

Quantum Media Reports: KPMG Senior Vice-President Refusing to be Cross-Examined in Canada



Sat Feb 21, 5:00 pm ET

Quantum Media has uncovered that Court orders are being sought by creditors for the cross-examination of Mr. Robert Rusko of KPMG Inc., and Mr. Brian McLean on their unchallenged Affidavits. A court hearing for Action No. 193466VA99 is currently scheduled to be heard by the Chief Justice of British Columbia on February 23, 2009.

Vancouver, British Columbia (PRWEB) February 21, 2009 -- Mr. Robert Rusko, a partner and senior vice-president of Canada's KPMG Inc., known for the role he has played as Receiver in the Portus Alternative Asset Management Inc. matter, is still refusing to be cross-examined on any one of the Affidavits he has sworn in another intriguing court file, according to a recent report from Quantum Media. Namely the Supreme Court of British Columbia Action No. 193466VA99 (Vancouver Registry) which has been ongoing since 1999 involving the unique, complex, and involuntary Petition of Mr. Erwin Singh Braich.

The Court file indicates that to date all of Mr. Rusko's Affidavits have gone unchallenged in this B.C. Supreme Court Action, including the most recent Affidavit, which was 7 pages long and dated December 4, 2008.

The records also show that Mr. Rusko is opposing the relief that is currently being sought by the creditors.

KPMG Inc. has been the Trustee in this file for over nine years, an unusually long time for an insolvency file by most standards. In fact, still being disputed today is whether a first meeting of creditors, pursuant to the Bankruptcy and Insolvency Act, was properly convened and held in 1999.

Some eight years later, Supreme Court of British Columbia Chief Justice Donald Brenner is being asked by KPMG to vary an Order that was pronounced on September 12, 2000, (Action No. 193466VA99).

Court records indicate that creditors in this case are unhappy with KPMG Inc., and in particular the conduct of Mr. Robert Rusko and former KPMG employees, Mr. David Wood, Mr. Stephen Boale, Mr. Darren Bidulka and Vancouver lawyer Brian McLean.

Court transcripts also indicate that these creditors are questioning the conduct of Mr. Jas Butalia, a partner formerly with BDO Dunwoody LLP. Mr. Butalia is one of the Inspectors in this matter if, in fact, the above referred meeting was properly convened and therefore his appointment is valid.

Other relief that is currently being sought by KPMG Inc., and Vancouver lawyer Brian McLean is an Order

from the Court to withhold from public disclosure all details of the case which would "reflect adversely" on them, or any parties, that are involved with the administration of this file.

In October, 2007, the Chief Justice, Mr. Donald Brenner, granted a Motion brought forward by KPMG Inc. and KPMG International to proceed without allowing cross-examination of Mr. Rusko, on the Affidavit material he filed in support of that Motion.

At the hearings that occupied almost two full days, counsel for KPMG relied on Section 215 of the Bankruptcy and Insolvency Act, to prevent Mr. Erwin Singh Braich from further prosecuting a lawsuit that was filed in the United States, in February, 2007, (Case no. CV7 00177CMP filed in U.S. District Court Western District of Washington at Seattle), whereby it was alleged that he had suffered damages in excess of \$500 million during and after his civil rights were violated.

The American lawsuit stemmed from an alleged unlawful entry and removal of documents and other personal property from a hotel room located in Bellingham, Washington. Essentially the B.C. Supreme Court ruling states that Mr. Braich should have asked for permission from KPMG to sue KPMG and or their agents.

Court documents indicate that KPMG sought injunctive relief from the Supreme Court of British Columbia well after being engaged in the American litigation.

In the same American lawsuit both the Government of Canada and the Royal Canadian Mounted Police settled out of court with Braich - for more information about that lawsuit please visit:

<http://www.andhranews.net/intl/2007/April/18/em-Canadian-Businessman-Files.asp>

<http://ca.prweb.com/releases/erwin/braich/prweb541360.htm>,

Dr. Alex Penner - the Deputy Registrar of the College of Dental Surgeons in British Columbia, has also filed a Motion to cross-examine Mr. Robert Rusko.

The Motion by Dr. Alex Penner is supported by the vast majority of creditors.

Dr. Penner stated "I was in attendance a few years ago, when Madam Justice Morrison, then seized of the file, sanctioned Mr. Rusko and Mr. Brian McLean".

He went on to say "I was also in attendance in another courtroom, at an earlier date, when Madame Justice Loo clearly directed that KPMG facilitate preservation measures in the litigation relating to the extremely valuable Sandy Hill Development in Abbotsford, B.C., in which city I live. In my opinion this direction was also breached by KPMG".

"I was very happy to be selected in 1999 by the group of creditors I represent, all of whom are doctors, to travel to Europe to inspect various assets that were under consideration or had been bought by Mr. Braich. In addition; on an entirely separate trip in September of 1999, we are all aware that an Officer of the Court was sent to conduct his own independent valuation", added Dr. Penner.

Another of the first to file his Motion to cross-examine Mr. Rusko was Mr. Satinder Dhillon.

Dhillon stated that: "we the creditors find it absolutely atrocious that KPMG would ever have even contemplated going along with the original Petition.

