, he held as follows:

> [7] I have concluded that I should decline to grant the broad injunctive relief sought by the shareholder applicants, the IIL group, but, rather, should attempt to craft more surgical orders which will hopefully serve the broader interests of the company and permit it to conduct its corporate business in an orderly fashion.
>
> [8] The primary reasons I have decided not to grant the broad injunctive relief to the petition respondent shareholders are these:
>
> > 1. Their lack of clean hands based on the June 2, 2024, removal of D.B. as sole director and CEO.
> >
> > 2. I have judicial misgivings about the appropriateness of some of the relief they seek in the context of D.B.'s petition proceedings. For example, it is likely the company which must seek orders related to non-competition, not a different group of shareholders. A case could be made that perhaps the other shareholders should have filed their own petition alleging oppression and sought to have it joined with the D.B. petition.
> >
> > 3. I am far from persuaded that the shareholders have a claim in oppression against D.B., another minority shareholder. There is much merit to D.B.'s submission that he has no ability to oppress the other shareholders, particularly by the type of conduct which they seek to enjoin.

[23] The more surgical orders granted were as follows:

> 1. Dan Bilzerian shall return control of, and grant access to, Ignite' s Instagram account ("@Ignite") to Ignite, including by providing all usernames and passwords to Ignite and approving any necessary account changes to effect the transfer, within 3 days;
>
> 2. Subject to further order of the court or written permission granted by Dan Bilzerian, Ignite will not post Dan Bilzerian's name, image or likeness to the Ignite Instagram account;
>
> 3. If the court orders that Dan Bilzerian be reinstated as the sole director of Ignite, on written request of Dan Bilzerian, Ignite will transfer control of Ignite's Instagram account back to Dan Bilzerian within 3 days of the request;
>
> 4. During the course of this proceeding, all parties have liberty to seek further directions with respect to Ignite's Instagram account;
>
> 5. Ignite shall hold an annual general meeting of shareholders no later than December 20, 2024 and, in conducting that meeting, shall comply with the *Business Corporations Act,* SBC 2002, c 57 and Ignite's articles of incorporation and bylaws that pertain to procedures for holding such a meeting; and

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> 6. Dan Bilzerian is prohibited from purporting to have authority to act on behalf of Ignite or its subsidiaries, including with respect to Ignite or its subsidiaries' corporate records and including in communicating with Ignite's employees or employees of its subsidiaries, until such time as one of the following events occur:
>
> > a. Dan Bilzerian is elected as a director of Ignite or is appointed by Ignite's directors as an officer of Ignite;
> >
> > b. Dan Bilzerian is granted written permission from Ignite' s directors;
> >
> > c. the orders sought by Dan Bilzerian in his petition originally filed August 19, 2024 are granted; or
> >
> > d. further order of the Court.

[24] As set out above, Tammen J. directed that an Annual General Meeting ("AGM") be held no later than December 20, 2024 to inject some clarity and stability to the *status quo* of Ignite's governance. He so ordered, in part, because of his view that there was force to Mr. Bilzerian's submission that he had been inappropriately stripped of his position as director.

[25] By letter dated November 15, 2024, Mr. Bilzerian's counsel was advised that Ignite intended to hold an AGM on December 19, 2024. Mr. Bilzerian was invited to propose nominees as directors of Ignite at the AGM. Having received no response, on December 2, 2024, Mr. Dhadwar e-mailed Mr. Bilzerian directly, attaching the November 15, 2024 correspondence, copying his assistant, and providing another opportunity to nominate directors.

[26] Despite that the September Petition remained extant and that an AGM was being held to regularize Ignite's governance, in November 2024, SAVH LLC placed an order to manufacture "Sex Addict" brand vapes. The Sex Addict brand vapes were launched in Paraguay in or around December 2024.

[27] On November 21, 2024, Mr. Bilzerian initiated a further lawsuit in Nevada in which he alleged that he had been unlawfully removed from Ignite and that the defendants were unlawfully using Mr. Bilzerian's likeness for their own benefit ("Nevada Lawsuit"). In the Nevada Lawsuit, Mr. Bilzerian acknowledged that he was competing with Ignite and asserted that he was entitled to do so.

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[28] In the face of this pleading, in December 2024, the shareholder respondents to the September Petition applied to reopen their application as Tammen J.'s order had not yet been entered. However, the day after their application to reopen was filed, the order was entered.

