

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Keivan v. Hadavi*,
2026 BCSC 338

Date: 20260302
Docket: S248416
Registry: Vancouver

Between:

**Ashkan Keivan and Radman Research and Refining Company, a Company
incorporated under the laws of Iran**

Plaintiffs

And

Reza Hadavi

Defendant

Before: The Honourable Justice Ahmad

Reasons for Judgment

Counsel for the Plaintiffs:

C. Haghighi

Counsel for the Defendant

H. Parsons

Place and Date of Hearing:

Vancouver, B.C.
October 17, 2025

Place and Date of Judgment:

Vancouver, B.C.
March 2, 2026

Table of Contents

I. INTRODUCTION 3

II. ISSUES 3

III. DISCUSSION AND ANALYSIS 4

 A. Does this Court have territorial competence? 5

 1. Does the proceeding concern a tort (fraudulent misrepresentation) committed in British Columbia? (s. 10(g))..... 7

 2. Does the proceeding concern a tort (conversion) committed in British Columbia? (s. 10(g)) 8

 3. Does the proceeding concern restitutionary obligations that, to a substantial extent, arose in British Columbia? (s. 10(f))..... 13

 4. Does the defendant carry on business in British Columbia? (s. 10(h)) 14

IV. CONCLUSION AND DISPOSITION..... 18

V. COSTS 18

I. Introduction

[1] In approximately October 2023, the plaintiff, Ashkan Keivan called the defendant, Reza Hadavi, at his office in Dubai to discuss the transfer of funds from a bank account located in Hong Kong ¹ to Mr. Keivan’s bank accounts in Champaign, Illinois (“US Accounts”). Mr. Keivan, an Iranian citizen residing in the United States, intended to use the funds to purchase real estate in the U.S.

[2] Thereafter, the parties entered into an agreement (“money transfer agreement” or “agreement”) pursuant to which the plaintiffs, Mr. Keivan and Radman Research and Refining Company, entrusted €800,000 to Avantex Global Financial Solutions (“Avantex”) to facilitate the transfer of funds. Based on his alleged ownership and management of Avantex, Mr. Hadavi is the only named defendant in the action.

[3] A portion of the funds were, in fact, deposited in the US Accounts. However, the plaintiffs allege that, despite acknowledging receipt of €800,000, Mr. Hadavi has failed to remit that full amount to them.

[4] Mr. Hadavi does not dispute that a portion of the funds totalling approximately \$234,000 USD (“Undeposited Funds”) have not been deposited in the US Accounts or otherwise returned to the plaintiffs.

[5] On this application, Mr. Hadavi seeks an order dismissing or staying the action on the grounds that this Court lacks the territorial competence to determine the matter. In the alternative, if the Court has the territorial competence, Mr. Hadavi argues that it should decline to exercise its jurisdiction.

II. Issues

[6] Broadly put, the issues to be determined are:

¹ The parties variously refer to accounts in “Hong Kong” and to accounts in “China”. There is no dispute, however, that the funds came from Mr. Keivan’s account. Throughout these reasons, I refer interchangeably to Hong Kong and China, depending on the evidence to which I am referencing.

- a) Does this Court have territorial competence to hear and determine this dispute; and
- b) if yes, should this Court exercise its discretion to decline jurisdiction because there is a clearly more appropriate forum for the hearing of the action?

III. Discussion and Analysis

[7] Determination of the Court's territorial jurisdiction engages a two-step approach. First, the court determines whether it has territorial competence (also known as 'jurisdiction *simpliciter*') over the dispute. The burden of establishing territorial competence is on the party asserting its existence: *D. L. v. M. Y.*, 2019 BCSC 881 at para. 27 [*D.L.*], citing *Aleong v. Aleong*, 2013 BCSC 1428 at para. 80.

[8] Second, the court determines whether it ought to exercise that jurisdiction, or whether, instead, there is another forum that is "clearly more appropriate": This second step is sometimes referred to as a *forum non conveniens* analysis. The burden on this analysis rests with the party asserting that another forum is clearly more appropriate: *D.L.* at para. 28, citing *Club Resorts Ltd. v. Van Breda*, 2012 SCC 17 at para. 103 [*Van Breda*] and *JTG Management Services Ltd. v. Bank of Nanjing Co. Ltd.*, 2015 BCCA 200 at para. 45.

