

C953474

NO.
Vancouver Registry



SUPREME COURT OF BRITISH COLUMBIA

HUGH JOHN FINNAMORE

PETITIONER

AND:

GILBERT MURRAY WHITLOCK, TRUSTEE,
UFCW, LOCAL 777 EDUCATION AND TRAINING FUND TRUST

and

JERRY JOHN SULLIVAN, TRUSTEE,
UFCW, LOCAL 777 EDUCATION AND TRAINING FUND TRUST

and

UNITED FOOD AND COMMERCIAL WORKERS UNION
INTERNATIONAL UNION,
LOCAL 777

RESPONDENTS

AFFIDAVIT

I, HUGH FINNAMORE, Businessman, of #4 - 5400 Patterson Avenue, Burnaby, British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. I am the Petitioner in this action and as such have personal knowledge of the facts and matters stated herein except where such facts and matters are stated to be on information and belief and where so stated, I verily believe them to be true.

2. I am a member of the United Food and Commercial Workers, International Union Local 777 (the "Union"), and was

until March 22, 1995 a Trustee for the UFCW Local 777 Education and Training Fund Trust (the "Trust").

3. Now shown to me and attached as Exhibit A to this my affidavit is a copy of the Trust Deed for the Trust dated December 11, 1990.

4. The persons named as Trustees in this document and whose signatures demonstrate their acceptance of the trusts are Gilbert Murray Whitlock ("Whitlock") and Jerry John Sullivan ("Sullivan") and me.

5. Whitlock is also president of the Union and Sullivan is a vice-president of the Union. The terms for these offices have expired on December 31, 1993 and no elections have yet been called. I believe that these persons are acting in these offices without constitutional authority.

6. The Trust Deed provides in section 2.1 that all assets of the Trust will be jointly vested in the Trustees.

7. The Trust Deed provides in section 3.1 that the number of Trustees shall be three unless there is unanimous consent of the Trustees to alter that number. Section 3.1 provides that Trustees must be appointed in writing.

8. The Trust Deed provides in section 3.5 that Trustees may be removed by the president of the Union only after being given notice in writing.

9. The Trust Deed provides in section 3.14 provides that the Trustees must meet at least twice per year.

10. To my knowledge the Trustees have never had a meeting and have never, in particular, voted to change the number of Trustees.

11. Now shown to me and attached as Exhibit B to this my affidavit is a copy of an affidavit sworn by Whitlock in other proceedings.

12. In Exhibit B, Whitlock deposes that I have not been a Trustee for at least two years. This is not true. Until March 22, 1995 I had not resigned as a Trustee and I have never received notice in writing, or orally, from Whitlock that I was being removed as a Trustee.

13. To my knowledge the Trust has never been audited or prepared financial statements as required by section 4.6 of the Trust Deed.

14. To my knowledge the Trustees have never appointed an Auditor as required by section 3.15 and 4.4 of the Trust Deed.

15. To my knowledge the Trustees have never held elections amongst themselves for the offices of Chairman or Secretary as required by section 3.15 of the Trust Deed.

16. In March 1995 I learned that the Trust had purchased a building at 3010-3012 Boundary Road in Burnaby (the "Building"), in February, 1995.

17. The Building is occupied by the Union. Until March 24, 1995, I also maintained an office in the Building.

18. When I learned that the Trust had purchased the Building without consulting me, I began to investigate the other financial transactions of the Trust.

19. Until that I time I had assumed that the Trust was dormant apart from receiving the employer contributions from

time to time, therefore, I was not concerned that no meetings of the Trustees were taking place.

20. In the course of my investigation I discovered a number of cancelled cheques in large amounts made out to organizations and individuals that struck me as unusual.

21. The Trust maintains a bank account at the Royal Bank of Canada with account number, 135-181-6. The account name is the United Food and Commercial Workers Local #777 Education/Training Trust Fund. The cheques on this account have the name United Food and Commercial Workers Union Local # 777 "Benefit Trust" written on them.

22. Now shown to me and attached as Exhibit C to this my affidavit is a copy of a cheque written on the Trust's bank account dated April 14, 1992 to the National Education Training Health and Safety Fund for \$15,937.43.

23. The two signatories to this cheque are Whitlock, and his wife, Bonnie Whitlock. Mrs. Whitlock is currently a vice-president of the Union but has never to my knowledge ever been a Trustee and no notice of her appointment was ever delivered to me.

24. Page two of Exhibit C shows the deposit stamp for the cheque drawn to the National Education, Training & Health & Safety Fund. This cheque was deposited to an account called the UFCW Training Fund at the Toronto Dominion Bank, in Etobicoke, Ontario.

25. Now shown to me and attached as Exhibit D to this my affidavit is a copy of a cheque written on the Trust's bank account dated November 29, 1993 to A. Ahee (in trust) for \$25,000.00

26. The two signatories to Exhibit D are Whitlock and James Smith. Mr. Smith is now deceased, however, at the time that this cheque was signed, to my knowledge, Mr. Smith was not a Trustee and no notice of his appointment was ever delivered to me.
27. Now shown to me and attached as Exhibit E to this my affidavit is a copy of the statement of the Trust's bank account no. 135-181-6 for the period December 24, 1993 to January 26, 1994.
28. Exhibit E shows the cheque at Exhibit D passing through the account and further shows the total amount of money in the account at that date as \$531,286.63.
29. Now shown to me and attached as Exhibit F to this my affidavit is a copy of a cheque drawn on the Trust's bank account dated January 25, 1994, in the amount of \$9,379.31, payable to the National Training Education & Health & Safety Fund.
30. Page two of Exhibit F is the back of this cheque, showing the deposit stamp for the United Food and Commercial Workers, Local 175, Educational Fund account at the Bank of Nova Scotia in Streetsville, Ontario. This appears to not be the entity to whom the cheque is drawn and is also a different account to that which the cheque at Exhibit C was deposited.
31. Now shown to me and attached as Exhibit G to this my affidavit is a copy of a cheque drawn on the Trust's bank account, dated June 22, 1994 in the amount of \$150,000.00, to the UFCW Education Fund.
32. The signatories to this cheque are Whitlock and James Smith.

