

No.

Vancouver Registry

-In the Supreme Court of British Columbia

Civil Forfeiture Action in Rem Against

Any funds notionally held in the trust account(s) of Ronald Norman Pelletier doing business as Ron Pelletier Law Corporation and/or Pelletier Legal Group and/or Pelletier Litigation directly in favour of Kevin Patrick Miller or indirectly in favour of Kevin Patrick Miller through beneficial ownership of Rahela International Inc. and/or Las Colinas Ltd. (the "Miller Funds"), and their proceeds

Between

Director of Civil Forfeiture

Plaintiff

and

The Owners and all Others Interested in the Miller Funds, in Particular, Kevin Patrick Miller

Defendant

NOTICE OF CIVIL CLAIM - CIVIL FORFEITURE (IN REM)

Name and address of each plaintiff:

Director of Civil Forfeiture c/o Ministry of Attorney General, Legal Services Branch 1301 – 865 Hornby Street Vancouver, BC V6Z 2G3 Via fax (604) 660-3567

Description of property: Any funds notionally held in the trust account(s) of Ronald Norman Pelletier doing business as Ron Pelletier Law Corporation and/or Pelletier Legal Group and/or Pelletier Litigation directly in favour of Kevin Patrick Miller or indirectly in favour of Kevin Patrick Miller through beneficial ownership of Rahela International Inc. and/or Las Colinas Ltd., and their proceeds (collectively, the "**Miller Funds**")

To the defendant:

This action has been started by the plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

de

7

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the abovenamed registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT AGAINST THE MILLER FUNDS MAY BE MADE IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff,

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

- 1. The defendant, Kevin Patrick Miller ("K. Miller"), whose occupation is unknown to the plaintiff, has a last represented location of Birzebbuga, Malta.
- 2. The "Miller Funds" are any funds notionally held in the trust account(s) of Ronald Norman Pelletier doing business as Ron Pelletier Law Corporation and/or Pelletier Legal Group and/or Pelletier Litigation (collectively, the "Pelletier Firm") directly in favour of Kevin Patrick Miller or indirectly in favour of Kevin Patrick Miller through his beneficial ownership of Rahela International Inc. and/or Las Colinas Ltd., and their proceeds.

The United States Securities and Exchange Commission Investigation

- 3. On or about November 17, 2015, the United States Securities and Exchange Commission (the "SEC") filed a complaint, which was amended on August 8, 2016 (the "SEC Complaint") commencing proceedings against K. Miller and other defendants (collectively, the "Unlawful Scheme Participants") in which the SEC alleged that the Unlawful Scheme Participants had committed securities fraud by engineering a "pump and dump" scheme involving the securities of Jammin' Java Corp ("Jammin' Java")(the "Unlawful Scheme").
- 4. The Unlawful Scheme was orchestrated by Shane Whittle, the former CEO of Jammin' Java, who utilized a reverse merger to secretly gain control of millions of Jammin' Java shares and then distributed the shares to offshore entities owned by the Unlawful Scheme Participants.
- 5. Specifically, the SEC Complaint alleged that the Unlawful Scheme Participants had violated the US Securities Act of 1933 (the "US Securities Act") by:
 - a. conducting an illegal offering and fraudulent touting of stock;
 - b. buying and selling unregistered securities;
 - c. facilitating an illegal offering through offshore entities;
 - d. failing to disclose their ownership of Jammin' Java securities; and
 - e. utilizing a sham financing arrangement.
- 6. After a significant increase in Jammin' Java's stock price, the stock price fell after Jammin' Java disclosed on May 9, 2011, that it had become aware of an unauthorized and unaffiliated internet stock promotion causing innocent investors to lose millions of dollars.
- 7. The SEC Complaint states that Jammin' Java's share price rose from \$0.17 USD per share and no volume in December 2010 to \$6.35 USD per share and a volume of 20 million shares on May 12, 2011, and that the Unlawful Scheme Participants, through the Unlawful Scheme, generated at least \$78,000,000.00 USD in illicit trading profits from February to May 2011.

