

IN THE SUPREME COURT OF BRITISH COLUMBIA

Civil Forfeiture Action in Rem Against
The Lands and Structures situated at #TH22 - 1281 Cordova Street West, Vancouver,
British Columbia, and having a legal description of parcel identifier 026-130-581 Strata
Lot 12 of the Public Harbour of Burrard Inlet New Westminster District Strata Plan
BCS1073 together with an interest in the common property in proportion to the unit
entitlement of the strata lot as shown on Form V (the "Real Property"), a 2017 Land
Rover Range Rover with Vehicle Identification Number SALGW3FE5HA366813, a 2018
Land Rover Range Rover with Vehicle Identification Number SALWZ2SE3JA192099
(collectively, the "Vehicles") and any funds notionally held by the Bank of Montreal, in
particular account numbers 4642127 and 3716674, by Kevin Patrick Hobbs (the "Bank
Funds") and their fruits and proceeds

BETWEEN:

Director of Civil Forfeiture

PLAINTIFF

AND:

The Owners and all Other Interested in the Real Property, the Vehicles, and the Bank
Funds, in Particular, Kevin Patrick Hobbs and Lisa Angela Cheng

DEFENDANTS

RESPONSE TO CIVIL CLAIM

Filed by: the defendants Kevin Hobbs and Lisa Cheng

PART 1: FACTS

Division 1- Defendants' Response to Facts

1. The facts alleged in paragraphs 1-10 and 21 of Part 1 of the notice of civil claim are admitted, for the most part. Some assertions are inaccurate, but are not material.

2. The facts alleged in paragraphs 11 through 15 of Part 1 of the notice of civil claim are in part admitted but mostly denied.
3. The facts alleged in paragraphs 17-20, 22-27 of Part 1 of the notice of civil claim are denied, and the defendant puts the plaintiff to the strict proof thereof.
4. Vanbex did not solicit funds from investors for the development or distribution of the FUEL token. Neither it nor either personal defendant represented to any person that 'the value of the FUEL token would increase'. It is correct that a FUEL token would be capable of being used in the smart contract system.
5. Purchases of FUEL tokens were pursuant to terms and conditions, and risk of acknowledgement documents prepared by counsel concerning these items. Purchasers obtained exactly what they bargained for. The offering was a success and the business prosperous. Neither defendant during 2017 acquired 'sudden' personal wealth.
6. The facts alleged in paragraph 16 of Part 1 are outside the defendants' knowledge. The facts alleged in paragraph 21 are ancient, irrelevant, prejudicial, and should be struck.

Division 2 – Defendants' Version of the Facts

1. Neither Vanbex nor Etherparty is a 'shell company'. It is a consulting and development business working in the cryptocurrency field. It has developed innovative new systems using blockchain technology. The company has hosted events and attended and spoken at conferences in the local blockchain business community. Both personal defendants have been, are, and continue to be acknowledged as innovative leaders in this field.

2. The company has grown to employ over 50 staff, with a very substantial monthly payroll. They have many clients, with more seeking their services.
3. Vanbex and Etherparty are and were not interchangeable. They shared staff and employees but had different roles. Etherparty developed technology. Vanbex performed consulting services for others.
4. The Bay Street property was purchased for both business and personal reasons. The company intended to expand to Toronto.
5. The Lamborghini was purchased and later sold. It has no relevance to anything alleged.
6. The defendants were not aware of any RCMP or CRA investigation until they became aware of the notice of civil claim. Neither defendant liquidated assets to avoid any investigation. The assets referred to were all purchased lawfully. The funds used were the defendants' funds to use.
7. Both defendants specifically deny having possession of, or using, any funds which were 'misappropriated'. The defendant Hobbs specifically denies using any misappropriated funds to engage in personal gambling, as no funds were misappropriated. The defendant Hobbs is and has been a successful gambler, which is corroborated by the evidence of Corporal Johnson.
8. Neither defendant has attempted to sell or encumber any assets 'as a result of the investigation', as they were unaware.
9. None of the restrained assets are the proceeds, or instruments of any unlawful activity. There was no unlawful activity, as alleged by the plaintiff in paragraph 23, or at all. All of the assertions in paragraphs 22 through 27 are specifically denied.

Division 3 – Additional Facts

10. Vanbex is a legitimate company and a going concern.
11. Initially the company rented office space through Wavefront Accelerator, a government funded cohort program to support small businesses where they actively reported their progress on developing the business. In 2016 they moved to rented office space at 717 West Pender St.
12. The company grew and they hired more employees, renting office space at the office sharing WeWork in Bentall 3. They quickly became too big for that space and leased space at 625 Howe St.
13. Vanbex developed an innovative technology. They formed Etherparty (now Vanbex Labs) to develop a smart contract deployment application built using blockchain technology. The first version of this technology was released in November of 2016.
14. When Etherparty launched, the company also launched a utility token, FUEL, to track the usage of the application. The sale of the tokens totaled close to \$24 million, taking into account exchange rates.
15. Customers bought FUEL tokens to pay for the use of the application. Everyone who purchased a FUEL token received this digital coin by December of 2017. Purchasers signed Terms and Conditions and Risk Acknowledgement documents prepared by counsel.
16. The process for purchasing a token was a step by step online shopping cart like experience. The customer had to confirm that they had read the white paper as

well as the terms and conditions and risk factors. They would then indicate the number of tokens they wished to purchase and the total amount for the purchase was calculated. The customer was then provided with a blockchain address indicating where they should send funds to complete the transaction. As soon as this was done, the blockchain would recognize a transaction was occurring and confirm if funds were received. Upon confirmation the blockchain would automatically then send the tokens purchased to the customer.

