

**CITATION:** *Bakhshi v. 2565090 Ontario Ltd. et al.*, 2025 ONSC 2411  
**COURT FILE NO.:** CV-23-00708881  
**DATE:** 20250422

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** HOSHANG BAKHSHI, Applicant

**AND:**

2565090 ONTARIO LTD., VAHID SHOMALAA HOSEYNI, AHMAD IDREES RAHMANI, 2563778 ONTARIO LTD., and NASRIN KHOSHROW,  
Respondents

**BEFORE:** Schabas J.

**COUNSEL:** Siddharth S. Joshi, for the Applicant

Jeevan Singh Kuner, for the Respondents (other than Ahmad Idrees Rahmani)

Ahmad Idrees Rahmani, on his own behalf

**HEARD:** April 17, 2025

**ENDORSEMENT**

[1] This application for various relief pursuant to, among other things, the oppression provisions of the *Business Corporations Act*, RSO 1990, c B.16, relating to alleged oppressive conduct by the respondents toward the applicant was to be heard by me today.

[2] On August 12, 2024, my colleague, Morgan J. made the following Order relating to the application:

The Application shall proceed in accordance with the following timetable:

\* The Application record has already been served.

\* Responding records are to be served by Messrs. Hoseyni and Rahmani by September 13, 2024, including affidavit material and all financial statements and bank records of the Respondent companies to which Mr. Hoseyni and Mr. Rahmani have access

\* Applicant's Reply record to be served by Sept. 30, 2024

\* Cross-examinations of all parties to take place by Zoom on Oct. 31 and Nov. 1, 2024 (Applicant's counsel is to arrange for the court reporter and Zoom link)

\* All parties are encouraged to serve their factums by April 11, 2025

\* The hearing is to take place on April 17, 2025, for a full day.

[3] The respondents did not comply with the Order. No responding record or production of financial statements were made by the respondents on or before September 13, 2024. On April 11, 2025, the applicant filed a factum on what appeared to be an unopposed application seeking the following relief:

- (a) a declaration that the conduct of the individual respondents is oppressive and unfairly prejudicial to the applicant's interests such that it warrants a remedy pursuant to section 248 of the Business Corporations Act, RSO 1990;
- (b) an order for damages against the individual respondents on a joint and several basis in the amount of USD 124,062.34 or its CAD equivalent representing the applicant's investment in 2565090 Ontario Ltd. and 2563778 Ontario Ltd.;
- (c) an order for damages against the Vahid Shomalaa Hoseyni and Ahmad Idrees Rahmani on a joint and several basis for lost profits from the operations of 2565090 Ontario Ltd. / Indian Street Food Co. and proceeds from the sale of Indian Street Food Co.;
- (d) an order for punitive, aggravated, and/or exemplary damages against Vahid Shomalaa Hoseyni and Ahmad Idrees Rahmani on a joint and several basis in the amount of \$100,000.00;
- (e) an order fashioning any remedy under section 248 of the Business Corporations Act, RSO 1990, as this Honourable Court may deem just;
- (f) pre-judgment and post-judgment interest;
- (g) costs of this motion and action on a substantial indemnity basis;
- (h) such further and other relief as this Honourable Court may deem just.

[4] However, also on April 11, the respondents other than Mr Rahmani filed a responding record which included several affidavits sworn the same day by the respondents Hoseyni and Khoshrow. The respondents other than Rahmani are now all represented by counsel, Mr. Kuner.

[5] No explanation was provided for the very late filing of a responding record. The respondents were all aware of Justice Morgan's Order. With respect to the lack of production of financial records, Mr. Kuner stated that the applicant had access to much of this information. However, there is no evidence addressing this in the responding record other than an assertion that Bakhshi, when he was managing the day-to-day affairs of Indian Street Food, tracked "financial performance." Further, the evidence of Hoseyni is that

Bakhshi's access to banking records was revoked in about November 2023, which means that since this application was commenced Bakhshi had no access to such information.

