

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
NO.:

500
17-046150-085

SUPERIOR COURT
(Civil Division)

T2 MARKETING INC., a legal person duly incorporated according to law, having its principal place of business in the City and District of Montreal at 1600 Notre-Dame Street West, Suite 201, H3J 1M1;

Plaintiff

-vs.-

6300511 CANADA INC., a legal person, having a its principal place of business at 52 Armstrong Street, 3rd Floor, in the City of Ottawa, Province of Ontario, K1Y 2V6;

-and-

MATTHEW McPARLAND, domiciled and residing at 45 Coleridge Street, in the City of Ottawa, Province of Ontario, K1V 8Y5;

-and-

MARC THIBODEAU, domiciled and residing at 17 Festive Private, in the City Ottawa, Province of Ontario, K2C 4A1;

-and-

PATRICK STACEY, domiciled and residing at 6 Cypress Gardens, in the City of Stittsville, Province of Ontario, K2S 1W5;

-and-

ASHLEY RUSHTON, domiciled and residing at 6 Cypress Gardens, in the City of Stittsville, Province of Ontario, K2S 1W5;

Defendants

MOTION TO INTRODUCE PROCEEDINGS

I. PARTIES

1. Plaintiff carries on business as a marketing and communications agency with over twenty (20) years of experience, with extensive expertise in both online (internet-based) marketing and offline marketing.
2. Susan Rakita (“**Rakita**”) and Ken McCormack (“**McCormack**”) are the principal officers and representatives of Plaintiff.
3. Defendant 6300511 Canada Inc. (“**Gaming Solutions**”) carries on business in the City of Ottawa, Ontario, ostensibly as a software development company; however, in fact, through Gaming Solutions, the Individual Defendants, operating under the trade names “Black Chip”, “Gaming Solutions” and “Unified Support Systems”, and under the brand name “Rival Gaming”, have developed and operate several online or internet based casinos.
4. Defendants Matthew McParland (“**McParland**”), Marc Thibodeau (“**Thibodeau**”), Patrick Stacey (“**Stacey**”) and Ashley Rushton (“**Rushton**”) (collectively, the “**Individual Defendants**”) are the principal officers, representatives and shareholders of Gaming Solutions.
5. Defendant Stacey has represented himself as being the Chief Executive Officer of “Rival Gaming”, as appears from a press release produced herewith as Exhibit P-1.
6. As will be demonstrated below:
 - (a) Black Chip Limited (“**BC**”) is a company purportedly based in Cypress that is controlled by the Individual Defendants and acts as licensor of software developed by Gaming Solutions under the “Rival Gaming” brand;
 - (b) Unified Support Systems (“**USS**”) is a company purportedly owned by BC and based in the Dutch Antilles established to manage customer support;
7. The Individual Defendants, through the corporate structure described above, own and operate several internet-based casinos (the “**Casinos**”), including “Pantasia.com”, “CocoaCasino.com”, “ThisIsVegas.com”, “ClubVegasUsa.com”, “Irishluckcasino.com”, “Lionslots.com”, “Absoluteslots.com”, “Paradise8.com” and “DaVincisGold.com”.
8. Scott Giesbrecht (“**Giesbrecht**”) was represented to Plaintiff as being the managing director of “Rival Gaming” (i.e. Defendant Gaming Solutions), acting under the supervision of the Individual Defendants.
9. Jan Pittner (“**Pittner**”) is a senior programmer employed by Gaming Solutions and working in its Ottawa premises; Mr. Pittner often participates in online forums as a representative of “Rival Gaming” (i.e. Defendant Gaming Solutions) under the screen names “Cocoa Rob” and “Rob Rival” in order to deal with customer inquiries and to resolve issues regarding

wagers, payment of amounts owing to clients and other similar matters.