[29] On February 11, 2025, the parties appeared again on the September Petition. At that hearing, counsel for the shareholder respondents to the September Petition advised the Court that Ignite had instructed him to initiate these proceedings and to bring the injunction application that is now before me. Counsel alerted Tammen J. that the application would include some of the same evidence that had been before the Court on the application for an injunction which had been dismissed on October 30, 2024. Justice Tammen indicated that he was not seized of any such applications.

[30] Ignite filed a notice of civil claim commencing the underlying action on February 14, 2025. It filed the application for injunctive relief a few days later, on February 19, 2025.

[31] Mr. Bilzerian initially took the position that counsel appearing on behalf of Ignite on this application could not take instructions from Ignite while, at the same time, taking instructions from the shareholder respondents in the September Petition proceeding. That argument was abandoned at the hearing; however, Mr. Bilzerian advised it might be advanced in a different forum.

[32] Mr. Bilzerian also initially took the position, under the heading "conflict and abuse of process" in his written submissions, that Tammen J. had already dismissed a substantially similar application in the September Petition. That position was also abandoned at the hearing, and no argument was advanced in support of it.

[33] I am satisfied that bringing this application in the face of Tammen J.'s October decision does not give rise to an abuse of process. The underlying cause of action in this case is different. The parties to this application are different. Specifically, Tammen J. was of the view that "it is likely the company which must seek orders

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related to non-competition". That is, in fact, what has occurred here. The other concerns that underpinned his decision not to grant the broad injunctive relief claimed related to the shareholders, who are not the moving party before me. Justice Tammen was appropriately alerted to this application and indicated that he was not seized of it.

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[34] On February 11, 2025, Tammen J. declared Mr. Bilzerian to be in contempt of court for failing to comply with paragraph 1 of his October 30, 2024 order: *Bilzerian v. Ignite International Brands, Ltd.*, 2025 BCSC 466.

[35] At the time of the hearing of this application, Mr. Bilzerian had not yet purged his contempt.

[36] Instead, Mr. Bilzerian's counsel advised that he intended to pursue an application in the September Petition proceeding for, among other things, a declaration that he has the legal and beneficial right, title, interest, and ownership of the @Ignite Instagram account and that the Court's declaration finding him in contempt of court was of no force and effect. Mr. Bilzerian did bring that application, and it was scheduled to be heard at the same time as the sanction hearing for Ignite's contempt application.

[37] On March 14, 2025, Justice Tammen summarily dismissed Mr. Bilzerian's application and reserved judgment on the second phase of Ignite's contempt application.

Issues

[38] For the reasons that follow, I have determined that:

1. This Court has territorial competence in respect of this matter.

2. The strong *prima facie* case standard applies to the first step of the test for injunctive relief.

3. Ignite has established:

a. A strong *prima facie* case that the Competition is a breach of Mr. Bilzerian's fiduciary duty not to compete with Ignite;

b. That it will suffer irreparable harm if an injunction is not granted; and

c. That the balance of convenience favours granting the injunction.

4. The scope of the injunction sought is within this Court's jurisdiction.

Analysis

Territorial Competence

[39] Mr. Bilzerian argues that the courts in British Columbia do not have territorial competence in this matter. He argues that:

> Ignite's principal place of business is in Texas. Mr. Bilzerian resides in Las Vegas and does not ordinarily reside in British Columbia. SAV does not do business in British Columbia. The alleged torts of breach of confidence and passing off did not take place in British Columbia.

[40] Section 3 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 23 [*CJPTA*] provides:

> **3** A court has territorial competence in a proceeding that is brought against a person only if
>
> …
>
> (e) there is a real and substantial connection between British Columbia and the facts on which the proceeding against that person is based.

[41] I find that this Court does have territorial competence. In particular:

1. Mr. Bilzerian has not brought a jurisdictional challenge to this proceeding.

2. Ignite is incorporated under, and subject to, the British Columbia *BCA*.

3. Mr. Bilzerian consented to be a director of Ignite.

4. The claim alleges, in part, that Mr. Bilzerian has acted in breach of his fiduciary duties to Ignite. As a general rule, fiduciary duties owed to a

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company are defined according to the law of the province where the company is incorporated, and any alleged breaches of those fiduciary duties are considered to have occurred in that same province; in this case, British Columbia: *Link v. Link*, 2020 NSSC 293 at paras.138-139; Kevin P. McGuinness & Maurice Coombs, *Canadian Business Corporations Law*, 4th ed. (Toronto: LexisNexis Canada, 2024) vol #1 at 5-107.

