

S 217550

SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

No. _____
Vancouver Registry

AUG 23 2021

In the Supreme Court of British Columbia

Between



1179431 BC LTD.

Petitioner

and

PAUL KING and BIG HUGS HOLDINGS INC.

Respondents

PETITION TO THE COURT

[Rule 22.3 of the Supreme Court Civil Rules applies to all forms.]

ON NOTICE TO:

Paul King
801 S Miami Avenue, #1401
Miami, Florida, 33130

Big Hugs Holdings Inc.
10th floor – 595 Howe Street
Vancouver, BC V6C 2T5.

This proceeding is brought for the relief set out in Part 1 below, by the person named as petitioner in the style of proceeding above.

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

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner
 - (i) 2 copies of the filed response to petition, and

- (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

TIME FOR RESPONSE TO PETITION

A response to petition must be filed and served on the petitioner,

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

1.	The address of the registry is:	800 Smithe Street Vancouver, BC V6Z 2E1
2.	The ADDRESS FOR SERVICE of the petitioner is:	c/o Whitelaw Twining Law Corporation 2400 – 200 Granville Street Vancouver, BC V6C 1S4
	Fax number for service (if any) of the petitioner:	604-682-5217
	E-mail address for service (if any) of the petitioner:	PSullivan@wt.ca
3.	The name and office address of the petitioner's lawyer is:	Patrick Sullivan Whitelaw Twining Law Corporation 2400 – 200 Granville Street Vancouver, BC V6C 1S4

CLAIM OF THE PETITIONER

Part 1: ORDERS SOUGHT

The Petitioner, 1179431 BC Ltd. (the "Petitioner"), applies to this Court for Orders as follows:

1. An order removing Paul King ("King") as a Director and Officer of Big Hugs Holdings Inc. ("Big Hugs");
2. An order appointing two additional directors as Directors of Big Hugs;
3. An order prohibiting Big Hugs from issuing securities until such time as at least two additional directors not affiliated with King are appointed to the Board of Directors of Big Hugs;
4. A declaration that the affairs of the Company are or have been conducted, and/or that the powers of the respondent Paul King ("King"), as director, is being or has been exercised in a manner oppressive and/or unfairly prejudicial to the Petitioner;
5. A declaration that King has breached his fiduciary duties owed to Big Hugs;
6. An order pursuant to section 186 of the British Columbia *Business Corporations Act* that an annual general meeting of the shareholders (the "Meeting") of Big Hugs Holdings Inc. ("Big Hugs" or the "Company") be held on a date to be determined by the Court.
7. The Meeting will be called, held and conducted in accordance with the provisions of the *Business Corporations Act* (British Columbia), SBC 2002, c 27 (the "BCA"), as amended and the Articles of the Company (the "Articles").
8. An order restricting Big Hugs from issuing any further shares in the Company;
9. An order that any party opposing the Petition pay the Petitioner costs;
10. Damages in an amount to be determined resulting from King's misconduct;

11. An accounting with respect to any monies improperly paid to King or companies or nominees under his control;
12. Repayment of any monies paid to King or nominees under his control as a result of King's misconduct;
13. An order setting aside, rectifying, or otherwise correcting any other oppressive act or omission as may be discovered as this matter proceeds;
14. Interim and interlocutory orders effective until final resolution of this Petition as follows:
 - (a) An order appointing two additional directors as Directors of Big Hugs;
 - (b) An order directing King to deliver forthwith to the Petitioner and/or provide the Petitioner with access to all documents, books, records and information of Big Hugs including, without limiting, current financial information related to Big Hugs subsidiaries;
 - (c) An order requiring King to publish a material business update of all material facts to the shareholders of Big Hugs;
 - (d) An order prohibiting Big Hugs from issuing securities until such time as at least two additional directors not affiliated with King are appointed to the Board of Directors of Big Hugs;
15. Costs; and
16. Such further and other relief as this Honourable Court may deem appropriate.

Part 2: FACTUAL BASIS

Background

1. The Petitioner 1179431 BC Ltd. ("117") is a company incorporated pursuant to the laws of British Columbia.
2. King is a businessperson and director of the Company with an address for service for the purpose of this litigation at 801 S Miami Avenue, #1401, Miami, Florida, 33130.

3. Big Hugs is a company incorporated pursuant to the laws of British Columbia with an address for service for the purpose of this litigation at 10th floor – 595 Howe Street, Vancouver, BC V6C 2T5.
4. In August 2017, King founded Cannaforia, Holdings, LLC ("Cannaforia"). Cannaforia is a cultivator, manufacturer, and supplier of high-quality cannabis based in Salinas, California.
5. Big Hugs was incorporated in British Columbia on April 11, 2019.
6. 117 is a shareholder of Big Hugs.
7. Cannaforia is a wholly owned subsidiary of Big Hugs and is the operating company of Big Hugs.
8. As of August 9, 2019, Big Hugs Company had five directors. However, due to various resignations, as of August 13, 2021, King is currently the sole director of Big Hugs.