[9] In British Columbia, the issue of this Court's territorial competence is determined by reference to Part 2 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28 [*CJPTA*]: s. 2(2).

[10] Section 3 of the *CJPTA* sets out the factors to consider in determining whether this Court has territorial competence in a proceeding brought against a person. If this Court has territorial competence, s. 11 sets out the circumstances that must be considered in deciding whether it should decline to exercise that jurisdiction on the grounds that the court of another state is a more appropriate forum (*forum non conveniens*).

A. Does this Court have territorial competence?

[11] Pursuant to s. 3 of the *CJPTA*, British Columbia courts only have territorial competence in a proceeding brought against a person in one of five enumerated circumstances. They are if:

- (a) that person is the plaintiff in another proceeding in the court to which the proceeding in question is a counterclaim,
- (b) during the course of the proceeding that person submits to the court's jurisdiction,
- (c) there is an agreement between the plaintiff and that person to the effect that the court has jurisdiction in the proceeding,
- (d) that person is ordinarily resident in British Columbia at the time of the commencement of the proceeding, or
- (e) there is a real and substantial connection between British Columbia and the facts on which the proceeding against that person is based.

[12] In this case, the plaintiffs' notice of civil claim is the originating pleading in the proceeding; it was not filed as a counterclaim to an action commenced by Mr. Hadavi. Moreover, it is uncontroverted that, having lived full time in Dubai, United Arab Emirates since January 1, 2022, Mr. Hadavi was not ordinarily resident in British Columbia when the proceeding was commenced. Nor is there any suggestion that Mr. Hadavi submitted or agreed to the Court's jurisdiction. None of the possible bases for territorial competence under ss. 3(a) to (d) apply.

[13] The only remaining basis on which this Court may have territorial competence is if "there is a real and substantial connection between British Columbia and the facts on which the proceeding against that person is based": *CJPTA*, s. 3(e).

[14] Section 10 of the *CJPTA*, in turn, sets out that "a real and substantial connection between British Columbia and those facts on which [the proceeding against that person is based] is presumed to exist" in any of twelve categories. Of those, the plaintiffs rely on the following:

- a) s. 10(g): that the proceeding concerns a tort (fraudulent misrepresentation and conversion) committed in British Columbia; and

- b) s. 10(h): that the proceeding concerns a business carried on in British Columbia.

[15] In addition, I have also considered the possible application of s. 10(f): that the proceeding concerns restitutionary obligations that, to a substantial extent, arose in British Columbia.

[16] Adopting the decision of Justice Dillon in *Canadian Olympic Committee v. VF Outdoor Canada Co.*, 2016 BCSC 238 at paras. 23–24 [*Canadian Olympic*], the Court of Appeal in *Ewert v. Höegh Autoliners AS*, 2020 BCCA 181 summarized the two-stage process of the analysis under s. 10 of the *CJPTA* on a jurisdiction challenge as follows:

[16] At the first stage of the analysis, the plaintiff must show that one of the connecting factors listed in s. 10 exists. The basic jurisdictional facts relied on by the plaintiff are taken to be true if pleaded (sometimes referred to as a presumption that the pleaded facts are true). The defendant challenging jurisdiction is entitled to contest the pleaded facts with evidence. If the defendant contests the pleaded facts with evidence, the plaintiff is required only to show that there is a good arguable case that the pleaded facts can be proven. The role of the chambers judge is not to prematurely decide the merits of the case or to determine whether the pleaded facts are proven on a balance of probabilities; the plaintiff's burden is low: (citations omitted).

[17] At the second stage, if one of the connecting factors is established either on undisputed pleadings or on disputed pleadings but with a good arguable case, the “mandatory presumption” of a real and substantial connection (and, therefore, territorial competence) is triggered: (citations omitted). This is, of course, distinct from the “presumption” that pleaded facts are true. At this stage, because the connecting factor has already been established, it is presumed that a real and substantial connection exists, and therefore that the court has territorial competence. The defendant may now attempt to rebut the presumption of real and substantial connection by establishing “facts which demonstrate that the presumptive connecting factor does not point to any real relationship between the subject matter of the litigation and the forum or points only to a weak relationship between them”: (citation omitted). However, the presumption is strong and “likely to be determinative”: (citation omitted). The burden on the defendant to rebut the presumption is heavy: (citations omitted). At this stage of the analysis, a connecting factor is already established: the defendant's task is to show why a real and substantial connection does not follow, despite the strong presumption that it does.