33. Page two of Exhibit G is the back of the cheque and appears to show that the cheque has been deposited to an account different from both Exhibit C and Exhibit F.
34. Page three of Exhibit G is the bank statement for the Trust's bank account for the period, June 24, 1994 through July 26, 1994, showing the cheque for \$150,000 clearing the account.
35. Exhibit G also shows that the balance of the account at that time was \$619,569.33.
36. Now shown to me and attached as Exhibit H to this my affidavit is a copy of a cheque drawn on the Trust's bank account dated February 1, 1995, in the amount of \$520,071.25, made out to Ferguson Gifford in Trust.
37. The signatories to this cheque are Whitlock and Sullivan.
38. Also part of Exhibit H is a copy of the bank statement for the Trust's bank account for the period January 26, 1995 through February 24, 1995. This statement shows the cheque at Exhibit H clearing the account and shows the balance of the account at that time to be \$88,284.17.
39. Now shown to me and attached as Exhibit I to this my affidavit is a copy of a document which I obtained from the New Westminster Land Title Office with respect to the Building.
40. Exhibit I shows that the building was purchased by the Trust naming Sullivan as Nominee, and it attaches the Trust Deed which names me as a Trustee of the Trust.

48. In this letter Whitlock states that "the only thing we removed from our offices was Hugh Finnamore."
49. My employer, the United Food and Commercial Workers, International Union, have transferred me to Alberta because of the 'tension' between myself and the president of the Union, Whitlock.
50. Subsequent to my being ordered to leave the premises occupied by the Union and being transferred to Alberta, I have continued to request that an audit of this Trust be done.
51. Now shown to me and attached as Exhibit L to this my affidavit is a copy of letter written by me to Whitlock and Sullivan, dated May 29, 1995.
52. In the letter at Exhibit L, I again expressly requested that an audit be performed and that there be some explanation made for the unusual financial transactions.
53. This letter was copied to the United Food and Commercial Workers International Union President in Washington, D.C. and the Canadian Director, in Toronto, Ontario.
54. To date I have received no response to this letter.
55. I do not know whether the unusual transactions have been conducted out of inadvertence or whether there was an intent to deal inappropriately with the Trust Funds, however, I am concerned about the rights of the beneficiaries of this fund, of which I am one, and my own exposure to liability as a Trustee.

41. I was not at any time requested to participate in the decision to purchase this building, nor was I informed of any meeting of the Trustees regarding the decision to purchase this building.

42. I learned of the purchase of this building when a solicitor telephoned the Union and requested a copy of the Trust Deed. The solicitor advised me that he needed it because of the purchase of the Building. This telephone call took place in February 1995.

43. Now shown to me and attached as Exhibit J to this my affidavit is a copy of a letter written by me to Whitlock and Sullivan, dated March 22, 1995.

44. I wrote this letter upon discovering the cheques exhibited to this affidavit and learning of the building purchase for which I believe the cheque at exhibit H relates. In my letter I request that an audit be commenced immediately and I resigned as a Trustee to avoid exposure to further liability.

45. On March 24, 1995, Whitlock ordered me to give him my keys to the Building and the offices inside. He also advised me that I was only to return to the Building to collect correspondence from time to time.

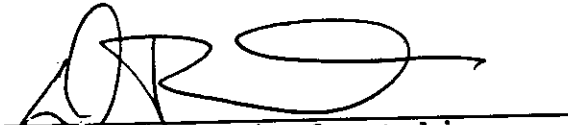
46. On May 8, 1995, Whitlock advised me that I am no longer permitted to enter the building under any circumstances.

47. Now shown to me and attached as Exhibit K to this my affidavit is a letter from Whitlock, dated April 17, 1995, to the solicitor for Workplace Strategies, a company for which I work doing consulting for the Union.

56. My concern increases each time I request information about the operation of the Trust and receive no response, or a hostile, response, such as being ordered to leave the building where the Trust maintains its office.

57. I am swearing this affidavit in support of an petition for an independent audit of the Trust and for no other improper purpose.

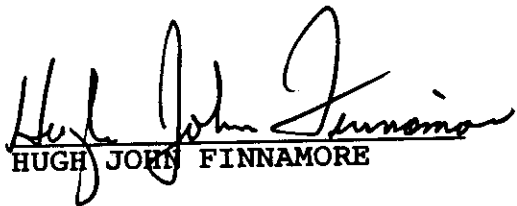
SWORN BEFORE ME at Edmonton,
Alberta. on this 14th Day of
June 1995



A Notary Public for taking
Oaths in Alberta.

DENNIS F. PAWLOWSKI

Print or type name and affix
seal.


HUGH JOHN FINNAMORE

This Affidavit is filed by Melinda Munro of Munro, Parfitt
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