17. Customers with tokens were then able to use them on Vanbex's software product, Rocket. The official launch of Rocket 1.0 was Summer of 2018. Rocket was the first product built on the Etherparty Blockchain architecture. This architecture is a user friendly way to launch smart contracts without having to code. Rocket users can launch their own digital tokens or assets on the blockchain. A payment in FUEL tokens is required to deploy Smart Contracts through this product. FUEL tokens also pay for the gas and transaction fees on the blockchain network.
18. FUEL tokens were sold at a discount to early adopters of the technology. Once the FUEL tokens are in possession of its customers, the company is not able to monitor or restrict the transfer of these tokens. As a result, secondary transfers were able to occur which allowed some people to speculate on the future price for which these tokens would be sold. Many people who purchased FUEL tokens later sold them in a secondary transaction for profit.
19. The funds from the sale of FUEL tokens were used to build the smart contract application.
20. Neither defendant had any knowledge of an RCMP or Canada Revenue Agency investigation until they became aware of the notice of civil claim in this case. Had the Canada Revenue Agency or the RCMP contacted Mr. Hobbs or Ms. Cheng directly they would have been provided with truthful information and documents

which completely refute the overall claims in the notice of civil claim, in particular the allegations in paragraphs 12 through 17, but generally in its entirety.

21. Both defendants specifically deny any deceit or false representation to any person. Both defendants specifically deny any intention to misappropriate any funds. There are no 'misappropriated funds'. Both defendants are of means.
22. There were no 'misappropriated funds' used by Mr. Hobbs for gambling, or for any other purpose. No 'misappropriation of funds' were used to purchase any vehicles or real estate.

PART 2: RESPONSE TO RELIEF SOUGHT

1. The defendant opposes the granting of all the relief sought in Part 2 of the notice of civil claim.

PART 3: LEGAL BASIS

1. Under section 3 of the *Civil Forfeiture Act*, the Director may apply to court for an order forfeiting property located in British Columbia that is proceeds of unlawful activity or property that is an instrument of unlawful activity. The Director is not entitled to apply for an order under the *Act* forfeiting property in any other circumstance.
2. The seized bank funds, vehicles and property are not the proceeds of unlawful activity as alleged or at all, nor are any of them 'an instrument' as defined. In the result, the Director is prevented from seeking its forfeiture, and the Court is without jurisdiction to order it forfeited.
3. The defendants deny any offence under the *Criminal Code*, specifically possession of the proceeds of crime, fraud over \$5000, affecting the public market

price of stocks, shares merchandise or anything that is offered for sale to the public, laundering the proceeds of crime, or failing to declare taxable income, contrary to ss. 354, 380, 462.31 of the *Code* or ss.238 and 239 of the *Income Tax Act*. There are no facts pleaded which would support this claim.

4. The defendants specifically deny any offence under the *Income Tax Act*, and says that there are no facts pleaded that would support this claim. They are both current in their tax obligations to the Crown, both provincial and federal.
5. Under section 6(1) of the *Act* a court may refuse to issue a forfeiture order, limit the application of the forfeiture order, or put conditions on the forfeiture order if the forfeiture of property is determined to be clearly not in the interests of justice. The defendants pray in aid this section and say that forfeiture is clearly not in the interests of justice.
6. The defendants say that the plaintiff's claim that the seized bank funds are from 'investors in a shell company' is utterly false. This is completely without evidentiary foundation and specifically denied.
7. The defendants specifically deny that any seized bank funds have been used to engage in unlawful activity, or are the proceeds or instruments of unlawful activity, and say that there are no facts pleaded that would support any of these claims.
8. In the result, the defendants are entitled to have the bank funds, vehicles and real property returned.
9. The defendants seek special costs against the plaintiff.
10. The defendants pray in aid and rely upon:
 - a. The *Civil Forfeiture Act*;

- b. The *Law and Equity Act*;
- c. The common law and jurisprudence; and
- d. The inherent jurisdiction of this Honourable Court.

Defendants' address for service is:

Donaldson's
105-1500 Howe Street
Vancouver, BC V6Z 2N1

Date: 2 April 2019



Ian Donaldson, Q.C.
Counsel for defendants, Kevin Hobbs
And Lisa Cheng

Rule 7-1 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 of record 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.