II. CORPORATE STRUCTURE

10. In the month of April 2006, Rakita and McCormack discussed with the Individual Defendants certain marketing services that could be provided by Plaintiff for the benefit of the Defendants.
11. During a meeting held on or about April 5, 2006, between Rakita, McCormack and the Individual Defendants, at the offices of Defendant Gaming Solutions located at 52 Armstrong Street in Ottawa (the "**Ottawa Premises**"), Defendant McParland provided Plaintiff with a written explanation of the corporate structure of Defendant Gaming Solutions, BC and USS (the "**Corporate Structure**"), as appears from a copy thereof produced herewith as Exhibit P-1A.
12. In the Corporate Structure (Exhibit P-1A), Defendant McParland explains, *inter alia*, that although (i) customer support for the Casinos takes place in Ottawa, and (ii) the Individual Defendants (referred to as the "four owners") have full decision-making authority, marketing materials to be prepared by Plaintiff should not mention these facts.
13. In addition, as appears from the Corporate Structure (Exhibit P-1A), USS was established "for the appearance of managing customer support" in respect of the Casinos, although, in fact, "the overall customer support functions take place in Ottawa".
14. During the April 5, 2006 meeting, the Individual Defendants demonstrated to Rakita and McCormack the operation of the Casinos by the Individual Defendants from the Ottawa Premises, including the management of customer accounts, approval of customers, acceptance of wagers, including wagers from Canadian and US residents, payment of winnings, and transfers of funds between accounts;
15. Further examples of the management of customers' accounts is seen in the various message board postings made by Pittner from Ottawa, copies of which are produced herewith as Exhibit P-2.
16. The reason for setting up BC and USS is clearly set forth in the Corporate Structure (Exhibit P-1A) as follows:

"We have set up the organization so that there is no obvious connection back to us [i.e. the Individual Defendants] in Canada and we want to be sure that although the owners actually own all of the companies, all marketing will focus only on Black Chip, Rival and USS."
17. Accordingly, all of the corporations are, in reality, *alter egos* of the Individual Defendants in order to disguise the Individual Defendants' ownership of the Casinos, and *de facto* operation and management thereof from the Ottawa Premises.

III. INITIAL MARKETING SERVICES

18. As a result of the preliminary discussions between Plaintiff and Defendants, a document entitled "Rival Three Month Marketing Budget" was prepared by Plaintiff (the "**Budget**"), which Budget was signed on behalf of Defendants by Giesbrecht on April 5, 2006 in the presence of and as authorized by the Individual Defendants at the Ottawa premises, a copy of which Budget is produced herewith as Exhibit P-3.
19. The Corporate Structure (Exhibit P-1A), clearly indicates that, while Giesbrecht was represented to have some involvement in the marketing process, "all decisions with regards to marketing will be made by the principles [sic] at our Ottawa location."
20. As appears from the Budget, the initial work undertaken by Plaintiff involved the preparation of a trade show booth and supporting marketing materials in respect of the Casinos for the Global Interactive Gaming Summit and Expo ("**GIGSE**") that was held in June 2006 at the Palais des Congres in Montreal.
21. All of the Individual Defendants attended at GIGSE and expressed their complete satisfaction with the work carried out by Plaintiff.

IV. MARKETING AGREEMENT

22. Following completion of the GIGSE project, the Individual Defendants advised Plaintiff's representatives that they wished to enter into a twelve (12) month agreement with Plaintiff in order to handle all of the corporate marketing in respect of the Casinos.
23. Accordingly, in June, 2006, Plaintiff prepared a draft agreement entitled "Marketing Services Contract", a copy of which is produced herewith as Exhibit P-4.
24. In accordance with Defendants' policy, as explained in the Corporate Structure (Exhibit P-1), that there should be no obvious connection between the Casinos and the Defendants, the agreement was to be executed by and between Plaintiff and BC; however, it was clearly understood by all parties (as evidenced by the Corporate Structure) that Plaintiff's clients in respect of all marketing work pursuant to the said agreement were Defendants.
25. The draft agreement provided for a monthly retainer in the amount of Forty Thousand Dollars (\$40,000.00) (which amount was to be revised after three (3) months and for a fee of Eighty-Five Dollars (\$85.00) per hour for work outside of the scope of the mandate set forth in section 5 of the draft agreement.
26. During a meeting held in the month of June 2006 between Rakita, McCormack and the Individual Defendants at the Ottawa Premises, all of the terms and conditions set forth in the draft agreement were agreed by all parties.
27. At this meeting, Plaintiff was advised that it should immediately commence work as set forth

in the draft agreement and that a signed copy thereof would be delivered forthwith.

