

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

EQUIBIT GROUP LTD.

Plaintiff

and

THE ATTORNEY GENERAL OF CANADA, JOHN DOE, JANE
DOE, SERGEI SACHKOV, AND KARTIK PATEL

Defendant

NOTICE OF MOTION

THE DEFENDANT, Sergei Sachkov ("**Sachkov**"), will make a motion to a Judge on
day, the of , 2023 at 10:00 a.m., or as soon after that time as the motion can
be heard.

PROPOSED METHOD OF HEARING: the motion is to be heard

- In writing under subrule 37.12.1 (1) because it is on consent;
- In writing as an opposed motion under subrule 37.12.1 (4);
- In person;
- By telephone conference;
- By video conference.

at the following location: 330 University Avenue, 9th Floor, Toronto, Ontario, M5G 1R7.

THE MOTION IS FOR:

1. an order setting aside the noting in default dated May 17, 2021;
2. an order setting aside the order of Justice Myers dated October 5, 2022, granting the
plaintiff, Equibit Group Ltd. ("**Equibit**") judgment (the "**Judgment for Liability**") for
liability against Sachkov;
3. an order setting aside the order of Justice Myers dated December 21, 2022 granting Equibit

- judgment for damages (the "**Judgment for Damages**") in the amount of \$1,744,711, against Sachkov;
4. an order setting aside all enforcement and execution proceedings commenced by Equibit against Sachkov to enforce the Liability Judgment and the Damages Judgment (collectively the "**Judgments**");
 5. an order granting the defendant leave to file and deliver a statement of defence within 20 days of the date of the order;
 6. an order terminating and setting aside the notices of garnishment issued to the Canadian Imperial Bank of Commerce ("**CIBC**") and MetaVRse;
 7. an order terminating and setting aside any writs of seizure and sale that may have been filed against Sachkov;
 8. an order restraining the Sheriff of the Regional Municipality of Halton (the "**Sheriff**") from distributing to Equibit the funds garnished (the "**Garnished Funds**") from CIBC and presently held by the Sheriff;
 9. an order directing the Sheriff to remit the Garnished Funds to Sachkov;
 10. costs of this motion; and,
 11. any further relief that this Honourable Court deems just.

THE GROUNDS FOR THE MOTION ARE:

A. Background

1. In 2013, Sachkov immigrated to Canada from Russia.
2. On or about March 13, 2017, Sachkov began employment with Equibit. Equibit carried on business in the cryptocurrency sphere
3. During Sachkov's employment with Equibit, he assisted with Equibit's development of its core code ("**Code**").
4. On or about August 13, 2018, Sachkov resigned from Equibit.
5. Equibit never raised any of the concerns about the Code or made any demands of Sachkov either at the time of the resignation or before the issuance of the within action (the "**Action**"),
6. In November 2019, Equibit dissolved operations, and ceased carrying on business, in

Canada.

7. On July 16, 2020, Equibit obtained a certificate of revival., probably to allow it to commence the Action.

B. The Action

8. On August 12, 2020, Equibit commenced the Action, by way of statement of claim (the "**Claim**"), against Sachkov and other defendants.
9. On February 9, 2021, a process server served a copy of the Claim on Sachkov. The process server did not advise Sachkov what the Claim entailed or meant.
10. Sachkov was not familiar with the Canadian legal system and understood Equibit had ceased all operations in 2019. In addition, because fraud is rampant in the cryptocurrency industry, Sachkov feared the Claim might be part of a targeted effort to defraud him.
11. Given Sachkov's lack of experience with the Canadian legal system, his fear about fraud within the crypto industry, and his belief that Equibit ceased operations, he did not understand that it was necessary for him to respond to the Claim and file a defence.
12. On May 17, 2021, Equibit noted Sachkov in default.
13. On October 5 and December 21, 2022, Justice Myers granted the Judgment for Liability and the Judgment for Damages (the "**Judgments**").

C. Enforcement and Sachkov learns of the Judgments

14. On February 9, 2023 and in furtherance of the Judgment for Damages, Equibit issued notices of garnishment to CIBC and to Sachkov's current employer, MetaVRse.
15. CIBC froze Sachkov's bank accounts and transferred the amount of approximately \$433,265.59 to the sheriff.
16. Similarly, MetaVRse informed Sachkov of the notice of garnishment and garnished Sachkov's wages.
17. On or about February 17, 2023, Sachkov retained counsel to set aside the Judgments.
18. On February 23, 2022, Sachkov's newly retained counsel asked counsel for Equibit whether Equibit would consent to set aside the Judgments. Equibit refused.

D. Strong Defence, No Prejudice and Interest of Justice

19. Sachkov has a strong defence to the Claim and denies that he caused any of the damages

alleged by Equibit.

20. The Action remains in its infancy.
21. There is no prejudice to Equibit if the Judgments are set aside.
22. Conversely, Sachkov will be severely prejudiced if the Judgments remain and he is prevented from defending himself.
23. The setting aside of the Judgments is in the interest of justice.
24. Rules 1, 3.02, 19.03 and 19.08(1) and (3).
25. Any further grounds as the lawyers may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion: Affidavit of Sergei Sachkov, sworn March 27, 2023.

SPEIGEL NICHOLS FOX LLP
Barristers & Solicitors
200-1 Robert Speck Parkway
Mississauga, Ontario
L4Z 3M3

Kim Ferreira
LSO No. 51020L
Email: kim@ontlaw.com
Tel: 905-366-9700 ext. 229
Fax: 905-366-9707

Lawyers for the defendant,
Sergei Sachkov

EQUIBIT GROUP LTD.
Plaintiff

-and- THE ATTORNEY GENERAL OF CANADA et al No. CV-20-00645492-0000
Defendants

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SPEIGEL NICHOLS FOX LLP
Barristers & Solicitors
1 Robert Speck Parkway, Suite 200
Mississauga ON L4Z 3M3

Kim Ferreira
LSO No. 51020L
kim@ontlaw.com

Tel - 905-366-9700 ext. 229

Lawyers for the defendant
Sergei Sachkov.

RCP-F 4C (September 1, 2020)