5. I find Mr. Bilzerian's position on this application to be inconsistent with the position he has taken in related proceedings, initiated by him, in this Court:

    a. In the endorsement of the July Petition, Mr. Bilzerian claimed the right to serve the petition on the respondents outside British Columbia on the grounds that the petition concerned "a business carried on in British Columbia" as set out in ss. 10(h) and (i) of the *CJPTA*.

    b. In both the July Petition and the September Petition, Mr. Bilzerian sought to use this Court's processes to enjoin the conduct of non-residents that would take place in other jurisdictions.

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Injunction

[42] Generally, injunctive relief is available to an applicant who demonstrates that:

1) there is a serious question to be tried;

2) they will suffer irreparable harm if the injunction is refused; and

3) the balance of convenience lies with them.

See *RJR–MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311 [*RJR*].

[43] Injunctions are equitable remedies and the fundamental question in each case is whether the granting of the injunction is just and equitable in all the circumstances of the case: *British Columbia (Attorney General) v. Wale*, [1987] 2 W.W.R. 331 (B.C.C.A.), aff'd [1991] 1 S.C.R. 62.

What test should be applied at the first stage?

[44] The first stage is generally viewed as a low threshold and does not require an extensive review of the merits. However, the threshold is modified when an injunction would in effect amount to a final determination of the action. This will happen “when the right which the applicant seeks to protect can only be exercised immediately or not at all, or when the result of the application will impose such hardship on one party as to remove any potential benefit from proceeding to trial”: *RJR* at 338. In such a situation, “a more extensive review of the merits of the case must be undertaken”: *RJR* at 339.

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[45] Moreover, where the injunction sought would place restrictions on a person’s ability to engage in their chosen vocation and to earn a livelihood, the courts have raised the threshold by requiring the applicant to establish a strong *prima facie* case: *Accurate Material Testing Ltd. v. Keshavarzi*, 2023 BCSC 1302 at para. 32.

[46] Mr. Bilzerian takes the position that the strong *prima face* case standard applies in this case because the injunction seeks to place restrictions on his ability to engage in his chosen vocation and to earn a livelihood.

[47] Ignite takes the position that the serious question to be tried standard applies because the issue before the court is one of restraining a fiduciary from breaching his or her duties to the company.

[48] I find that the strong *prima facie* case standard applies here for the following reasons:

1. The requested injunction is broad. Although somewhat refined during oral submissions, it would enjoin Mr. Bilzerian from directly or indirectly competing with Ignite until a final order is made in this action, including refraining from:

    a. contacting Ignite's manufacturers or distributors, or retailers of vape products;

b. lending his name or likeness to the marketing of vape products other than Ignite's products;

c. permitting SAVH LLC to manufacture, distribute, market, sell or transfer vape products;

d. using or distributing images paid for or used by Ignite; and

e. promoting vape products other than those marketed by Ignite.

2. The request for injunctive relief may become moot by the time the matter reaches trial. As I discuss below, a fiduciary duty may survive employment, but only for a reasonable period of time. By the time this matter reaches trial, any duties Mr. Bilzerian may owe to Ignite may have expired.

3. Although not foreclosing his ability to earn a living altogether, the injunction will restrict Mr. Bilzerian's ability to earn a living in his chosen vocation, being the use of his public image for the sale of vape products. As noted, Mr. Bilzerian deposes that a significant portion of his income is so derived.

[49] I turn now to the three factors from *RJR*.

Stage 1: Has Ignite established a strong prima facie case that the Competition is a breach of Mr. Bilzerian's fiduciary duty not to compete with Ignite?

[50] I find that Ignite has established a strong *prima facie* case that the Competition is a breach of Mr. Bilzerian's fiduciary duty not to compete with Ignite.

[51] It is common ground that as chairman and a director of Ignite, Mr. Bilzerian owed Ignite fiduciary duties enshrined in the *BCA*, which requires directors and officers to "act honestly and in good faith with a view to the best interests of the company": s. 142, *BCA*.