28. As there had been a meeting of the minds with respect to the scope of Plaintiff's mandate and the remuneration therefor, Plaintiff commenced work on the various projects outlined therein, including websites, marketing materials, advertising, media partnerships and licensee marketing.
29. Thereafter, on or about July 13, 2006, representatives of Plaintiff were requested to attend a meeting with the Individual Defendants at the Ottawa Premises.
30. During the meeting, the Individual Defendants requested certain modifications to the agreement (which had not yet been formally executed although Plaintiff had commenced work in accordance with the verbal agreement reached at the June 2006 meeting), including, most notably, the request to add a clause permitting Defendants to terminate the agreement at their discretion following the initial three (3) months of the twelve (12) month term, upon thirty (30) days notice. This request is set forth in an e-mail from Defendant McParland, a copy of which is produced herewith as Exhibit P-5.
31. The Individual Defendants explained to Rakita and McCormack that the Rival Casinos were experiencing financial difficulties and it was necessary to have the ability to terminate the agreement as a result of such financial concerns.
32. Plaintiff did not agree to this termination clause, but did agree to amend the agreement to provide for a review of the monthly retainer after the initial three (3) month term.
33. Thereafter, in an e-mail dated July 19, 2006, Defendant McParland, on behalf of Defendants, requested further modifications to the draft agreement, as appears from a copy thereof produced herewith as Exhibit P-6.
34. These changes were made and a final draft of the agreement was prepared, a copy of which is produced herewith as Exhibit P-7.

V. BREACH OF THE AGREEMENT

35. Notwithstanding the agreement reached between Plaintiff and the Defendants in June 2006, and the fact that Plaintiff had commenced its work in accordance therewith, the whole to the complete satisfaction of the Defendants, by e-mail dated August 18, 2006 addressed by Giesbrecht to Rakita, Plaintiff was advised that "a decision has been taken to end Rival's retainer arrangement with T2 effective August 31, 2006", as appears from a copy of said e-mail produced herewith as Exhibit P-8.
36. In reality, as appears clearly from the said e-mail (Exhibit P-8), the reason for Defendants' cancellation of the agreement was due to their own financial problems and their inability to honor their obligations pursuant to the agreement.

37. In fact, as of the date of the forwarding of said e-mail (Exhibit P-8), Defendants had failed to pay the retainer amount due as of August 1, 2006.
38. After the exchange of numerous correspondence between the parties, Plaintiff agreed to meet with Defendants in order to resolve the dispute arising from the purported termination of the agreement.
39. As at September 1, 2006, the following amounts were owed to Plaintiff:
 - (a) USD\$964.67, pursuant to invoice #06-372 dated August 15, 2006 (“**Invoice 372**”), a copy of which is produced herewith as Exhibit P-9;
 - (b) USD\$20,000.00, pursuant to invoice #06-380 dated September 1, 2006 (“**Invoice 380**”), a copy of which is produced herewith as Exhibit P-10; and
 - (c) USD\$45,475.00, representing the balance owing pursuant to invoice #06-381, in the original amount of USD\$65,475.00 (“**Invoice 381**”), a copy of which is produced herewith as Exhibit P-11.
40. On September 8, 2006, Rakita and McCormack met with Defendant McParland at the Ottawa Premises; Pittner was also present at this meeting.
41. At the said September 8, 2006 meeting, Defendant McParland delivered to Ms. Rakita and Mr. McCormack three (3) separate bank drafts (the “**Drafts**”) totaling USD\$21,000.00 in payment of Invoice 372 and Invoice 380, namely:
 - (a) Bank draft issued by Royal Bank of Canada (“**RBC**”) in the amount of USD\$5,900.00 with a reference to A. Rushton, a copy of which is produced herewith as Exhibit P-12;
 - (b) Bank draft issued by RBC in the amount of USD\$6,200.00 with a reference to Patrick Stacey, a copy of which is produced herewith as Exhibit P-13; and
 - (c) Bank draft issued by Toronto-Dominion Bank in the amount of USD\$8,500.00 (“**TD Draft**”), a copy of which is produced herewith as Exhibit P-14.
42. At this meeting, Defendant McParland requested that Rakita and McCormack deliver all work product completed by Plaintiff to date; such work product was brought to the meeting and Defendant McParland was given an opportunity to review same, however, Plaintiff’s representatives clearly indicated that such materials would not be delivered until full payment of all amounts owing to Plaintiff was effected by Defendants.
43. After the meeting, Plaintiff deposited the Drafts in a branch of its financial institution, The Bank of Nova Scotia (“**BNS**”), located in Ottawa.