- [6] The respondents did not seek to adjourn the application in advance of the hearing. Rather, despite the fact that Mr. Kuner was retained at least a few weeks ago and informed counsel for Bakhshi of his retainer, he signed the confirmation form that the matter would proceed, indicating he would be filing responding material.
- [7] The respondent's evidence confirms some things asserted by the respondents, including that the applicant has been shut out of the business and, as noted, denied access to bank records since the fall of 2023. The respondents' evidence confirms the financial contributions made to the businesses by the applicant, that the Eat Indian business was shut down and that Indian Street Food business has been sold, adding that the sale price was \$100,000. However, the responding evidence of the respondents other than Rahmani otherwise provides a very different narrative of events between the applicant and the respondents, making allegations of misconduct against the applicant.
- [8] At the outset of the hearing, I asked counsel how the matter should, or could, proceed today. The applicant asked that the matter be heard and decided based on his record alone, given the non-compliance with the Order of Morgan J. and the prejudice that would otherwise result from an adjournment. He also identified parts of the responding record that supported his client's position, including the added fact that Indian Street Food had been sold for \$100,000 and therefore his client was entitled to 33% of that amount based on his interest in the company.
- [9] Counsel for the respondents other than Rahmani did not request an adjournment and simply asked that I adjudicate the matter. He had no response to my concern that I had conflicting evidence and that this would make it difficult, if not impossible, to resolve factual issues that had, at the last minute, been put in issue, especially in the absence of cross-examination.
- [10] Rahmani, who attended this virtual hearing, said he did not understand the legal procedure and was not in a position to submit any documents or evidence. He asserted he was a silent partner and did not have anything to do with the financial records. However, he acknowledged he was aware of the litigation since its inception, and was aware of the Order of Morgan J. He did not take a position at the hearing today.
- [11] After approximately half an hour of addressing these issues, I adjourned the hearing at Mr. Kuner's request in order for him to consult with his client. The adjournment lasted approximately 20 minutes. Mr. Kuner referred to a tragedy his client had suffered in 2022, not as an excuse but simply that I "take note of it." He apologized for the late service, but again asked that his materials be considered and the matter adjudicated. He did not ask that the be adjourned.
- [12] I am satisfied that the matter should proceed. No request for an adjournment has been made, and an adjournment would cause prejudice to the applicant who brought this application in

2023. Today's hearing was scheduled eight months ago, and an adjournment would cause a further delay of many months. The respondents would have anticipated that. The two respondents who attended, Hoseyni and Rahmani, did not strike me as unsophisticated. They are businessmen who would clearly have understood the Order which they deliberately chose to ignore. No good reason has been provided for the late delivery of material or the breach of the Orders of Morgan J. An adjournment would effectively reward the respondents for their conduct. J.

- [13] The applicant's material makes out a case for oppression. As the respondent's evidence was filed unfairly and far too late to test, it should be given no weight other than to the extent it assists in fixing damages based on admissions.
- [14] I find that the applicant is therefore entitled to the return of his initial investment of US\$124,062.34, and his share of the proceeds of the sale of Indian Street Food which I find to be \$33,000. There is no evidence of the profits that the applicant has not received since the oppressive conduct began; however, both sides say that the business declined towards the end of the relationship and the restaurant equipment was sold. In that context, and the absence of evidence that the business has been profitable, I award nothing for lost profits.
- [15] The applicant also seeks \$100,000 in punitive damages. Based on the applicant's record I am satisfied that the respondents have acted covertly and in bad faith towards the applicant, which justifies an award of punitive damages. Such damages are a penalty for misconduct. In my view, an award of \$25,000 is appropriate to reflect the court's condemnation of the conduct.
- [16] Accordingly, I grant the application and make the following orders:
- (i) A declaration shall issue that the conduct of Hoseyni and Rahmani is oppressive and unfairly prejudicial to the applicant's interests such that it warrants a remedy pursuant to section 248 of the *Business Corporations Act*;
  - (j) There shall be an order that Hoseyni and Rahmani pay damages to the applicant in the amount of USD 124,062.34 or its Canadian equivalent as of April 17, 2025, and in the amount of CDN\$ 33,000.00; and
  - (k) There shall be an order that the respondents pay the applicant \$25,000 in punitive damages.
- [17] With respect to costs, the applicant seeks costs on a substantial indemnity basis. In my view, having regard to the failure to comply with the Order of Morgan J., the late filing of the responding material and that the applicant was required to prepare for this hearing, an elevated award of costs is appropriate.
- [18] The applicant's Bill of Costs seeks a substantial indemnity award of \$40,700.39 inclusive of HST and disbursements for this application. In my view that is an appropriate sum and an amount that the respondents ought reasonably to have expected to pay in the circumstances. Costs against the respondents shall therefor be ordered in that amount.

**Date:** April 22, 2025

Schabas J.