

CITATION: Peel Condominium Corporation No 49 v. Bruno Zaffino et al.

2023 ONSC 6914

COURT FILE NO.: CV-23-00706755-0000

DATE: 20231207

SUPERIOR COURT OF JUSTICE – ONTARIO

RE:

PEEL CONDOMINIUM CORPORATION NO. 49

Plaintiff

AND:

BRUNO ZAFFINO, MANDA CABRAJA,
NEW CITY PROPERTY MANAGEMENT INC,
COLLOSSUS HOME WORX, and 2502511 ONTARIO CORP.

Defendants

BEFORE: Koehnen J.

COUNSEL: *Pavle Masic, Margarita Dvorkina*

HEARD: In writing

ENDORSEMENT

- [1] The plaintiff seeks a Mareva injunction against the defendants and a Norwich order in respect of certain financial institutions. For the reasons set out below, I grant both orders.
- [2] The plaintiff is a condominium corporation. It engaged the defendant New City Property Management as its property manager. The defendants Bruno Zaffino and Manda Cabraja are the directing minds of New City and its contacts with the plaintiff.
- [3] The Defendant, 2502511 Ontario Corp. (“250”) carries on business under the name Land Corp. Zaffino is the sole director of 250. 250 was engaged by New City to perform winter maintenance for PCC 49. Collossus also carried out minor work for the plaintiff.

- [4] The Defendant, Colossus Home Worx (“Collossus”), is the registered business name of a sole proprietorship operated by Danny Traikopoulos (“Traikopolous”). Traikopolous is Cabraja’s spouse and was employed by New City.

The Mareva Injunction

- [5] A *Mareva* injunction will be granted when the moving party provides:
- a. particulars of its claim against the defendant, stating the grounds of its claim and the amount thereof, and fairly stating the points made against it by the defendant;
 - b. a strong *prima facie* case;
 - c. some grounds for believing that the defendant has assets in Ontario;
 - d. some grounds for believing that there is a risk of the defendant’s assets being removed from the jurisdiction or being dissipated or disposed of before the judgment or award is satisfied; and
 - e. an undertaking as to damages.¹
- [6] The first key element is establishing a strong *prima facie* case. The plaintiffs have delivered the affidavits of Glyn Springer, Gwendoline Williams and Delia Popo-Harding all sworn November 30, 2023. All three are members of the condominium’s board it is evident from those affidavits that the defendants depleted the reserve account of the plaintiff by issuing forged cheques to themselves or their associates. The effect of doing so was to decrease the reserve account from \$908,844 in January 2022 to a deficit of \$45,600 in August 2023. The board discovered the fraud when its bank, TD, called them about the deficit in the reserve account.
- [7] Cabraja was the principal contact between the plaintiff and New City. When she was confronted with the allegations she confessed that she and Zaffino had taken monies from the reserve account and had been providing the Condominium with counterfeit bank statements to hide their dissipation of the reserve account. She confessed that both she and Zaffino had forged cheques on the bank accounts of the Condominium. When Zaffino was confronted with the allegations he promised to work with the Board to return the money. No money has been returned.
- [8] The defendant 250 Co. received approximately \$261,471.38 from the reserve account. Zaffino also controls another corporation, Northern Facility Maintenance which received \$111,862.55. The defendant Colossus Home received \$413,429.47. Those amounts were far in excess of the value of any work those parties carried out for the plaintiff.

¹ [Aetna Financial Services Ltd. v. Fiegelman](#), [1985] 1 S.C.R. 2 [Aetna] at paras. 29-30; .

- [9] I am satisfied that the plaintiff has demonstrated a real risk that the Defendants will dissipate or dispose of assets either to another jurisdiction or to third parties. Cabraja admitted to having a gambling addiction when confessing to her fraud. Zaffino had promised “to mortgage his house and return the monies to PCC 49” but has not done so. Unbeknownst to the Board, New City’s license to act as property manager has been revoked.
- [10] Cabraja appears to be the registered owner of a property in Etobicoke. Zaffino appears to be the registered owner of properties in Vaughan and Caledon. The Caledon property is listed for sale.
- [11] The plaintiff will suffer irreparable harm if the defendants’ property is dissipated further and put beyond the plaintiff’s reach.
- [12] There is no doubt in my mind that the balance of convenience strongly favours the plaintiff. There is clear evidence of fraud. The defendants have, in effect, admitted to fraud. In those circumstances, the inconvenience to them of being prevented from dealing with assets is far outweighed by the harm to the plaintiff of having those assets put beyond the plaintiff’s reach.
- [13] The Plaintiff has given an undertaking as to damages.

The Norwich Order

- [14] A *Norwich* Order will be granted where:
- a. the applicant has raised a *bona fide* claim;
 - b. the applicant has established that the third party from whom the information is sought is somehow involved in the wrongful acts;
 - c. the third party is the only practicable source of the information available;
 - d. the third party can be indemnified for the costs of the disclosure; and
 - e. the interests of justice favour the disclosure of the information sought.²
- [15] The plaintiff has met each element of that test. The plaintiff has established more than a *bona fide* claim. It has established a strong *prima facie* case. The fraudulent cheques that the defendants received were deposited into bank accounts. Those banks have been unwittingly caught up in the defendants’ wrongful acts. I am satisfied that those banks are the only practicable source of information that is available to the plaintiff to track the

² *Isofoton S.A. v. Toronto Dominion Bank (c.o.b. TD Canada Trust)*, 2007 CanLII 14626 (S.C.J.) at para. 40; *GEA Group v. Flex-N-Gate Corporation*, 2009 ONCA 619 at paras. 51, 62.

further disposition of its funds. The plaintiff is prepared to indemnify the banks for their cost of disclosure. The interests of justice favour disclosure because the plaintiff requires a rapid way of determining where its funds have gone.

[16] For the reasons set out above I grant the Mareva injunction and the Norwich order. I have signed the order.

[17] Given that this motion was without notice, the order will be in effect for 10 days. I have set a return date for the motion for December 18, 2023.

Date: December 7, 2023

Koehnen J.