



No. *Court File No. VIC-S-S-212822*
Victoria Registry

In the Supreme Court of British Columbia

Civil Forfeiture Action in Rem Against

\$16,290.00 in Canadian currency seized by the Williams Lake RCMP on April 18, 2021 (the
“Money”), and its proceeds

Between

Director of Civil Forfeiture

Plaintiff

and

The Owners and all Others Interested in the Money, in Particular, Kelly Ross Black

Defendant

NOTICE OF CIVIL CLAIM – CIVIL FORFEITURE (IN REM)

Name and address of each plaintiff:

Director of Civil Forfeiture
c/o Ministry of Attorney General, Legal Services Branch
1001 Douglas Street
Victoria, BC V8W 9J7
Via Fax (250) 387-4002

Description of property: \$16,290.00 in Canadian currency (the “Money”) seized by the
Williams Lake RCMP on April 18, 2021, and its proceeds

To the defendant:

TAKE NOTICE that this action has been started against you by the plaintiff for the claims set
out in this notice of civil claim.

IF YOU INTEND TO RESPOND TO this action, or if you have a set-off or counterclaim that
you wish to have taken into account at the trial, YOU MUST FILE a response to civil claim in
Form 2 in the above registry of this court within 21 days after being served with a copy of the
filed notice of civil claim and SERVE a copy of the filed response to civil claim on the plaintiff’s
address for service.

YOU OR YOUR LAWYER may file the response to civil claim.

APPLICATION FOR JUDGMENT AGAINST THE MONEY MAY BE MADE IF YOU FAIL to file the response to civil claim within 21 days after being served with a copy of the filed notice of civil claim.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

The Defendant and the Money

1. The defendant, Kelly Ross Black (“K. Black”), whose occupation is unknown to the plaintiff, has an address for service c/o 105, 1449 St. Paul Street, Kelowna, British Columbia.
2. The money is \$2,290.00 in Canadian currency seized from K. Black and \$14,000.00 in Canadian currency seized from a 20011 Mercedes-Benz ML bearing British Columbia licence plate number LJ794S (the “Vehicle”) by the RCMP on April 18, 2021 (collectively, the “Money”), and its proceeds.

The Investigation

3. On April 18, 2021, the RCMP observed the Vehicle speeding on Highway 97 near Red Rock, British Columbia.
4. The RCMP conducted a traffic stop of the Vehicle.
5. The RCMP ticketed the driver of the Vehicle (the “Driver”) for speeding and failing to display an ‘N’ sign.
6. The RCMP identified K. Black as the front seat passenger of the Vehicle.
7. During the course of the traffic stop, the RCMP developed concerns about possible drug presence in the Vehicle.
8. The RCMP detained K. Black and the Driver for investigation into the possession of controlled substances.
9. The RCMP conducted a pat down officer safety search of K. Black and located a large bundle of cash folded and held together by an elastic band, later counted to be \$2,290.00 in Canadian currency, a portion of the Money.

10. The RCMP arrested K. Black for possession of property obtained by crime.
11. The Vehicle was subjected to a police service dog examination. The dog provided a positive indication for the presence of a controlled substance.
12. The RCMP arrested K. Black and the Driver for possession of a controlled substance.
13. The RCMP searched the Vehicle incidental to arrest and located:
 - a. \$14,000.00 in Canadian currency, a portion of the Money, concealed in the engine compartment, with all the serial numbers pointed the same way and with a band at each end of the bundle;
 - b. a personal use amount of fentanyl;
 - c. drug paraphernalia; and
 - d. drug packaging material.
14. The Money was bundled or packaged in a manner not consistent with standard banking practices.
15. The RCMP seized the Money.
16. K. Black has a criminal record which includes convictions for possession of a controlled substance, possession for purpose of trafficking and trafficking a controlled substance.

Administrative Forfeiture Proceedings

17. The Director of Civil Forfeiture (the “Director”) initiated Administrative Forfeiture proceedings against the Money.
18. On August 26, 2021, the Director received a Notice of Dispute to Administrative Forfeiture Proceedings pursuant to s. 14.07 of the *Civil Forfeiture Act*, SBC 2005, c. 29 (the “Act”) from K. Black claiming an interest in the Money.