[Emphasis added.]

[17] I turn now to a consideration of the facts on which the proceeding against Mr. Hadavi is based.

1. Does the proceeding concern a tort (fraudulent misrepresentation) committed in British Columbia? (s. 10(g))

[18] At “Part 1: Statement of Facts”, para. 10 of the claim, the plaintiffs allege that Mr. Hadavi has “engaged in conduct that constitutes fraudulent misrepresentation”. That plea does not contain any particulars, with dates and times of that alleged misrepresentation, as required by R. 3-7(18) of the *Supreme Court Civil Rules*.

[19] More particulars are set out in “Part 3: Legal Basis”, para. 2, which states:

2. Fraudulent Misrepresentation. The Defendant, in his capacity as the director an owner of Avantex Global Financial Solutions, made repeated assurances to the Plaintiff regarding the receipt and timely transfer of the 800,000 euros. Despite confirming receipt of the full amount on Avantex letterhead on December 12, 2023, the Defendant knowingly misrepresented the status of the funds transfer, partially remitting only 300,000 euros, thus misleading the Plaintiff and causing financial harm.

[20] Assuming for the purpose of this analysis that that plea does meet the requirement of R. 3-7(18), the issue to be considered is whether any jurisdictional facts have been pleaded to support a finding that the alleged misrepresentation occurred in British Columbia.

[21] In my view, there are not.

[22] For a fraudulent misrepresentation claim, the tort “occurs where the misrepresentation [was] acted upon or where the misrepresentation is received”: *Right Business Limited v. Affluent Public Limited*, 2011 BCSC 783 at para. 68.

[23] Despite the references in the claim to “fraudulent misrepresentation”, there is no plea that either of the plaintiffs received or acted upon the alleged misrepresentation in British Columbia. In fact, there is no evidence of either plaintiffs’ presence in British Columbia: Mr. Keivan resides in the U.S., and the corporate plaintiff is an Iranian company.

[24] There is no basis on the pleadings to conclude that the tort of fraudulent misrepresentation was committed in British Columbia. The plaintiffs have not established a real and substantial connection to British Columbia on that basis.

2. Does the proceeding concern a tort (conversion) committed in British Columbia? (s. 10(g))

a. Have material facts been pleaded to establish that a conversion occurred in British Columbia?

[25] In addition to fraudulent misrepresentation, at “Part 1: Statement of Facts”, para. 10, the plaintiffs refer to the alleged “misappropriation of funds as evidenced by the piecemeal transfers, currency variances, and prolonged delays...”

[26] Expressly referring to “conversion” at “Part 3: Legal Basis”, para. 4, the plaintiffs allege:

4. Conversion: The Defendant’s unauthorized retention and partial transfer of funds, including returning portions in currencies other than euros, constitutes a wrongful exercise of control over the Plaintiff’s property. By converting the funds for his own purposes and failing to remit the full amount in euros as agreed, the Defendant has interfered with the Plaintiff’s rights to the funds, warranting damages.

[Emphasis added.]

[27] The question is whether any jurisdictional facts have been pleaded to support a finding that the alleged conversion occurred in British Columbia.

[28] The tort of conversion occurs with the act of taking property or of interference with the property rights of the plaintiff. Every conversion of money occurs at the place where the money is taken from, not the place where it is taken to (i.e., not at the point it is received): *Laxton v. Jurem Anstalt*, 2010 BCSC 1002 at para. 17; aff’d *Laxton v. Anstalt*, 2011 BCCA 212 at para. 26.

[29] In this case, neither para. 10 of the Statement of Facts nor para. 4 of the Legal Basis make any reference to the place where the alleged conversion occurred. However, in oral submissions, the plaintiffs argue that facts alleged at “Part 1:

Statement of Facts”, para. 5, are sufficient for that purpose. That paragraph provides:

On December 12, 2023, [Mr. Hadavi] through a letter on Avantex letterhead from their West Vancouver office, formally confirmed receipt of the full 800,000 euros from the Plaintiff. Despite this written acknowledgment, [Mr. Hadavi] subsequently failed to remit the outstanding balance of 500,000 euros.

[Emphasis added.]