- 8. The SEC determined that K. Miller participated in the Unlawful Scheme as a beneficial owner of at least two shell entities: Las Colinas Ltd., formed in the Marshall Islands, and Rahela International Inc. ("Rahela"), formed in Panama, which another Unlawful Scheme Participant used to hold and trade Jammin' Java stock (collectively, the "Shell Corporations").
- 9. On May 24, 2017, judgment was granted in the SEC proceedings against K. Miller, by way of consent, for violations of the US *Securities Act*. K. Miller was ordered to pay \$783,368.68USD in disgorgement representing profits gained from the Unlawful Scheme alleged in the SEC Complaint and \$116,631.30 pre-judgment interest thereon and comply with certain trading sanctions (the "Final Judgment").
- 10. On October 2, 2017, judgment was granted in the SEC Complaint against one of the other Unlawful Scheme Participants, Wayne Weaver, ordering them to pay disgorgement of \$26,371,585.20 USD, prejudgment interest in the amount of \$5,221,808.64 USD, and a civil penalty of \$26,371,585.20 USD, for a total of \$57,964,979 USD in relation to the net profits gained from the Unlawful Scheme. Except for Wayne Weaver, all of the other Unlawful Scheme Participants consented to judgment with respect to the SEC Complaint.

Transfer of Miller Funds to the Pelletier Firm

- 11. During all material times, K. Miller and some of the Unlawful Scheme Participants retained Ronald N. Pelletier ("R. Pelletier"), as their legal counsel who practiced in British Columbia through Pelletier Litigation from July 1, 2014 to April 9, 2015, and through Ron Pelletier Law Corporation as Pelletier Legal Group from April 2015 onward (collectively, the "Pelletier Firm").
- 12. The Miller Funds were transferred to the trust account(s) of the Pelletier Firm in or around the time of the SEC Complaint and prior to the Final Judgment.
- 13. On April 1, 2016, R. Pelletier transferred \$75,000.00 held in trust for the benefit of another client to K. Miller's client trust ledger (the "Miller Trust Ledger") for an "advance on legal fees".

- 14. The Miller Trust Ledger indicates that on December 8, 2016, R. Pelletier received \$1,772,122.52 USD from Rahela, one of the Shell Corporations, on behalf of K. Miller.
- 15. On March 16, 2017, two months prior to when the Final Judgment was issued, R. Pelletier received into trust \$3,006,900.80 from Bank Saradar, a Lebanese bank, on behalf of K. Miller.

LSBC Investigation, Hearing, and Determination of R. Pelletier

- 16. In or about January 2018, the Law Society of British Columbia (the "LSBC") conducted a routine compliance audit of the accounting records of the Pelletier Firm, which identified trust transactions made by R. Pelletier for K. Miller, certain of the Shell Corporations, and some of the other Unlawful Scheme Participants, where no substantial legal services appeared to have been rendered in connection with the said trust transactions.
- 17. In or around April 16, 2018, the LSBC initiated proceedings concerning R. Pelletier and the Pelletier Firm based on its belief that it had a *prima facie* case that R. Pelletier had, *inter alia*:
 - a. permitted the Pelletier Firm's trust account(s) to be used in connection with K.
 Miller and some of the Unlawful Scheme Participants without providing substantial legal services in connection with the trust matters;
 - b. permitted the Pelletier Firm's trust account(s) to be used by K. Miller and some of the Unlawful Scheme Participants to hide funds from tracing; and
 - c. engaged in an activity that R. Pelletier knew or ought to have known assisted or encouraged K. Miller and some of the Unlawful Scheme Participants in dishonesty, crime, or fraud, contrary to Rule 3.2-7 of the *Professional Code of Conduct for British Columbia*.
- 18. On April 18, 2018, the Chair of the LSBC Discipline Committee made an Order that an investigation be made of the books, records, and accounts of the Pelletier Firm.