Reasonable Expectations of the Petitioner

9. 117 and the other shareholders who have sworn supporting affidavits in this Petition had reasonable expectations for Big Hug's conduct including:
 - (a) King would not be the sole director of Big Hugs and that directors and officers with appropriate skill sets (including directors with financial background) would be part of Big Hugs;
 - (b) Big Hugs would have proper corporate oversight;
 - (c) Big Hugs would prepare and distribute financial reporting including annual audited financial statements;
 - (d) The management and directors of Big Hugs would properly report to shareholders;
 - (e) Big Hugs would hold an annual general meeting where shareholders would get a vote on the Board of Directors;

- (f) Shareholders of Big Hugs would have a proper opportunity to participate in additional financings, particularly financings that will significantly dilute their share position;
 - (g) Company funds would be used for company business.
10. Contrary to these expectations:
- (a) King is currently the sole director and officer of Big Hugs;
 - (b) Big Hugs does not have proper corporate oversight;
 - (c) Contrary to section 198 of the *BCA*, Big Hugs has not prepared and distributed financial reporting including annual audited financial statements;
 - (d) King has not been properly reporting to shareholders;
 - (e) Big Hugs has not held an annual general meeting since 2019;
 - (f) King is currently trying to organize a dilutive financing without ensuring fair and equal participation by existing shareholders of Big Hugs;
 - (g) King appears to have used company funds to benefit himself personally.
11. King has breached his duties to the shareholders of Big Hugs as both director and officer prescribed by section 142(1) of the *BCA*, as he has failed to act honestly and in good faith with a view to the best interests of the Big Hugs.

Legal Issues of the Company and King

12. Over his tenure as director of the Company, King has been a subject of, or directly involved in, various lawsuits against the Company, members of the Company, and him personally.
13. On January 21, 2020, Jaqueline Duenez, a former employee of California New Wave I LLC, doing business as Cannaforia, filed a complaint under the California Fair Employment and Housing Act alleging that Jose Delacasa, a former supervisor with Cannaforia and director of the Company, sexually harassed and assaulted her during her period of employment with Cannaforia from July 2017 to April 2019. The employee complained to King, but he did not stop Delacasa's harassment.

14. On March 26, 2020, two investors in Cannafornia, Dmitry Romantsoff and Roman Temkin, filed a claim against King alleging, among other things, that he misappropriated Cannafornia's funds, including their \$10 million investment, to purchase real estate in Miami-Dade County (the "Romantsoff Action").
15. On April 6, 2020, the People of the State of California filed an action against King, Cannafornia and its subsidiaries, and Big Hugs, alleging the defendants engaged in the illegal cultivation, processing, and sale of cannabis products without licenses, permits, and/or authorizations required under State and local law. The State sought a \$7 million fine against the defendants.
16. On April 9, 2020, GIA Investments, LLC ("GIA") filed a complaint against King, Cannafornia, and its subsidiaries, alleging Cannafornia had not repaid any money owed on their \$3 million matured loan from GIA. GIA also alleged King, as the controlling mind of Cannafornia, stole nearly \$2 million of these funds from Cannafornia for his own personal use.
17. As of June 22, 2020, the United States Securities and Exchange Commission ("SEC") is conducting an ongoing inquiry into potential violations of Federal securities laws by King and Cannafornia.
18. On October 26, 2020, Cannafornia was served with a search warrant from the California District Attorney's office for an order to search Cannafornia's facilities in Salinas for property or things that were used, or may have been used, to commit a felony – namely, tax evasion.
19. On April 23, 2021, Michael King, Paul's brother, filed a complaint against Paul and Cannafornia alleging, among other things, that Michael was not repaid money he loaned to Paul to contribute to his legal defence against the Romantsov Action.
20. On May 21, 2021, Kings Garden, Inc. and several individual plaintiffs, including Michael King, King's brother, filed a complaint against King and Cannafornia, alleging, among other

things, that King, individually and through his control of Cannaforia as the director, defamed the Plaintiffs and tortiously interfered with Kings Garden's shareholders, investors, and professional relationships by directing statements regarding false allegations of the individual Plaintiffs' misuse of corporate funds and management of the business against them.