[30] The plaintiffs argue that pleading of fact implies that the Undeposited Funds are or were deposited in British Columbia. They say that plea supports that the conversion occurred in British Columbia.

[31] I do not accept that argument.

[32] First, as noted, conversion of money occurs at the place where the money is taken from, not the place where it is taken to. In this case, if the Undeposited Funds are in British Columbia as the plaintiffs suggest, they were taken to British Columbia from Hong Kong, where they originated or, alternatively, from Malaysia where Mr. Keivan delivered the Hong Kong funds to at Mr. Hadavi’s request. Arguably, the conversion would have occurred in Hong Kong or Malaysia. However, as neither party provided any law with respect to the location of the tort of conversion, nor made any focussed submissions on the point, I will not determine the issue on that basis.

[33] In any event, the plea in para. 5 is not that the plaintiffs’ funds were deposited in (and presumably taken from) British Columbia. Nor is there any plea that the “letter on Avantex letterhead from their West Vancouver office” (the “West Vancouver Letter”) states that funds were received in British Columbia or that funds were handled in British Columbia. At most, the plea is that Mr. Hadavi confirmed receipt of funds on letterhead from Avantex’s West Vancouver office.

[34] There is no basis on the pleadings to conclude that the tort of conversion occurred in British Columbia. The plaintiffs have not established a real and substantial connection to British Columbia on that basis.

b. Has the defendant adduced evidence to rebut the pleaded facts?

[35] However, if para. 5 sufficiently sets out the jurisdiction facts required to establish that the defendants converted the plaintiffs' funds in British Columbia, Mr. Hadavi contests those facts.

[36] He deposes that, on his instructions, Mr. Keivan transferred the funds from his Chinese accounts to an account in Malaysia. From there, Mr. Hadavi facilitated further transfers through a series of wires conducted by a money services business operating in the United Kingdom, using the accounts of a number of U.K. intermediaries. One of those U.K. intermediaries was ZBL Trading Ltd. ("Lancaster"), a British Columbia company, which held an account in London. The location of the account in London appears to be confirmed by a WhatsApp message to Mr. Keivan in or about December 2023, in which Mr. Hadavi states "...we also sent it from the UK last time. It's a Canadian company, but the account is in the UK."

[37] Mr. Hadavi deposes that the transfer of funds involved wire transfers from banks in Hong Kong, Malaysia, and Dubai and that, with the exception of the Undeposited Funds, all of the funds were deposited in the US Accounts.

[38] Mr. Hadavi denies that any of the funds were transferred into bank accounts held in British Columbia or anywhere else in Canada.

[39] Mr. Hadavi also purports to provide more specific evidence that the Undeposited Funds are not located in British Columbia. Specifically, he deposes those funds were flagged by an intermediary bank in the U.S. for clearance by the United States Office of Foreign Assets Control ("OFAC"), and that they remain held in the U.S. However, having failed to provide the source of the information regarding that matter, I am unable to accept that evidence as determinative of the issue.

[40] Nor do I accept Mr. Keivan's evidence that the Undeposited Funds are not held in the U.S. In respect of that issue, Mr. Keivan relies on an email from a U.S. lawyer who appears to confirm that the funds are not held for clearance in the U.S. The lawyer writes:

I am writing in response to your request concerning the applicability of your case under the general licence issued by the Office of Foreign Assets Control (OFAC). Upon review of the matter, we confirm that the activities you have described in your disclosure letter fall within the scope of the relevant general licence.

As per OFAC's regulations, no additional communication or specific confirmation from OFAC is sent unless in specified circumstances subject to the discretion of the agency. In your case, there has been no such communications from OFAC, indicating that no further action is needed in your case at this time. Therefore the application is deemed to be covered under the terms of the OFAC general licences.

[Emphasis added.]

[41] Notably, despite Mr. Hadavi's request, Mr. Keivan has failed to disclose any further communications, including the "disclosure letter" or the basis on which the lawyer concluded that Mr. Keivan had no communication from the OFAC. Without that information, on which the view appears to be based, I can attach no weight to the view that the Undeposited Funds are not in the U.S.

[42] Having discounted both affiants' evidence as to whether the Undeposited Funds might be tied up with the OFAC in the U.S., the issue remains: have the plaintiffs shown there is a good arguable case that the Undeposited Funds were taken from British Columbia?