"The mere fact that PriceWaterhouseCoopers, the world's largest accounting firm, paid over U.S. \$1 million dollars (at almost the same time in 1999 that KPMG agreed to become Trustee), for an unsecured debt owed by Mr. Braich to a creditor, strongly suggests to me and many others that Mr. Braich was never bankrupt.

"KPMG should have done their homework before they agreed to assist a Petitioner. However, PriceWaterhouseCoopers had been paid approximately U.S. \$2 million for professional services provided to Mr. Braich and his group of companies, directly or by outsourcing, which I believe gave them a fair amount of valuable insight", added Dhillon.

Court records reveal that the lawyer for this above referred creditor was the same Mr. Howard Mickelson. Of course, now he is acting for KPMG et al.

"In our opinion it is clear for all to see that the Petition was an extortive measure used by the Petitioner and perhaps others for their own objectives.

"When Racketeer Influenced and Corrupt Organizations Act ('RICO') related lawsuits are filed and that due process unfolds, the pattern of activity by certain individuals will clearly reveal what happened over the last ten years.

"Hopefully these findings will serve as an example in business schools throughout Canada, and the world, about how corruption and cover-ups by public officials and/or Officers of the Court can affect the lives of the average citizen who trusts and relies on the Rule of Law, and the ethical standards that are set for accountants, lawyers and other professionals.

"We need only look to the state of the world's economy to see the real effects of and the damage a lack of proper controls, and enforcement of certain rules can have".

Dhillon went on to state: "by our calculations after reviewing the evidence collected over the past ten years the damages suffered by the creditors and Mr. Braich is in excess of U.S. \$800 million. When RICO statutes are applied this number will be tripled by the competent court, in the event we are victorious, after a jury trial in the United States. Based on the advice we have received to date, the pattern of activity by certain individuals fits four-square with what is required to apply the RICO statutes".

The figure of U.S. \$800 million is supported by other creditors including media mogul Mr. Robert Shaw (one of Braich's largest creditors and a relative of Sir Run Run Shaw).

For more information about Sir Run Run Shaw please visit:

http://www.forbes.com/2007/09/15/run-run-shaw-face-cx_vk_0914autofacescan01.html

http://www.economist.com/displaystory.cfm?story_id=11413192&CFID=44534316&CFTOKEN=97115197

Mr. Robert Shaw stated: "I have always believed in Mr. Braich and also have tremendous respect for the

work he has done in the community. I originally loaned Mr. Braich over Cdn. \$2 million on a handshake. Then even more money without security. I consider myself a pretty good judge of character, and I believe Mr. Braich has great integrity."

"It truly upsets me to see the pain and damage that KPMG and others have put him through unnecessarily; but I believe everything happens for a reason and that the truth is now coming to light".

"Of course, I strongly support the Motions that have been filed by Mr. Braich and the creditors to cross-examine Mr. Robert Rusko and Mr. Brian McLean. It seems inappropriate, and highly unusual that contentious Affidavits would be allowed to go unchallenged, for so long, and be relied on at face value".

"In my opinion our system has clearly broken down somewhere along the line and I am hopeful and confident that the Chief Justice of our Province will rectify this at some point after considering all of the evidence".

Mr. Shaw went on to state; "Mr. Braich has always had my full and unwavering support. My family, friends, and I would conduct business and partner up again today with Mr. Braich - in a heartbeat. He has our full financial and moral support."

Another creditor - Mr. Joe Bring, an accountant (formerly employed by KPMG Inc.) and a business valuator, stated; "in all my years, I have never seen a bankruptcy file go on for so long and it appears the writing is on the wall. In my opinion even the simplest things, such as the Petitioner's Proof of Claim, is deficient". Records indicate that Mr. Bring is now owed in excess of \$1 million.

Dr. William Russell, a retired dentist and lawful creditor, stated, "what has occurred in this saga is absolutely appalling and I am hopeful that our Chief Justice would allow Mr. Robert Rusko's Affidavits to finally be cross-examined".

He further went on state that "I cannot believe that Mr. Rusko would not voluntarily allow questioning, and that KPMG has caused hundreds of millions of dollars in financial damage and wasted many years of people's lives. The monetary damages which may be recovered will never be enough, as you can't get back lost time. Totally reflective how incompetently this matter has been treated by the professionals is the very fact that they are now seeking that the Chief Justice vary an Order made some 8 years ago".

Mr. Yashminder Sidhu, another creditor, stated that "I am absolutely disgusted by what has transpired, and have written to KPMG twice in the last two months and have still not received a single answer to my questions except a very lame comment by Mr. Rusko stating that all matter would be dealt with by the British Columbia Judiciary."

"KPMG and Mr. Rusko are even challenging our right to view the file that is in their possession, something which we are entitled to according to the Bankruptcy and Insolvency Act".

Mr. Sidhu went to state that "we possess meticulous records and ample evidence to support all allegations and look forward to the due process in the proper forum." (His 35 page letter sent last year is attached).

More information about this matter is available at: www.justiceandtruthforall.com

When asked for his thoughts, Mr. Erwin Singh Braich stated that he is not currently allowed to speak about the matter, as decreed by the interim Order by the Honourable Court.

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