

CITATION:

ONTARIO SUPERIOR COURT OF JUSTICE (TORONTO REGION)  
**CIVIL ENDORSEMENT FORM**  
*(Rule 59.02(2)(c)(i))*

**BEFORE** Judge: **Myers J** Court File Number: **CV-20-00645492-0000**

**Title of Proceeding:**  
**EQUIBIT GROUP LTD.** Plaintiff(s)  
-v-  
**THE ATTORNEY GENERAL OF CANADA et aa** Defendants(s)

**Case Management:**  Yes If so, by whom:  No

**Participants and Non-Participants:** *(Rule 59.02(2)(vii))*

Party	Counsel	E-mail Address	Phone #	Participant (Y/N)
1) Plaintiff	Sara J. Erskine	sara.erskine@wehLitigation.com		Y
2) Defendant				Y

**Date Heard:** *(Rule 59.02(2)(c)(iii))* **October 5, 2022**

**Nature of Hearing (mark with an "X"):** *(Rule 59.02(2)(c)(iv))*

Motion  Appeal  Case Conference  Pre-Trial Conference  Application

**Format of Hearing (mark with an "X"):** *(Rule 59.02(2)(c)(iv))*

In Writing  Telephone  Videoconference  In Person

If in person, indicate courthouse address:

**Relief Requested:** *(Rule 59.02(2)(c)(v))*

**Default judgment v Sergei Sachkov**

**Disposition made at hearing or conference (operative terms ordered):** *(Rule 59.02(2)(c)(vi))*

**Judgment granted for liability. Assessment of damages is adjourned pending delivery of further evidence and argument by no later than October 31, 2022.**

**Costs:** On a **N/A** indemnity basis, fixed at \$ \_\_\_\_\_ are payable  
by \_\_\_\_\_ to \_\_\_\_\_ [when]

**Brief Reasons, if any: (Rule 59.02(2)(b))**

There is no doubt that the defendant Sachkov ought to be held liable to the plaintiff for breach of contract at minimum. He failed to turn over the code he was paid to draft and did draft for the plaintiff. He left them months behind their planned start up development. It may be that Mr. Sachkov released the code to CSIS or others in breach of confidence. He may also have conspired to injure or to commit an illegal act (breach of confidentiality) knowing injury to the plaintiff was likely. Assuming he has the code still, then he should hold it in trust for the plaintiff and his failure to turn it over is a breach of trust.

But, none of the torts on top of the breach of contract add damages. The plaintiff was knocked off its planned development and suffered injury to its goodwill in the marketplace due to Mr. Sachkov's failure to give the plaintiff the code as required. If the code was released to CSIS, the plaintiff has not shown that it suffered an extra penny of loss. Neither is the conspiracy said to have done anything additional to harm the plaintiff.

The evidence on which the plaintiff asks for damages is insufficient. The bald projections of foregone future income tell me nothing. This company has never operated profitably. This is not unexpected in the start-up space. But it seems to have stopped trying to do so in 2019. It went from salaries of \$1 million in fiscal 2018 to just \$50,000 in 2019. I am not told why operations ceased. I am not told how realistic the income projections are or what assumptions underlie them. They are not supported by an expert in the industry. I do not doubt the math. But what basis is there to say that the performance predicted is at all realistic or forgone due to anything done by Mr. Sachkov? I am not at all satisfied that the plaintiff suffered loss of income approaching the amounts claimed due to the breaches of contract and torts of Mr. Sachkov.

I would currently award nominal damages. I am not satisfied that there is sufficient evidence of reprehensible conduct as part of an intentional tort to justify punitive damages.

I will hold this motion to November 1, 2022 before releasing a final assessment of damages. I will await further evidence and submissions which may be delivered by the plaintiff to my Judicial Assistant at [therese.navrotski@ontario.ca](mailto:therese.navrotski@ontario.ca) on or before October 31, 2022.

**Additional pages attached:**  Yes  No

**October 5**, 20 **22**

Date of Endorsement (Rule 59.02(2)(c)(ii))

Signature of Judge/Associate Justice(Rule 59.02(2)(c)(i))