[43] In respect of that issue, Mr. Hadavi points to various communications and what he argues is other indicia of Avantex's presence in British Columbia, including Mr. Hadavi's use of a ".ca" email address, Mr. Hadavi's reference to the involvement of a Canadian company in the funds transfer, and the use of phone numbers with British Columbia area codes on a WhatsApp chat. He also refers to the West Vancouver Letter, a statement of account on an "Avantex Canada" invoice, and two transfer confirmations (the "Lancaster Confirmations") which appear to confirm that Lancaster, having an address located in Vancouver, paid funds to the US Accounts.

[44] With the exception of the Lancaster Confirmations, all may be indicative of Avantex's presence in British Columbia. The Lancaster Confirmations indicate that a British Columbia company was involved in the transfer of funds to the US Accounts. Neither conclusion is in dispute. Mr. Hadavi confirms that, at some point, he did

carry on Avantex's money services business in British Columbia (however prior to the date of the agreement) and that Lancaster was involved in the funds transfer (however through an account in London).

[45] However, neither is determinative of the question of whether any of the indicia, collectively or on their own, are enough to show a "good arguable case" that funds were deposited in, and taken from, British Columbia.

[46] First, even accepting, without deciding, that there is some indicia of Avantex's presence in British Columbia, I am unable to discern the basis on which the use of a ".ca" email address or a British Columbia telephone number evidence the deposit of funds in British Columbia. In fact, notwithstanding that contact information, the funds transfer agreement contemplated the use of intermediaries in the U.A.E. and Singapore. Nothing in the agreement required or contemplated that funds be deposited in British Columbia.

[47] Second, the West Vancouver Letter dated December 12, 2023 confirms "safe receipt" of €800,000 on behalf of Mr. Keivan, on three dates in September and November 2023. Although on West Vancouver letterhead, nothing in the West Vancouver Letter confirms "safe receipt" of the funds in British Columbia.

[48] In fact, Mr. Hadavi attaches to his affidavit receipts confirming receipt of funds totalling €900,000 to the Malaysia account on three dates. While the dates on those receipts (one is undated) do not correspond exactly to the dates of "safe receipt" noted in the West Vancouver Letter, they do indicate that funds were received in Malaysia during the same time period.

[49] The Avantex Canada statement of account confirms that on September 18, 2023, €100,000 was paid to "Tehrani Eur Cash 1st". Again, while the reference to "Avantex Canada" may be indicative of some presence in Canada, nothing on the statement of account indicates where those funds were paid.

[50] Finally, the Lancaster Confirmations reveal that on September 29, 2023, Lancaster transferred funds to two of Mr. Keivan's U.S. bank accounts. There is no

reference on the Lancaster Confirmations to an account in British Columbia, or to contradict Mr. Hadavi's evidence that, although a British Columbia company, Lancaster held an account in London. I am satisfied that, having used Lancaster as an intermediary agent, he would be aware of the location of its accounts.

[51] Moreover, even if Lancaster held funds in British Columbia, there is no suggestion, on the pleadings or on the evidence, that Mr. Hadavi had any access to those funds to affect a conversion of funds.

[52] On the basis of the above, I am not satisfied that the plaintiffs have shown a good arguable case that Mr. Hadavi converted the plaintiffs' funds in British Columbia. The plaintiffs have not established a real and substantial connection to British Columbia on that basis.

3. Does the proceeding concern restitutionary obligations that, to a substantial extent, arose in British Columbia? (s. 10(f))

[53] At "Part 3: Legal Basis", para. 3, the plaintiffs allege:

Unjust Enrichment: The Defendant has retained 234,000 euros from the Plaintiff, despite repeated assurances and contractual obligations to transfer the funds. By withholding these funds without lawful justification, the Defendant has been unjustly enriched at the Plaintiff's expense. Equity requires restitution of the outstanding amount to prevent further unjust enrichment.

[54] At "Part 1: Statement of Facts", para. 8, the plaintiffs allege that "[Mr. Hadavi] has continued to withhold more than 234,000 euros". At para. 10, they allege that Mr. Hadavi has engaged in "misappropriation of funds".

[55] Notwithstanding those pleadings, the plaintiffs do not rely on s. 10(f) of the *CJPTA* as a basis to establish a real and substantial connection with British Columbia. No submissions were made on the point. However, for completeness, I will attempt to address it here.