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[52] In *EnWave Corporation v. Dehydration Research, LLC,* 2022 BCSC 637, this Court considered the contents of that duty and explained:

> [97] This fiduciary duty requires that Dr. Durance and Dr. Sandberg:
>
> a) avoid all conflict of interest with EnWave;
>
> b) act only in the best interest of EnWave; and
>
> c) not profit as a result of their positions at EnWave.
>
> See: *GasTOPS* at para. 86.
>
> [98] Fiduciaries are under a duty not to compete with their employer post-employment for a reasonable period of time to be determined by the court. Fiduciaries are also precluded from soliciting their employer's customers or prospective customers either while employed or after leaving employment. Fiduciaries post-employment are further disallowed from soliciting other employees of their former employer: *GasTOPS* at paras. 87–89, 98, 112–116, 144.
>
> [Emphasis added.]

[53] Ignite argues that the Competition is in breach of this fiduciary duty not to compete.

[54] Mr. Bilzerian does not deny that he has engaged in the Competition.

[55] Rather, Mr. Bilzerian's position is that in order to have a breach of fiduciary duty, there must be a specific wrongful action beyond merely competing, such as solicitation of customers or the taking of confidential information. With reference to cases such as *Inprotect Systems Inc. v. Davies*, 2010 BCSC 1287 at paras. 23, 24, 49, he argues that former employees, officers, or directors, even those in a fiduciary role, have the right to set up similar and competing companies.

[56] The Supreme Court of Canada's decision in *Can. Aero v. O'Malley*, [1974] S.C.R. 592 [*CanAero*] is the key to harmonizing *EnWave* and *Inprotect*.

[57] In *CanAero*, the Supreme Court of Canada addressed whether a fiduciary duty follows a fiduciary employee *after* the employment has terminated. *CanAero* stands for the proposition that a fiduciary duty, including the duty not to compete, may survive the termination of the fiduciary relationship, depending on the circumstances. The Supreme Court of Canada provided a non-exhaustive list of factors to guide a court's consideration of the contours of those limits (at 620):

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> In holding that on the facts found by the trial judge, there was a breach of fiduciary duty by O'Malley and Zarzycki which survived their resignations I am not to be taken as laying down any rule of liability to be read as if it were a statute. The general standards of loyalty, good faith and avoidance of a conflict of duty and self-interest to which the conduct of a director or senior officer must conform, must be tested in each case by many factors which it would be reckless to attempt to enumerate exhaustively. Among them are the factor of <u>position or office held, the nature of the corporate opportunity, its ripeness, its specificness and the director's or managerial officer's relation to it, the amount of knowledge possessed, the circumstances in which it was obtained and whether it was special or, indeed, even private, the factor of time in the continuation of fiduciary duty where the alleged breach occurs after termination of the relationship with the company, and the circumstances under which the relationship was terminated, that is whether by retirement or resignation or discharge</u>.
>
> [Emphasis added.]

[58] I turn to a consideration of those factors now.

[59] As noted, between 2019 and 2024, Mr. Bilzerian was Ignite's chairman, CEO, and director. During this time, his likeness and social media personality were inextricably linked with Ignite products, principally vapes. This linkage was facilitated by a licensing agreement. In his own words, he essentially became the "public face" of the company. Ignite invested tens of millions of dollars in the promotion of its products using this linkage.

[60] Ignite acknowledges that solicitation of customers or the taking of confidential information is often a feature of cases where an injunction is sought to prevent competition. However, in the particular circumstances of this case, Ignite argues no such additional wrongful action was needed to make Ignite peculiarly vulnerable to competition by Mr. Bilzerian. Instead, it is argued that the very linkage that the parties agreed upon and which Ignite so heavily invested in, made Ignite uniquely vulnerable to competition by Mr. Bilzerian.

[61] By design and agreement between Mr. Bilzerian and Ignite, their two brands were connected. The agreement between the parties permitted Mr. Bilzerian to continue advancing his own brand separate and apart from Ignite, for example, in books and movies. Ignite was authorized to use Mr. Bilzerian's brand for the

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marketing of vape products. This was the symbiotic relationship agreed to by the parties.

[62] In June 2024, Mr. Bilzerian was removed as director of Ignite. As noted, the circumstances of that removal are contested between the parties.