44. On or about September 22, 2006, Plaintiff received notice from BNS that the TD Draft had been dishonored as a result of a “stop payment” order that had been purportedly issued in respect thereof, as appears from notification received by Plaintiff from BNS, a copy of which is produced herewith as Exhibit P-15.
45. Following inquiries made by Plaintiff with BNS, it was revealed that an Affidavit had been signed by Defendant Stacey, which Affidavit alleged that an unidentified person purportedly representing Plaintiff had stolen the TD Draft at a warehouse in Montreal;
46. Following its investigation, and given that the TD Draft had been deposited in Ottawa and not Montreal, BNS concluded that the said Affidavit was obviously false, and accordingly, credited Plaintiff with the amount of the TD Draft.
47. However, as a result of the defamatory allegations, Plaintiff continues to have difficulty in its banking arrangements with BNS, which has caused and continues to cause damages to Plaintiff.
48. The false and defamatory Affidavit is clear evidence of Defendants’ bad faith herein.
49. By letter from its attorneys dated December 21, 2007, a copy of which is produced herewith as Exhibit P-16, Plaintiff demanded payment from Defendants of the balance owing to Plaintiff pursuant to Invoice 381, namely the sum of USD\$45,475.00, the whole under reserve of its right to claim any and all damages suffered as a result of Defendants’ breach of contract and bad faith.
50. As of the present date, Defendants have refused and/or neglected to pay the said sum.
51. Accordingly, Plaintiff is entitled to claim from Defendants, solidarily, the following amounts:
 - (a) USD\$45,475.00, the Canadian dollar equivalent of which, as of the present date is \$57,175.72, based on the rates as given by the Bank of Canada, a copy of such currency conversion is produced herewith as Exhibit P-17;
 - (b) CAN\$50,000.00 representing damage to Plaintiff’s reputation;
 - (c) USD \$244,040.00, the Canadian dollar equivalent of which, as of the present date is \$306,831.49, representing the monthly retainers to have been paid by Defendants for the balance of the term of the agreement;
 - (d) CAN\$50,000.00 representing moral and punitive damages as a result of Defendants’ bad faith; and
 - (e) Judicial and extra-judicial costs on a solicitor-client basis.
52. The present motion is well-founded in fact and in law.

WHEREFORE, THE PLAINTIFF PRAYS FOR JUDGMENT OF THIS HONOURABLE COURT:

MAINTAINING the present action;

CONDEMNING Defendants solidarily to pay to Plaintiff the sum of \$464,007.21 plus interest at the legal rate and the additional indemnity provided for by law from and after the date of service of this action;

THE WHOLE WITH COSTS.

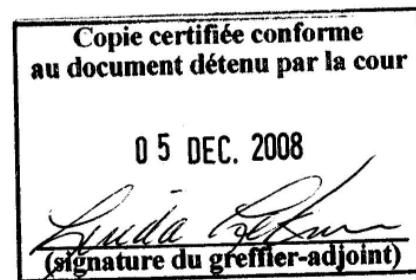
MONTREAL, October 24, 2008

(sgd) Kugler Kandestin, L.L.P.

KUGLER KANDESTIN, L.L.P.
Attorneys for Plaintiff

TRUE COPY

Kugler Kandestin, L.L.P.
KUGLER KANDESTIN, L.L.P.



NOTICE TO DEFENDANT

Take notice that the Plaintiff has filed this action or application in the office of the Superior Court of the judicial district of Montreal.

To file and answer to this action or application, you must first file an appearance, personally or by advocate, at the courthouse of Montreal located at 1 Notre-Dame Street East, Montreal, Quebec, within 10 days of service of this motion.

If you fail to file an appearance within the time limit indicated, a judgment by default may be rendered against you without further notice upon the expiry of the 10 day period.

If you file an appearance, the action or application will be presented before the Court on **December 10, 2008 at 9:00 a.m.** in room **2.16** of the courthouse. On that date, the Court may exercise such powers as are necessary to ensure the orderly progress of the proceeding or the Court may hear the case, unless you make a written agreement with the Plaintiff or the Plaintiff's advocate on a timetable for the orderly progress of the proceeding. The timetable must be filed in the office of the Court.

In support of the motion to institute proceedings, the Plaintiff discloses and attaches hereto to following exhibits:

- Exhibit P-1 Written explanation of the corporate structure of Defendant Gaming Solutions, BC and USS.
- Exhibit P-1A Corporate structure of Defendant Gaming Solutions, BC and USS
- Exhibit P-2 Rival Three Month Marketing Budget;
- Exhibit P-3 Marketing Services Contract;
- Exhibit P-4 E-mail request to add a clause permitting the termination of the agreement at Defendants' discretion following the initial three (3) months of the twelve (12) month term.
- Exhibit P-5 E-mail dated July 19, 2006 requesting further modifications to the draft agreement.
- Exhibit P-6 Final draft of the agreement.
- Exhibit P-7 E-mail dated August 18, 2006 from Giesbrecht to Rakita indicating the intention to terminate the retainer arrangement effective August 31, 2006.
- Exhibit P-8 Invoice #06-372 in the amount of USD\$964.67.
- Exhibit P-9 Invoice #06-380 in the amount of USD\$20,000.00.