- 19. On April 23, 2018, the LSBC applied for and was granted an order in the BC Supreme Court that R. Pelletier immediately cease any trust accounts and term deposits and must not handle any trust transactions or trust monies until final disposition of the citations arising from the investigation of R. Pelletier's conduct, or until the Rule 3-10 Order was rescinded or varied (the "Pelletier Trust Account Order").
- 20. On April 23, 2018, the LSBC applied for and was granted, on April 24, 2018, an order in the BC Supreme Court appointing Michael Rhodes of the LSBC as custodian of the Pelletier Firm's trust accounts (the "LSBC Custodian Order").
- 21. On November 26, 2020, the LSBC Discipline Committee issued a citation against R. Pelletier which was amended on May 10, 2022 (collectively, the "Citation") and alleged that R. Pelletier committed professional misconduct between September 2014 and May 2018 by, *inter alia*, engaging in activities that assisted in or encouraged dishonesty, crime, or fraud contrary to the *BC Code*. Specifically, the Citation stated that R. Pelletier used or permitted the use of the Pelletier Firm's trust accounts to receive or disburse, or both, some or all of approximately \$24,092,710.37 CAD and \$5,360,839.11 USD, on behalf of one or more of K. Miller and some of the Unlawful Scheme Participants, at a time, when R. Pelletier knew that one or both of K. Miller and some of the Unlawful Scheme Participants were being investigated for securities fraud by the SEC and that some or all of the funds received or disbursed were proceeds of that securities fraud ("Allegation 1").
- 22. On June 26, 2023, in a Decision of the Hearing Panel on Facts and Determination, issued by the LSBC Hearing Tribunal Panel (the "LSBC Panel") (the "Determination Decision"), the LSBC Panel found that the LSBC had proven professional misconduct with respect to Allegation 1, namely, that R. Pelletier knew that K. Miller and some of the other Unlawful Scheme Participants were being investigated for securities fraud by the American authorities, R. Pelletier received and or disbursed funds that they knew to be from the securities fraud, and assisted and encouraged dishonesty, crime or fraud by receiving and or disbursing the funds.
- 23. As set out in the Determination Decision, during the hearing R. Pelletier testified that:

"... he was aware of the SEC Complaint, the SEC's investigations into his clients' activities, and the Indictment. He also agreed that he received funds, millions of dollars, into his trust account that he knew or suspected were proceeds from the Scheme. The Respondent testified that he held those funds for the purpose of "settlement" with the American authorities. He testified that it would not be in his clients' interest for the American authorities to know what amount of money was available for a settlement. The Respondent testified that he hoped, if the American authorities did not know how much money was available, he might be able to get a more favourable settlement for his clients." [emphasis added]

24. The LSBC Panel stated in response, in part:

"There are two difficulties with the Respondent's position regarding these funds. The first difficulty is that the Respondent is freely admitting to possessing illicit funds in his trust account for the purpose of hiding those funds from the authorities. The Respondent was aiding and abetting his clients in their securities fraud. The only logical inference from his evidence is that the Respondent hoped to obtain a settlement for less than the remaining funds thereby enabling his clients to profit from the securities fraud. Even if the Respondent did not intend to assist his clients in receiving illicit profits, he was knowingly possessing the proceeds of securities fraud. It is not acceptable for a lawyer to knowingly accept or possess stolen, fraudulent or otherwise illicit funds from a client. In this case, the Respondent knowingly possessed the proceeds of securities fraud and purposely continued to do so for an extended period..." [emphasis added]

25. In a decision issued on November 17, 2023, in 2023 LSBC 47 (the "Disciplinary Action Decision"), the LSBC Panel stated that the Citation was "novel as it appears to be the first time a lawyer has been disciplined for money laundering – purposely using his status as a lawyer and his trust account to assist his clients to hide the illegal proceeds of their securities fraud" and held that R. Pelletier must be disbarred.