[63] Shortly after his removal, Mr. Bilzerian initiated multiple legal proceedings challenging his removal and seeking to be reinstated.

[64] Despite that these legal proceedings remained extant, Mr. Bilzerian simultaneously (at the latest by August 2024) incorporated SAVH LLC, a company that directly competes with Ignite.

[65] In October 2024, in the face of the first injunction application, in sworn testimony before this Court, Mr. Bilzerian falsely denied that he was “promoting, marketing or developing any competing brands or products”.

[66] In November and December 2024, he declined to respond to the invitation to participate in the AGM that this Court required in order to inject some clarity and stability to the *status quo* of Ignite’s governance. Instead, and again simultaneously, he placed an order for the manufacture and launch of SAVH LLC’s competing brand of vapes. This was despite that the proceedings in this Court seeking his reinstatement as a director of Ignite remained extant.

[67] He also defied this Court’s order requiring him to return control of, and grant access to, Ignite's Instagram account ("@Ignite") to Ignite.

[68] Mr. Bilzerian seeks to take the benefit of the investment Ignite has made in developing and connecting vape products to his brand, including tens of millions of dollars in promoting the Ignite social media presence, and directly compete with Ignite in the production and sale of vapes. He seeks to do so, while simultaneously trying to return as a director of Ignite (who would be subject to continuing *per se* fiduciary duties to Ignite).

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[69] I find Ignite has established a strong *prima facie* case that this conduct breaches Mr. Bilzerian's fiduciary duties as a director of Ignite, which survived his removal from that position. While those duties only persist for a reasonable period of time, given Mr. Bilzerian's ongoing efforts to utilize this Court's process to find his removal to be of no force and effect, I find those duties continue to persist. As a result, despite that Ignite removed Mr. Bilzerian as a director against his will in June 2024, I find Ignite has established a *strong prima facie* case that the Competition is a breach of Mr. Bilzerian's ongoing fiduciary duty to Ignite, and in particular, his duty not to compete with Ignite in respect of vape products.

Stage 2: Will Ignite suffer irreparable harm if an injunction is not granted?

[70] Analyzing irreparable harm involves assessing the nature of the harm rather than its magnitude. Irreparable harm is harm that either cannot be quantified in monetary terms or cannot be cured, usually because one party cannot collect damages from the other: *SkyCope Technologies Inc. v. Jia*, 2018 BCSC 2204 at para. 23, citing *RJR* at 341.

[71] A defendant's ability to pay damages is relevant to the adequacy of damages: *UBS Securities Canada, Inc. v. Sands Brothers Canada, Ltd.*, 2009 ONCA 328 at para. 103.

[72] As set out above, Ignite invested years and tens of millions of dollars into its marketing strategy to grow its business. Through these efforts, Ignite's social media following grew.

[73] Due to Ignite's marketing efforts, Ignite's customers connect its products to Mr. Bilzerian. Mr. Bilzerian has expressed pride in the success of this investment and acknowledges that he is the "public face" of the company. His own written submissions acknowledge that "Ignite primarily sells vaping and related products, largely by using the social media celebrity status of Mr. Bilzerian as its marketing platform".

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[74] Mr. Bilzerian's efforts at competition raise the real prospect that Ignite will suffer a permanent diminution of market share, which is irreparable harm: *EnWave* at para. 106.

Stage 3: Does the balance of convenience favour granting the injunction?

[75] In assessing the balance of convenience, I must consider the extent to which the successful party at trial can be compensated in damages for any disadvantages incurred from the granting or refusal of an injunction. The preservation of the *status quo* is an important consideration: *EnWave* at para. 111.

[76] Mr. Bilzerian is a self-described "professional poker player and social media influencer". There is no evidence that he could not earn a living if he is unable to compete with Ignite in developing a vape company pending trial.

[77] The balance of convenience does not favour permitting Mr. Bilzerian to simultaneously pursue these two opposing paths: on the one hand, seeking the assistance of this Court to be reinstated as a director of Ignite, while at the same time, seeking to set up SAVH LLC to compete with Ignite. Permitting Mr. Bilzerian to compete risks damaging the very company at which he seeks to be reinstated.

[78] An interim injunction is appropriate to preserve the *status quo* because any damages to Mr. Bilzerian and his new and relatively unestablished company, SAVH LLC, are more easily calculated than the intangible losses to Ignite's well-established business, whose brand has been synonymous with Mr. Bilzerian's personal brand until recently. This is particularly so because the loss of Ignite's market share could be long-lasting and its reputation and goodwill may be permanently damaged.

