Court File No. CV-17-71275

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

JANE CARDWELL

Plaintiff

- and -

ANANDA MARGA CANADA, MEHOOL DAVE, AWDHESH PANDEY, PRAMOD KUMAR BISWAS, ACHARYA VIMALANANDA AVADHUTA, DIDRIK SVEINN BOGASON, TOM LAVRIH, L. MICHAEL HEMMELGARN, and JOHN DOE

Defendants

REPLY

1. The plaintiff **admits** the allegations contained in paragraphs 2, 3, 4, 5, and 13 of the statement of defence.

2. The plaintiff **denies** the allegations contained in paragraphs 7, 8, 9, 14, 15, 16, 17, 19, 20, and 21 of the statement of defence.

3. In reply to the allegation that the claim is "out of time," Cardwell specifically pleads that until January 15, 2015, Defendants Lavrih, Hemmelgarn, and Acharya Devashradhananda Avadhuta on their own behalf and on behalf of Ananda Marga Canada wilfully concealed from Cardwell, and everyone else, the fact that Lavrih had falsified the statutory declaration which he filed with Industry Canada in December of 1998.

4. Until October of 2014, Cardwell had no reason to suspect any fraudulent implementation of the corporation's bylaws by Defendant Lavrih.

5. On or about October 1, 2014, Cardwell received a letter from AMC, advising her that she had been removed from the AMC Board.

6. Following her removal from AMC's Board in the fall of 2014, Cardwell began to investigate the way in which AMC's by-laws had been amended in 1998.

7. While it is true that Cardwell assumed the position of Vice-President in 2001, Defendant Lavrih provided Cardwell with only a portion of his AMC files.

8. The files provided to Cardwell by Lavrih disclosed nothing about the 1998 bylaw implementation, nor did it include Lavrih's correspondence with Industry Canada, nor anything related to it.

9. Accordingly, in the fall of 2014, Cardwell filed a request with Industry Canada, asking for all documents and correspondence which they had in their records, related to the corporation.

10. Cardwell received a response to her request in late 2014. It was via this disclosure that Cardwell first saw the letters, which Industry Canada had sent to Defendant Lavrih in November 1998, at his home address, advising him that:

    a. His request for supplementary letters patent with respect to the change of objections of his corporation could not be approved;

    b. He needed to follow the guidelines as stated in the kit on Supplementary letters patent;

    c. Industry Canada required a copy of the by-laws that had been passed by 2/3 of the members and not just approved by the directors;

d. The by-law amendments enacted by the directors on October 15, 1998, were acceptable and had received Ministerial approval to be effective on November 19, 1998, conditional on membership approval on that date;

e. If membership approval was not obtained, then Ministerial approval would not take effect; and

f. Industry Canada was to be given written confirmation of membership approval as quickly as possible.

11. On January 15, 2015, following her review of those receipt and review of Industry Canada's disclosure, Cardwell had a telephone conversation with Lavrih, during which conversation, Lavrih advised Cardwell of his actions:

a. On or about November 30, 1998, Lavrih received - at his home - a letter from Industry Canada, advising him that, in order to amend the organization's bylaws, a meeting and vote of general members was required.

b. Sometime shortly following his receipt of the letter referenced in the subparagraph above, Lavrih called Defendant Hemmelgarn and Sectoral Secretary Devashradhananda via a three-way conference call to solicit their instructions about what he should do in response to the Industry Canada letter.

c. Devashradhananda instructed Lavrih to simply confirm to Industry Canada that a meeting had been held.

d. Lavrih did as instructed and falsified his statutory declaration.

12. Cardwell pleads that January 15, 2015 was the first day on which she knew or ought reasonably to have known that (i) injury, loss or damage had occurred, (ii) the injury, loss

or damage was caused by or contributed to by an act or omission, (iii) the act or omission was that of the person against whom the claim is made, and (iv) having regard to the nature of the injury, loss or damage, a proceeding would be an appropriate means to seek to remedy it.

13. Cardwell specifically pleads and relies on section 5, and section 15, subsection 4, subparagraph (i) of the *Limitations Act, 2002*, SO 2002, c. 24, Sched. B. and pleads that the limitation period was not running during the period of time that Lavrih's deception was being wilfully concealed.

Dated: November 9, 2022

KELLY SANTINI LLP
160 Elgin Street, Suite 2401
Ottawa, ON
K2P 2P7

SEAN P. BAWDEN
LSO #54846U
T. 613.238.6321
E. sbawden@kellysantini.com
Lawyer for the Plaintiff

TO **LENCZNER SLAGHT LLP**
Suite 2600
130 Adelaide Street West
Toronto ON M5H 3P5

Anne E. Posno (34840H)
Tel: (416) 865-3095
Email: aposno@litigate.com

Christopher Yung (62082I)
Tel: (416) 865-2976
Email: cyung@litigate.com

Keely Kinley (84224G)
Tel: (416) 238-7442
Email: kkinley@litigate.com
Lawyers for the Defendants, Ananda Marga Canada, Pramod Kumar Biswas, Acharya Vimalananda Avadhuta, Didrik Sveinn Bogason and Tom Lavrih

JANE CARDWELL - and - ANANDA MARGA CANADA et al.

Plaintiff Defendants

COURT FILE NO. CV-17-71275

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at OTTAWA

REPLY

KELLY SANTINI LLP
160 Elgin Street, Suite 2401
Ottawa, ON K2P 2P7
T. 613.238.6321
F. 613.233.4553

SEAN P. BAWDEN
LSO No. 54846U
E. sbawden@kellysantini.com
Lawyers for Plaintiff

Email of Recipient: aposno@litigate.com, cyung@litigate.com, kkinley@litigate.com