- Exhibit P-11 Notification by The Bank of Nova Scotia that the TD Draft had been dishonored.
- Exhibit P-12 Bank draft issued by Royal Bank of Canada in the amount of USD\$5,900.00 with a reference to A. Rushton.
- Exhibit P-13 Bank draft issued by Royal Bank of Canada in the amount of USD\$6,200.00 with a reference to Patrick Stacey.
- Exhibit P-14 Bank draft issued to Toronto-Dominion Bank in the amount of USD\$8,500.00.
- Exhibit P-15 Notification from The Bank of Nova Scotia that the TD Draft had been dishonored as a result of a “stop payment”.
- Exhibit P-16 Demand letter to Defendants dated December 21, 2007.
- Exhibit P-17 Currency conversion rate from the Bank of Canada.

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COUR SUPERIOR COURT
DISTRICT OF MONTREAL

T2 MARKETING INC., a legal person duly incorporated according to law, having its principal place of business in the City and District of Montreal 1st 1600 Notre-Dame Street West, Suite 201 H3J 1M1;

Plaintiff

-vs-

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-and-

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-and-

PATRICK STACEY, domiciled and residing at 6 Cypress Gardens, in the City of Stittsville, Province of Ontario, K2S 1W5;

-and-

ASHLEY RUSHTON, domiciled and residing at 6 Cypress Gardens, in the City of Stittsville, Province of Ontario, K2S 1W5;

Defendants

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MOTION TO INTRODUCE PROCEEDINGS

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Me Gordon Levine
O/F: 4386-001

KUGLER KANDESTIN

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BG 0132

CANADA

SUPERIOR COURT

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N° : 500-17-046150-085

T2 MARKETING INC.

Plaintiff

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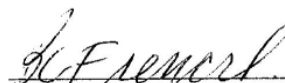
ASHLEY RUSHTON

Defendants

APPEARANCE

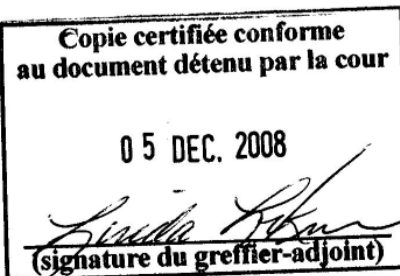
We, the undersigned attorneys, appear on behalf of the Defendants in the present case, under reserve of all legal rights and recourses.

Montréal, November 3, 2008



BCF LLP

Attorneys for the Defendants



Lesdits documents
ont été déposés au
Bureau de la Justice
à Montréal le 03/11/08
à 13h46

2008-11-04
085:00

04 NOV. 2008

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DISTRICT OF MONTRÉAL

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-and-

PATRICK STACEY

-and-

ASHLEY RUSHTON

Defendants

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APPEARANCE

ORIGINAL

MeNancy Boyle

Our file: 16754-1



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MARK AGENTS

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CANADA
PROVINCE OF QUEBEC
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PATRICK STACEY,

-and-

ASHLEY RUSHTON,

Defendants

AMENDED LIST OF EXHIBITS

- Exhibit P-1 ~~Written explanation of the corporate structure of Defendant Gaming Solutions, BC and USS~~ Press Release dated May 16 at 13:41:44 GMT;
- Exhibit P-1A Corporate structure of Defendant Gaming Solutions, BC and USS;
- Exhibit P-2 Message board postings;
- Exhibit P-3 Rival Three Month Marketing Budget;
- Exhibit P-4 Draft Marketing Services Contract;
- Exhibit P-5 E-mail request to add a clause permitting the termination of the agreement at Defendants' discretion following the initial three (3) months of the twelve (12) month term.
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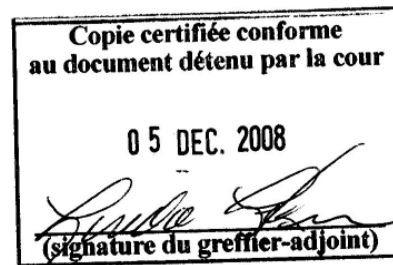
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MONTREAL, November 17, 2008

Kugler Kandestin, L.L.P.

KUGLER KANDESTIN, L.L.P.

Attorneys for Plaintiff



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ASHLEY RUSHTON

Defendants

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GREFFE DE MONTREAL
PLENITUDE

AMENDED LIST OF EXHIBITS

ORIGINAL

Me Gordon Levine
O/F: 4386-001

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