[56] The question is whether any jurisdictional facts have been pleaded to support a finding that the alleged restitutionary obligation arose in British Columbia.

Unfortunately, with no submissions from counsel, there is no legal authority before me to guide that analysis.

[57] In any event, nothing in the claim makes any reference to the place where the alleged obligation arose. Without that plea, there is no basis to conclude that the alleged restitutionary obligation arose in British Columbia. The plaintiffs have not established a real and substantial connection to British Columbia on that basis.

**4. Does the defendant carry on business in British Columbia?
(s. 10(h))**

a. Have material facts been pleaded to establish that the defendant carried on business in British Columbia?

[58] There is no express plea in the claim that Mr. Hadavi carried on business in British Columbia. In respect of that matter, the plaintiffs also rely on “Part 1: Statement of Facts”, para. 5, in which they allege that Mr. Hadavi confirmed receipt of funds through the West Vancouver Letter.

[59] That plea is the only reference to British Columbia in the claim.

[60] However slim, I accept that, for the purpose of this application, the reference to the “West Vancouver office” is sufficient to constitute a pleaded jurisdictional fact that Mr. Hadavi carried on business in British Columbia.

b. Has the defendant adduced evidence to rebut the pleaded facts?

[61] While Mr. Hadavi concedes that he formerly carried on a money services business under the trade name “Avantex Global Financial Solutions” in West Vancouver, he contests that he carried on business in British Columbia at the relevant time. Rather, Mr. Hadavi deposes that the Avantex office was closed in August 2022 – before he spoke with Mr. Keivan in October 2023.

[62] He explains that he recently learned, in connection with this action, that after his move, his staff continued to use old letterhead and stamps containing his former business address in West Vancouver and British Columbia business phone numbers. He does not explain his continued use of the “.ca” email address.

[63] The question is whether, in the circumstances, that and the other communications and documents relied on by the plaintiffs is sufficient to show a good arguable case that the defendant carries on business in British Columbia.

[64] As the Court notes in *Van Breda*:

[87] Carrying on business in the jurisdiction may also be considered an appropriate connecting factor. But considering it to be one may raise more difficult issues. Resolving those issues may require some caution in order to avoid creating what would amount to forms of universal jurisdiction in respect of tort claims arising out of certain categories of business or commercial activity. Active advertising in the jurisdiction or, for example, the fact that a Web site can be accessed from the jurisdiction would not suffice to establish that the defendant is carrying on business there. The notion of carrying on business requires some form of actual, not only virtual, presence in the jurisdiction, such as maintaining an office there or regularly visiting the territory of the particular jurisdiction. ...

[Emphasis added.]

[65] As Master Caldwell (now Justice Caldwell) concluded in *Genco Resources Ltd. v. MacInnis*, 2010 BCSC 1342 at para. 24, “[a] plain interpretation of such phrase [carrying on a business in British Columbia] must mean more than simply having an office in B.C. or that paycheques are issued from B.C.”

[66] In this case, I accept, as the plaintiffs argue, that there is some indicia of Avantex’s presence in British Columbia. However, other than the connection to British Columbia “on paper”, there is little, if anything, to indicate that Avantex’s actual business of facilitating funds transfers is conducted in British Columbia.

[67] In fact, the plaintiffs allege that Mr. Hadavi, as the principal and owner of Avantex, was directly responsible for managing and directing the transactions giving rise to the action. The uncontroverted evidence is Mr. Hadavi left British Columbia to reside in Dubai in January 2022 and has returned only once in August 2022 to visit friends and family. To the extent that Mr. Hadavi conducted the business of Avantex during the relevant period as the plaintiffs allege, that business was carried on in the U.A.E.

[68] In any event, the conclusion that Mr. Hadavi conducted business in British Columbia does not end the analysis. Where the presumptive connecting factor is the fact that the defendant is carrying on business in the province, the presumption can be rebutted by showing that the subject matter of the litigation is unrelated to the defendant's business activities in the province: *Van Breda* at para. 96.

