

SUPREME COURT OF NOVA SCOTIA

Citation: *Enterprise Cape Breton Corporation v. Crown Jewel Resort Ranch, Inc.*,
2014 NSSC 105

Date: 20140328
Docket: SYD No. 423486
Registry: Sydney

Between:

Enterprise Cape Breton Corporation, a body
corporate, incorporated pursuant to the *Enterprise
Cape Breton Corporation Act*, enacted as Part II to the
Government Organization Act, Atlantic Canada, 1987,
R.S., 1985. C 41 (4th Supp.) (“ECBC”)

Applicant

v.

Crown Jewel Resort Ranch, Inc., a body corporate
Incorporated under the laws of Nova Scotia (“Crown Jewel”)
And I.N.K. Real Estate Inc., a body corporate incorporated
Under the laws of Nova Scotia (“I.N.K.”)

Together the Respondents

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Judge: The Honourable Justice Frank Edwards

Heard: March 5, 2014 in Sydney, Nova Scotia

Written Decision: March 28, 2014

Subject: Motion to have law firm removed due to conflict of interest.
Code of Professional Conduct:
s. 3.3-2 Use of Confidential Information
3.4-2 Consent

3.4-10 acting against former clients

- Facts:** Motion to have law firm removed brought by Principal of Respondent Companies (RC's) during application to have Receiver appointed. Mover claimed that Applicant's lawyers had previously acted for him personally in divorce proceedings. As such, Mover claimed that law firm possessed confidential financial information which would compromise the Respondents' ability to resist the Receivership Application.
- Issues:** (1) Was the law firm in breach of the Code of Professional Conduct?
- Result:** Motion dismissed. Law firm did not possess any confidential information relevant to the Receivership Application. The Mover had voluntarily kept the Applicant provided with all information relevant to the financial health of the Respondent Companies throughout the divorce proceedings. Further, the Mover had always consented to the law firm representing both himself and the Respondent Companies, while at the same time acting for the Applicant. The Mover had ceased to be the law firms' client a year **earlier**. The eleventh hour conflict motion was clearly a delay tactic.
- Cases Noted:** *MacDonald Estate v. Martin* [1990] 3 S.C.R. 1235;
Canadian National Railway Co. v. McKercher LLP [2013] S.C.J. No. 39;

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