Miller Proceedings Seeking the Return of the Miller Funds

- 26. On November 8, 2022, K. Miller commenced proceedings in the Supreme Court of British Columbia under Vancouver Registry File No. S229152 by way of a petition against the LSBC (the "Miller Proceedings"), seeking a declaration that K. Miller is entitled to the Miller Funds held in the trust accounts of the Pelletier Firm and an order that the LSBC, as custodian of the trust accounts of the Pelletier Firm, deliver the Miller Funds to K. Miller. On March 24, 2023, K. Miller filed an amended petition to the Miller Proceedings.
- 27. K. Miller asserts that the SEC Complaint has been resolved with respect to the Final Judgment and, as such, there is no juristic reason for the LSBC to continue to withhold the Miller Funds from K. Miller.
- 28. In the response to petition filed January 31, 2023 by the LSBC and the Affidavit #1 of Michael Rhodes made May 30, 2023 in the Miller Proceedings ("Rhodes #1"), the LSBC opposes the relief sought with respect to the Miller Funds, asserting that it is the belief of the LSBC that the Miller Funds "are not in fact Mr. Miller's funds and are, on a balance of probabilities, proceeds of the securities fraud alleged in the SEC Complaint" and that "[i]t is for this reason that the Law Society has not acceded to" K. Miller's request for the return of the Miller Funds.

Amount of the Miller Funds

- 29. At the time of filing herein, the specific amount of the Miller Funds is unknown to the Director as there are inconsistencies between the information provided by the LSBC and K. Miller.
- 30. During the Benchers' Hearing, the Benchers found that as of January 3, 2018, the Pelletier Firm held in its trust accounts \$3,469,077.80 CAD and \$101,631.98 USD in trust for K. Miller.
- 31. In the Miller Proceedings, K. Miller states that, as of March 29, 2019, the Pelletier Firm holds \$583,114.51 CAD and \$2,974,399.23 USD in trust for their benefit.

The Unlawful Activity

- 32. The Miller Funds are proceeds and an instrument of unlawful activity.
- 33. The Miller Funds have been used to engage in unlawful activities which variously resulted in, or were likely to result in, the acquisition of property or an interest in property. To the extent that those unlawful activities are known to the Director of Civil Forfeiture (the "Director"), they consist of (collectively, the "Unlawful Activity"):
 - a. offences contrary to the US Securities Act;
 - b. offences contrary to the Securities Act, RSBC 1996, c. 418 (the "BC Securities Act"); and
 - c. the following offences which are contrary to the *Criminal Code*, RSC 1985, c. C-46 (the "*Criminal Code*"):
 - i. possessing the proceeds of crime;
 - ii. laundering the proceeds of crime;
 - iii. committing fraud;
 - iv. affecting the public market price of stocks, shares, merchandise or anything that is offered for sale to the public by deceit, falsehood, or other fraudulent means; and
 - v. conspiring with another individual to commit a criminal offence.
- 34. The Miller Funds were obtained from the Unlawful Activity.
- 35. By converting the proceeds of the Unlawful Activity into the Miller Funds, the Miller Funds were used as an instrument of unlawful activity, namely, laundering the proceeds of crime.
- 36. The Miller Funds were intended to be used to engage in the Unlawful Activity.

37. If the Miller Funds are released, they will likely be used for or to facilitate the Unlawful Activity in the future.

Part 2: RELIEF SOUGHT

- 1. An order under s. 5(1) of the *Civil Forfeiture Act*, SBC 2005, c. 29 (the "*Act*") that the defendant's interest in the Miller Funds, either directly or indirectly through the Shell Corporations, and their proceeds, including any interest, be forfeited to His Majesty the King in right of the Province of British Columbia (the "Government").
- 2. An order under s. 5(2) of the *Act* that the Miller Funds, and their proceeds, including any interest, be forfeited to the Government.
- 3. An order under s. 7(1) of the *Act* that the effective date of forfeiture of the Miller Funds to the Government is the date notice of interest was published, forfeiture was initiated, or these proceedings were commenced, whichever is earliest.
- 4. An unexplained wealth order under Part 3: Division 1.2 of the *Act* in relation to the Miller Funds, requiring the defendant to provide, among other things, particulars of their acquisition and maintenance of the Miller Funds.
- 5. An order under s. 26 of the *Act* that the Miller Funds, including any interest, be paid into the civil forfeiture account of the consolidated revenue fund.
- 6. Costs payable to the Director.