[69] As the Court notes in *Canadian Olympic*:

[25] The real and substantial connection will have been established if there is a significant connection between the cause of action and this Court. The defendant will be brought within the jurisdiction if he or she has participated in something of significance or was actively involved in the jurisdiction. A fleeting, tenuous, weak, or relatively unimportant connection is not enough (*Stanway* at paras. 7 and 20; *Club Resorts* at paras. 26, 95, and 97; *Original Cakerie* at para. 20). As stated by LeBel J. in *Club Resorts* at para. 26, the real and substantial connection test is "designed to ensure that claims are not prosecuted in a jurisdiction that has little or no connection with either the transaction or the parties."

[Emphasis added.]

[70] In this case, all of the claims, however framed, arise out of Avantex's or Mr. Hadavi's obligation to transfer Mr. Keivan's funds to the US Accounts as set out in the funds transfer agreement. The plaintiffs do not allege that the agreement was made in British Columbia, nor do they dispute that the agreement was entered into in October 2023² after Mr. Keivan (and two others) telephoned Mr. Hadavi at his office in Dubai. At the time, Mr. Keivan was (and remains) an Iranian citizen and resides in the U.S.

[71] Other than listing Avantex's address in West Vancouver, nothing in the agreement references British Columbia or requires that the funds transfer agreement be performed in British Columbia:

- a) Other than Avantex, the parties to the contract are the corporate plaintiff, an Iranian company represented by an Iranian individual, and K&N

² In the claim, the plaintiffs refer to an agreement dated June 28, 2021, which appears to be a previous agreement on which the subject funds transfer agreement is based. Mr. Keivan does not refute Mr. Hadavi's timeline of the phone call.

International Trading & Brokerage LLC, a U.A.E. company with an office located in the U.A.E.

- b) Article 2 of the agreement includes as the “subject of the agreement” the “receiving and safekeeping of foreign currency funds related to business activities of the client, in the accounts of third-party foreign companies, which are deemed as the representatives of [Avantex]”. Nothing in the agreement requires that the funds be received or kept in accounts located in British Columbia.
- c) Article 5 of the agreement names two representatives in whose accounts the subject funds could be held, one is located in the U.A.E. and one is located in Singapore. Although the foreign account holders are not limited to the two named in the agreement, the agreement does not contemplate an account holder in British Columbia.
- d) Mr. Hadavi’s uncontroverted evidence is that Mr. Keivan instructed him to transfer funds located in a trust account in China to the US Accounts, in U.S. dollars. There is no suggestion that Mr. Keivan directed that the funds be transferred through British Columbia or that Mr. Hadavi said that they would.

[72] Based on the above, I am satisfied that even if Avantex carries on business in British Columbia, any connection between it doing so and the obligations arising out of the funds transfer agreement is weak or tenuous. That weak connection is an insufficient basis on which to conclude that there is any real and substantial connection between the subject matter of the action and this Court.

[73] The plaintiffs have not established territorial competence under s. 10(h) of the *CJPTA*.

IV. Conclusion and Disposition

[74] Having concluded that the plaintiffs have failed to establish any real and substantial connection between British Columbia and the facts on which the proceeding against Mr. Hadavi is based, this Court does not have territorial competence over this proceeding.

[75] With no territorial competence, the second stage of the jurisdictional analysis (that is, should the Court decline to exercise its territorial competence) is not required.

[76] Pursuant to R. 21-8(1)(b), the action is dismissed on the ground that the Court does not have jurisdiction over Mr. Hadavi in respect of the claims made against him.

V. Costs

[77] As the final matter for determination, the plaintiffs object to Mr. Hadavi's reliance on a letter from their counsel to Mr. Hadavi's counsel. Noting that the letter is marked "without prejudice", the plaintiffs suggest that it is protected by "settlement privilege". In those circumstances, they argue that Mr. Hadavi's production of the letter amounts to reprehensible conduct that warrants an award of special costs.

[78] I do not accede to that argument.

[79] Despite being marked "without prejudice" and the plaintiffs' claim of settlement privilege, nothing in the letter purports to make any offer of settlement. The letter sets out the plaintiffs' version of the facts and "serves as a formal demand" for payment without compromise.

[80] Counsel has provided no authority to suggest that marking a letter "without prejudice", without any actual settlement offer, invokes settlement privilege. Without any such authority, I cannot conclude that it does. There is no basis on which to conclude that Mr. Hadavi's reliance on the letter amounts to reprehensible conduct that warrants an award of special costs.

[81] Mr. Hadavi has succeeded on this application. He is entitled to costs against the plaintiffs on Scale B.

“Ahmad J.”