21. On May 28, 2021, several investors in the Company filed a lawsuit in the United States District Court – Northern District of California alleging, among other things, that King solicited their investments in the Company by deliberately misrepresenting and failing to disclose material facts about the Company's revenue and licensing, thereby violating the *Federal Securities Exchange Act* and the *California Corporations Code*. Further, the Plaintiffs allege King breached his fiduciary duties to Cannaforia's investors and mismanaged the Company by negligently entrusting the operations of the Company to incompetent third parties.
22. In June 2021, Deal Real Holdings, Inc., the company owning the lands which Cannaforia and its subsidiaries lease, and the land to which the marijuana cultivation and distribution licenses are tied to, filed a complaint against King and Cannaforia for breach of the lease.
23. On July 21, 2021, Emerge Law Group, based in Portland, Oregon, filed a complaint against King and Cannaforia, alleging King owes it more than \$200,000 USD in unpaid legal fees for their urgent work performed for Cannaforia to combat eviction and enforcement proceedings in California state court.
24. In sum, over the past 18 months, King has been subject to myriad actions against him, both personally and as the sole director of the Company. This litigation includes claims of misappropriation, fraud, theft, misleading shareholders, and failure to repay various loans of the Company.
25. These allegations underscore King's inability to act as director of the Company, and have resulted in the Company being mired in litigation and left with an uncertain future.

Recent correspondence with King

26. The Petitioner and the affiants supporting the Petition have been proactive in seeking to remedy the various legal issues plaguing the Company as set out above, and to ensure the Company meets its obligations under the *BCA*.
27. On July 29, 2021, and in a stated effort to rectify ongoing corporate governance issues and ensure the financial viability of the Company, Spiro Kletas ("Kletas"), co-owner of the Petitioner, emailed King and suggested adding two directors to the Company. Kletas believed these additions would help with the Company's corporate governance and financial reporting requirements.
28. However, King barely acknowledged Kletas' email setting out his concerns.
29. Further, on August 10, 2021, Kletas sent King several texts advising the Company's shareholders have a right to request and receive information regarding the status of the Company, including financial statements and information regarding all outstanding lawsuits against the Company.
30. In response to these texts, King was combative and dismissive.
31. Overall, King has consistently been either unresponsive or combative to inquiries from the Shareholders, including Kletas, regarding the Company's status.

The Florida Property

32. In 2020, King took money raised from Big Hugs shareholders to purchase a property in Orlando, Florida (the "Florida Property") that he eventually put into the name of a company owned by his mother.
33. Paul claimed he took the money because he was "owed" by Cannafornia.

Attempts to Finance Big Hugs in 2021

34. Big Hugs owes significant funds to its landlord and for licensing fees.

35. In an effort to try and move things forward and to address the short term debt, shareholders worked in an effort to raise funds for Big Hugs. This led to an effort for a \$.02 share offering with an additional \$.05 callable warrant.
36. The idea and approach to this financing was as follows:
- (a) The only shareholders who could participate were the existing shareholders of Big Hugs. The fact that only existing shareholders could participate (if they chose to do so) was an effort to be fair to previous shareholders and to give them a chance to average down the cost of their shares without diluting their ownership interest;
 - (b) As part of the offering, King had to agree to another person joining the board ensuring that proper corporate governance protections were in place to ensure, *inter alia*, the funds raised were spent properly.
37. After initially agreeing to the financing, King ultimately rejected it, almost certainly because of the corporate governance obligations that were part and parcel of the financing.
38. King now appears to be trying to proceed with a similar financing except:
- (a) King's financing contains no requirement to appoint additional directors;
 - (b) King's financing contains no controls or oversight on how the funds will be spent;
 - (c) King has not disclosed any of the significant issues touched on above in potential participants in the financing;
 - (d) King appears to want to spend money in Florida rather than addressing the significant issues in California;
 - (e) King is failing to make the offering available to all shareholders of Big Hugs including 117.
39. King has refused or failed to answer reasonable questions concerning the financing.

Urgency

40. As things currently stand, Big Hugs is at risk of losing its license to produce marihuana. Without the cannabis licenses, Big Hugs is not a viable business entity.

41. The common denominator in all the problems faced by Big Hugs is King and proper corporate governance. With proper corporate governance, there is still time to fix the problems caused by King.
42. In addition, King's recent unilateral financing offerings are hugely problematic as they would destroy all current shareholders' equity positions in Big Hugs.
43. These particularly matters need to be dealt with urgently.

Part 3: LEGAL BASIS

1. This proceeding is brought by way of Petition pursuant to Rule 2-1(2)(b) of the *Supreme Court Civil Rules*, as an application that is authorized by an enactment, per s 186 of the *BCA*, to be made to the Court. On matters of procedure relating to the Petition, Rule 16 of the *Supreme Court Civil Rules* applies.