Part 3: LEGAL BASIS

- 1. Under s. 3(1) of the *Act*, the Director may apply to court for an order forfeiting to the Government property located in British Columbia that is proceeds or instruments of unlawful activity.
- 2. Proceeds of unlawful activity include property that is acquired directly or indirectly from unlawful activity, or property that is equivalent in value to the amount of an increase in value

- of the whole or the portion of interest in the property if the increase in value results directly or indirectly from unlawful activity.
- 3. Unlawful activity includes acts or omissions that at the time of occurrence are offences in a jurisdiction outside of Canada which would also be offences in British Columbia if the act or omission had occurred in British Columbia.
- 4. Under s. 3(2) of the *Act*, the Director may apply to the court for an order forfeiting to the Government property that is an instrument of unlawful activity. An instrument of unlawful activity includes property that has been used to engage in unlawful activity that, in turn, resulted in or was likely to result in the acquisition of property.
- 5. Under s. 5(1) and 5(2) of the *Act*, the court must forfeit property that is proceeds or instruments of unlawful activity to the Government, subject to certain defences that must be pleaded and proved by the defendant.
- 6. Under s. 19 of the *Act*, proof that a person participated in an unlawful activity that resulted in or is likely to have resulted in the person receiving a financial benefit and the person subsequently acquired the whole or the portion of an interest in property or caused an increase in the value of the interest or the portion of the interest in the property or caused a decrease of a debt obligation secured against the interest or the portion of the interest in property is proof, in absence of evidence to the contrary, that the whole or the portion of the interest in property is proceeds of unlawful activity.
- 7. Under s. 19.01 of the *Act*, proof that cash, with a total value greater than \$10,000, was possessed by a member of a criminal organization is proof, in the absence of evidence to the contrary, that the cash is proceeds of unlawful activity.
- 8. Under Part 3: Division 1.2 of the *Act*, if the Director has reasonable grounds to suspect that a defendant directly or indirectly engaged in unlawful activity and has reason to believe that they are legally or beneficially the owner of in whole or in part of certain property and if there is a serious question to be tried as to:

- a. whether the known sources of the defendant's lawfully obtained income would have been insufficient for the purpose of enabling the defendant to acquire or maintain the property or the whole or the portion of the interest in the property they hold:
- b. the property has been used to engage in unlawful activity; or
- c. the property or the whole or a portion of an interest in the property was acquired or is maintained directly or indirectly as a result of unlawful activity

the court may order the defendant to provide, among other things, particulars of their acquisition and maintenance of the property, including how any costs incurred in acquiring and maintaining the property or the interest or the portion of the interest in the property have been met.

- 9. Under s. 19.07 of the *Act*, if a respondent or responsible officer was required to comply with any requirement in an unexplained wealth order and did not provide all of the information and records required to be provided under the order or otherwise failed to comply with a requirement of the order, the whole or a portion of an interest in property is presumed, in the absence of evidence to the contrary, that the interest or the portion of the interest in the property is proceeds of unlawful activity.
- 10. It is an offence under s. 5(a) and 5(c) of the US Securities Act to facilitate and participate in the illegal offering of unregistered securities.
- 11. It is an offence under ss. 57(1) and 155 of the BC Securities Act to directly, or indirectly, engage in or participate in conduct relating to a security, derivative, or underlying interest of a derivative if the person knows, or reasonably should know, that the conduct:
 - a. results in or contributes to a misleading appearance of trading activity in, or an artificial price for, a security,
 - b. contributes to a fraud perpetrated by another person, or contributes to another person's attempt to commit a fraud, relating to a security, derivative, or underlying interest, or