[79] One of the relevant factors in assessing the balance of convenience includes the likelihood that, if damages are awarded, they will be paid: *One Touch Wireless Ltd. v. Bell Mobility Inc.*, 2019 BCSC 813 at para. 41. On February 11, 2025, Mr. Bilzerian was found to be in contempt of court in action VLC SS245663 for failing to

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return control of and grant access to Ignite's Instagram account "@Ignite" to Ignite. At the time of the hearing before me, Mr. Bilzerian had not purged his contempt. This raises some risk that Mr. Bilzerian may not respect a court order for damages if one was made in this action, and that Ignite may be put to the further expense of having to enforce any such order. While not determinative, I find this to be yet another factor tipping the balance of convenience in favour of granting the injunction.

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[80] For all these reasons, the balance of convenience favours granting an injunction pending trial.

Order

Undertaking as to Damages

[81] The plaintiff has agreed to produce an affidavit providing an undertaking as to damages. This is a foundational requirement for any interlocutory injunction and will be a term of the order: *Accurate Material* at para 38.

Extraterritorial Effect of Order Sought

[82] Mr. Bilzerian's next argument is the impropriety of issuing an interlocutory injunction with extraterritorial effect.

[83] This argument turns on the premise that even if this Court has territorial competence, Mr. Bilzerian is not substantially connected with British Columbia in a manner sufficient to allow the courts of this province to assume *in personam* jurisdiction over him.

[84] He argues "[n]either Ignite nor Mr. Bilzerian nor SAV does business in British Columbia, and Ignite does not allege that the alleged torts took place in British Columbia".

[85] However, as I have set out above, Mr. Bilzerian's argument that Ignite does not do business in British Columbia is at odds with his own pleadings in the July Petition. As well, as I have set out above, it is alleged that the breach of fiduciary took place in British Columbia. That is because fiduciary duties owed to a company

are generally defined according to the law of the province where the company is incorporated, and any alleged breaches of those fiduciary duties are considered to have occurred in that same province; in this case, British Columbia: *Link* at paras.138-139; McGuinness & Coombs, *Canadian Business Corporations Law* at 5-107.

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[86] I conclude that this Court does have *in personam* jurisdiction over Mr. Bilzerian.

[87] In *Google Inc. v. Equustek Solutions Inc.*, 2017 SCC 34, the Supreme Court of Canada explained:

> [38] When a court has *in personam* jurisdiction, and where it is necessary to ensure the injunction's effectiveness, it can grant an injunction enjoining that person's conduct anywhere in the world.
>
> ...
>
> [41] ...There is no equity in ordering an interlocutory injunction which has no realistic prospect of preventing irreparable harm.

[88] Here, an injunction with worldwide effect is necessary to ensure its effectiveness.

[89] As I have explained at length above, it is Mr. Bilzerian competing with Ignite that gives rise to a strong *prima facie* case of breach of fiduciary duty in this case. That breach is considered to occur in British Columbia, no matter where in the world Mr. Bilzerian engages in the conduct which amounts to competition. Most of Mr. Bilzerian's conduct has occurred outside of British Columbia. Insofar as that conduct is marketing and promotion, much of that conduct occurs online and globally. To be effective within British Columbia, and to prevent irreparable harm to Ignite, Mr. Bilzerian must be enjoined from competing anywhere in the world.

Disposition

[90] For all of the above reasons, I order:

1. An interim and interlocutory order that Dan Bilzerian be prohibited from directly or indirectly competing with Ignite until a final order is made in this action, including refraining from:

    a. contacting Ignite's manufacturers or distributors, or retailers of vape products;

    b. lending his name or likeness to the marketing of vape products other than Ignite's products;

    c. permitting SAVH LLC to manufacture, distribute, market or sell or transfer vape products;

    d. using or distributing images paid for or used by Ignite; and

    e. promoting vape products other than those marketed by Ignite.

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[91] The foregoing orders are conditional upon Ignite producing an affidavit containing an undertaking as to damages.

[92] The parties will take steps to set the earliest available trial date.

[93] Ignite is entitled to its costs of this application in the cause.

"Latimer J."