Annual General Meeting

2. Under section 182 of the *BCA*, a company must hold an annual general meeting ("AGM") every calendar year and not more than 15 months after the annual reference date for the preceding calendar year.
3. The Company last held its annual general meeting on August 6, 2019. Accordingly, the Company was required to hold an AGM no later than November 31, 2020.
4. Pursuant to section 186 of the *BCA*, the court may, on the application of a Director, order that a meeting of shareholders be called, held, and conducted in the manner the court considers appropriate, and the court may give such direction it considers necessary as to the calling, holding, and conducting of the meetings.

5. The court has a wide discretion under section 186 which should be exercised reasonable in accordance with the principles of corporate and securities law.¹
6. The shareholders of a British Columbia company have a statutory right to be accounted to by the directors at least once a year and to determine who should have charge of the company's affairs until the next meeting.²
7. The Respondents have failed to discharge their statutory duty to call an annual general meeting of the Shareholders of the Company. Accordingly, the Petitioner seeks an Order requiring the Company to call an annual general meeting.

Oppression Remedy

8. Section 227 of the *BCA* remedies oppressive conduct. A shareholder may apply to this Court for an order under section 227 on the ground that the affairs of the company have been conducted or powers of the directors have been exercised in an oppressive manner or that some act of the company has been done or threatened that is unfairly prejudicial to one or more of the shareholders.
9. Pursuant to section 227(3) of the *BCA*, on an application under section 227, the court may, with a view to remedying or bringing to an end the matters complained of, and subject to subsection (4) of the subsection, make any interim or final order it considers appropriate, including, among other things:
 - (a) directing or prohibiting any act;
 - (b) regulating the conduct of the company's affairs; and,
 - (c) varying or setting aside a resolution.

¹ *Brio Industries Inc. v ClearZv Canadian Beverage Corp.* (1995), 1 CCL 1 (BCSC), additional reasons (1995), 11 BCLR (3d) 343 (BCSC)

² *Richards v Westall Resources Ltd.* (1994), 96 BCLR (2d) 47 (CA) at para 11

10. According to the court in *BCE Inc. v 1976 Debentureholders*, 2008 SCC 69 [BCA], the two-part test for oppression is:
 - (a) does the evidence support the reasonable expectation the claimant asserts? and,
 - (b) does the evidence establish that the reasonable expectation was violated by conduct falling within the terms "oppression", "unfair prejudice", or "unfair disregard" of a relevant interest?
11. When an analysis turns on particular expectations arising from particular situations, useful factors from the governing authorities for determining whether a reasonable expectation exists includes: general commercial practice; the nature of the corporation; the relationship between the parties; past practice; steps the claiming party could have taken to protect itself; representations and agreements, and; the fair resolution of conflicting interests between corporate stakeholders.³
12. Further, under section 227(3) of the *BCA*, the court is granted a broad discretion to remedy the conduct complained of, and is provided with specific authority to remove a director or appoint directors in place of, or in addition to, the directors already in office.⁴

King's Conduct is Oppressive

13. As set out above, King has repeatedly and flagrantly breached the reasonable expectations of 117. King's breaches have left the Company in a precarious position, facing warranted distrust from shareholders, numerous pending lawsuits, and in outstanding breach of several provisions in the *BCA*.
14. Big Hugs is in dire need of new leadership to remedy the various issues plaguing the Company.

³ *BCE Inc. v 1976 Debentureholders*, 2008 SCC 69 at para. 72

⁴ *Aurum, LLC v Calais Resources Inc.*, 2016 BCSC 1173 at para 65; *Walker et al v Betts et al*, 2006 BCSC 1096 [Walker] at para 23

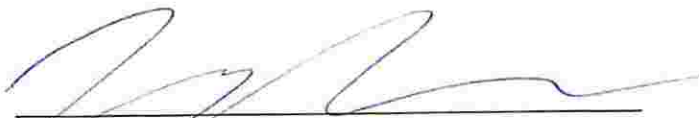
15. Accordingly, the Petitioner submits that this Court exercise its discretion to remove King and appoint two new directors of Big Hugs, as this is necessary to remedy the Company's inadequate corporate governance structure and to protect the shareholders' interests in the long-term financial viability of the Company.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Talal Yassin dated August 20, 2021;
2. Affidavit #1 of Spiro Kletas dated August 21, 2021;
3. Affidavit #1 of Darren Carrigan, dated August 23, 2021;
4. Additional affidavits to be provided as soon as they are available; and
5. Such further and other materials as this Honourable Court deems just.

The Petitioner estimates that the hearing of the petition will take two days and that the application for interim relief will take one day.

Dated: 23/Aug/2021


FOR: Signature of lawyer for the Petitioner
Patrick J. Sullivan

To be completed by the court only:

Order made

- ☐ in the terms requested in paragraph _____ of Part 1 of this petition
- ☐ with the following variations and additional terms:

Dated: ____/Aug/2021

Signature of

☐ Judge ☐ Master