The Unlawful Activity

19. The Money is the proceeds and instruments of unlawful activity.
20. The Money has been used by K. Black to engage in unlawful activities which variously resulted in, or were likely to result in, the acquisition of property or an interest in property,

or caused, or were likely to cause serious bodily harm. To the extent that those unlawful activities are known to the Director, they consist of:

- a. possession, possession for the purpose of trafficking and trafficking controlled substances, contrary to the *Controlled Drugs and Substances Act*, SC 1996, c. 19 (the “*CDSA*”)
 - b. possession of the proceeds of crime contrary to s. 354 of the *Criminal Code of Canada*, RSC 1985, c. C-46 (the “*Criminal Code*”); and
 - c. failure to declare taxable income, in contravention of the *Income Tax Act*, R.S.C. 1985 c. 1,
- (the “Unlawful Activity”).

21. The defendant obtained the Money by participating in the Unlawful Activity.
22. The defendant intended to use the Money to engage in the Unlawful Activity.
23. If the Money is released to the defendant, it will likely be used for the Unlawful Activity.

Part 2: RELIEF SOUGHT

1. An order under s. 5(1) of the *Act* that the defendant’s interest in the Money, and its proceeds, including any interest, be forfeited to Her Majesty the Queen in right of the Province of British Columbia (the “Government”).
2. An order under s. 5(2) of the *Act* that the Money, and its proceeds, including any interest, be forfeited to the Government.
3. An order under s. 7(2) of the *Act* that the effective date of forfeiture of the Money to the Government is the date these proceedings are commenced.
4. An order under s. 26 of the *Act* that the Money, including any interest, be paid into the civil forfeiture account of the consolidated revenue fund.
5. Costs.

Part 3: LEGAL BASIS

1. Under s. 3(1) of the *Act*, the Director may apply to court for an order forfeiting to the Government property located in British Columbia that is proceeds of unlawful activity.

Proceeds of unlawful activity include property that is acquired directly or indirectly from unlawful activity. Unlawful activity includes acts or omissions that at the time of occurrence are offences under an Act of Canada.

2. Under s. 3(2) of the *Act*, the Director may apply to the court for an order forfeiting to the Government property that is an instrument of unlawful activity. An instrument of unlawful activity includes property that has been used to engage in unlawful activity that, in turn, resulted in or was likely to result in the acquisition of property or caused or was likely to cause serious bodily harm to a person.
3. Under ss. 5(1) and 5(2) of the *Act*, the court must forfeit property that is proceeds or instruments of unlawful activity to the Government, subject to certain defences that must be pleaded and proved by the defendant.
4. Under s. 19 of the *Act*, proof that a person participated in an unlawful activity that resulted in or is likely to have resulted in the person receiving a financial benefit and the person subsequently acquired the whole or the portion of an interest in property or caused an increase in the value of the interest or the portion of the interest in the property or caused a decrease of a debt obligation secured against the interest or the portion of the interest in property is proof, in absence of evidence to the contrary, that the whole or the portion of the interest in property is proceeds of unlawful activity.
5. Under s. 19.03 of the *Act*, proof that cash, with a total value greater than \$10,000, was bundled or packaged in a manner not consistent with standard banking practices is proof, in the absence of evidence to the contrary, that the cash is proceeds of unlawful activity.
6. It is an offence under ss. 4 and 5 of the *CDSA* to possess, traffic, or possess for the purpose of trafficking a substance included in Schedules I-IV of the *CDSA*.
7. It is an offence under s. 354 of the *Criminal Code* to possess the proceeds of crime.
8. It is an offence under ss. 238 and s. 239 of the *Income Tax Act* to fail to declare taxable income.
9. The Money is proceeds of crime pursuant to s. 462.3 of the *Criminal Code*.

10. All or some portion of the defendant's interest in the Money is proceeds of unlawful activity because it was acquired, in whole or in part, directly or indirectly, from the Unlawful Activity.
11. Since the Money is proceeds of the Unlawful Activity, so too are any of its proceeds.
12. The Money is an instrument of unlawful activity because it was used, or is likely to be used, to engage in the Unlawful Activity.
13. Under s. 7(2) of the *Act*, the effective date of forfeiture of personal property, or an interest in personal property, that is cash or cannot be registered in the Personal Property Registry, is the date that proceedings are commenced under s. 3 of the *Act*.
14. Under s. 26 of the *Act*, the Director must pay any funds forfeited to the Government into the civil forfeiture account of the consolidated revenue fund.

Plaintiff's address for service: 1001 Douglas Street, Victoria, BC, V8W 9J7

Fax number address for service: (250) 387-4002

Place of trial: Williams Lake, BC

The address of the registry is: 850 Burdett Avenue, Victoria, BC

Date: September 17, 2021



Eliza Wray
Lawyer for the plaintiff

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

An action for forfeiture of property located in British Columbia pursuant to the *Civil Forfeiture Act*, SBC 2005, c. 29.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

Part 4:

Civil Forfeiture Act, SBC 2005, c. 29