- c. results in or contributes to a misleading appearance of trading activity in, or an artificial price for, a derivative or an underlying interest of a derivative.
- 12. It is an offence under ss. 57(3) and 155 of the BC Securities Act to directly, or indirectly, engage in or participate in conduct relating to a benchmark if the person knows or reasonably should know that the conduct results in or contributes to a false benchmark or the conduct results in or contributes to a false benchmark.
- 13. It is an offence under ss. 61 and 155 of the BC Securities Act to, unless exempted, distribute a security unless a preliminary prospectus and a prospectus have been filed with the executive director and the executive director has issued receipts for the preliminary prospectus.
- 14. It is an offence under the Criminal Code to:
 - a. possess the proceeds of crime (s. 354);
 - b. commit fraud over \$5,000 (s. 380(1)(a));
 - c. affect the public market price of stocks, shares, merchandise, or anything that is offered for sale to the public by deceit, falsehood, or other fraudulent means (s. 380(2));
 - d. conspire with another individual to commit a criminal offence (s. 465); and
 - e. launder the proceeds of crime (s. 462.31).
- 15. The Miller Funds are proceeds of crime pursuant to s. 462.3 of the *Criminal Code*.
- 16. All or some portion of the defendant's interest in the Miller Funds is proceeds of unlawful activity because they were acquired, in whole or in part, directly or indirectly, from the Unlawful Activity.
- 17. Since the Miller Funds are proceeds of the Unlawful Activity, so too are any of their proceeds.

- 18. The Miller Funds are an instrument of unlawful activity because they were used, or are likely to be used, to engage in the Unlawful Activity.
- 19. Under s. 7(1) of the *Act*, the effective date of forfeiture of the whole or a portion of an interest in personal property is the earliest of:
 - a. if notice of interest published under s. 23.04 in relation to the property or the whole or the portion of the interest in property has not, at the time the forfeiture order is made, been withdrawn, the date the notice of interest was published;
 - b. if forfeiture was initiated under s. 14.04(1) in relation to the property or the whole or the portion of the interest in property, the date on which forfeiture was initiated; or
 - c. the date proceedings were commenced under s. 3 in relation to the property.
- 20. Under s. 26 of the *Act*, the Director must pay any funds forfeited to the Government into the civil forfeiture account of the consolidated revenue fund.

Plaintiff's address for service: 1301 – 865 Hornby Street, Vancouver, BC V6Z 2G3

Fax number address for service: (604) 660-3567

Email address for service: Lisa.Low@gov.bc.ca

Place of trial: Vancouver, BC

The address of the registry is: 800 Smithe Street, Vancouver BC

Date: 14/DEC/2023

Lisa Low
Lawyer for the plaintiff

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be

used by any party at trial to prove or disprove a material fact, and

- (ii) all other documents to which the party intends to refer at trial, and
- (b) serve the list on all parties of record.

ENDORSEMENT ON ORIGINATING PLEADING OR PETITION FOR SERVICE OUTSIDE BRITISH COLUMBIA

The plaintiff, Director of Civil Forfeiture, claims the right to serve this pleading on the defendants outside British Columbia on the ground that this proceeding is brought by the Director of Civil Forfeiture to enforce, assert, declare or determine proprietary or possessory rights or a security interest in property in British Columbia that is immovable or movable property, pursuant to s. 10(a) of the *Court Jurisdiction and Proceedings Transfer Act*, SBC 2003, c. 28.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

An action for forfeiture of property located in British Columbia pursuant to the *Civil Forfeiture Act*, SBC 2005, c. 29

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:	
[] []	a motor vehicle accident medical malpractice another cause
A dispute concerning:	
[] [] [] [] [] [] [] [] [] []	contaminated sites construction defects real property (real estate) personal property the provision of goods or services or other general commercial matters investment losses the lending of money an employment relationship a will or other issues concerning the probate of an estate a matter not listed here
Part 3: THIS CLAIM INVOLVES:	
[] [] [] [] [x]	a class action maritime law aboriginal law constitutional law conflict of laws none of the above do not know
Part 4:	
Securities Act, RSBC 1996, c. 418 Criminal Code, RSC 1985, c. C-46 Civil Forfeiture Act, SBC 2005, c. 29	