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# Second passport attorney David Lesperance 'misappropriated' client funds, has law license suspended

September 04, 2017 by David Marchant

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Canadian attorney David Lesperance, who specializes in second passports, has had his law license suspended after being accused of 'misappropriating or mishandling' €900,000 from a client in China who wanted to become a citizen of Poland.

In a separate action filed against Lesperance at federal court in Manhattan, his business partner, New York attorney George Waleh, claims that \$2.25 million of funds from clients is missing and an additional \$7 million may have been diverted to the control of Lesperance's Polish wife, Katarzyna Lesperance. Lesperance has denied wrongdoing and filed a counterclaim, accusing Waleh of jeopardizing the return of funds to Waleh's 16 Middle East clients by, among other things, causing a criminal investigation into the passport scheme to be initiated in Poland.

Lesperance's license was first suspended - with his consent - by The Law Society Tribunal, which regulates the profession in Ontario, on March 28th, 2017 after a motion by The Law Society of

Upper Canada and the suspension was continued indefinitely on August 3rd following a hearing on May 17th.

In the motion, The Law Society sought to "suspend and/or restrict the Respondent's license on the basis that there are reasonable grounds for believing that there is a significant risk of harm to members of the public, or to the public interest in the administration of justice, if the order is not made and that making the order is likely to reduce the risk".

Lesperance, who was represented at the hearing by attorney William Trudell, "did not oppose The Law Society's motion" and "did not object to any of the evidence filed by The Law Society", stated the three-person Tribunal panel's chair, Heather Joy Ross, in ordering a continuation of the suspension last month.

Lesperance, who claims to have moved from Canada to Poland in 2015, "is not co-operating with The Law Society's investigation", ignoring four requests for client records over five months and even failing to respond to a request that he "disclose his current contact information", stated the Tribunal. He also allegedly gave conflicting reasons for his emigration, telling The Law Society that he moved to Poland to "personally oversee" the issues being investigated by The Law Society but telling the client that he moved for "family reasons".

The disciplinary action stems from Lesperance's representation of a China resident - identified only as "AB" - who paid €1,021,000 into Lesperance's trust account at the Royal Bank of Canada in 2011 and 2012 as part of an application for Polish citizenship under a 'citizenship for investment' program.

"There appears to have been a misappropriation or mishandling" of €900,000 of the €1,021,000, stated the Tribunal, a reference to the amount that was allegedly supposed to be returned to the client if the application was unsuccessful, which turned out to be the case.

Of the total amount, €100,000 was for initial legal fees, €21,000 for a "Security Report", €500,000 was categorized as a "Required Donation" to be used by Lesperance "as directed by someone in the Polish government" in order to "facilitate the granting of citizenship to AB by Poland", and the remaining €400,000 for "Stage 2 Legal Fees" with a requirement that it be held in Lesperance's trust account "until the issuance of a Polish Citizenship Certificate to AB" and returned if citizenship was not obtained, stated the Tribunal.

"On May 31, 2015, in an email to AB's agent, the Lawyer conceded that he did not obtain Polish citizenship for AB," stated the Tribunal. "The client asked that his money [€400,000] be returned to him. It appears that it has not been returned. According to his 2015 Annual Report to The Law Society, the Lawyer's trust accounts contained no money on December 31, 2015."

Apart from failing to return the €400,000 in "Stage 2 Legal Fees", Lesperance "appears, based on the evidence, to have misappropriated or mishandled" the "Required Donation" of €500,000, stated the Tribunal. "The money appears to have been removed from the Lawyer's trust account without

any apparent justification and without the client's consent."

The €500,000 payment was booked as a US\$625,000 loan from AB to Starnberg Investment Group, which was described as "a general business partnership" between Lesperance and New York-based attorney Rashad Wareh that would "make the donation or investment at the direction of the Polish government".

"Although AB loaned USD \$625,000 to Starnberg – the lawyer and Mr. Wareh's partnership – in 2013, the Lawyer has denied annually in his reports to The Law Society, starting in 2013, that he is indebted to any client," stated the Tribunal. "He has also denied that any partnership in which he holds a substantial interest is indebted to any client."

The loan appears to have been misappropriated in a convoluted investment scheme, according to the Tribunal.

Under the agreement, the loan from AB was to be invested through Starnberg in a Polish company called Szczecinska Wytownia Wodek 'Polmos' S.A. that was in "liquidation bankruptcy", with the loan secured by "all of the assets" of the company, stated the Tribunal.

Instead, it appears the loan to Starnberg was in turn loaned to a company called 'Starka' that was controlled by Lesperance's wife and which then used the money to "purchase an insolvent Polish distillery called "Polmos", which is reportedly the producer of Starka vodka", stated the Tribunal.

"Despite the purchase of Polmos, which the Lawyer described as a "politically important company", the Lawyer did not acquire citizenship for AB.

"The Lawyer has made written representations to AB in an e-mail to AB's agent dated May 31, 2015, stating that his loan will be paid from the sale of Polmos.

"The Lawyer sent a contract to The Law Society to show that he was in the process of selling Polmos to recoup the money of AB. The contract concerns the sale of 15,000 shares of Starka by a "Cypriot law company" called "Yasmia" [allegedly controlled by Lesperance and his wife]. The purchaser of the Yasmia shares is stated to be "Impression Invest SA" "with the participation" of Starnberg and Starka. In the contract, the representative of Starnberg is stated to be the Lawyer and the "sole board member" of Starka is stated to be Ms. Lesperance. The "Seller's Guarantor" is stated to be Ms. Lesperance.

"The Law Society is unclear how the sale, by a "Cypriot law company" – "Yasmia" – of Starka shares is related to the money loaned by AB to Starnberg."

Meanwhile, Lesperance is being sued at federal court in Manhattan by Rashad Wareh, who is his business partner in Starnberg. In his complaint, which was filed on August 4th, 2016, Wareh stated that Starnberg was formed "as part of an effort to secure, for a number of each attorney's clients, a 'fast-track' path to Polish citizenship" but accused Lesperance of breaching their agreement by, inter

alia, diverting client money to a Cyprus bank account controlled by Lesperance and his wife, "leaving Wareh unable to protect the interests of his clients, or any of the other client-investors in Starnberg". Wareh stated that he represented "16 client-investors (some 37 individuals)" but that "no Polish citizenship was forthcoming to any of the client-investors" and, as such, they are "entitled to be repaid their loans in full". He added that Lesperance "charged a fee of \$725,000 for each client-investor (or family group) for whom he obtained Polish citizenship".

In the action, Wareh claimed that PLN 9.5 million is "wholly unaccounted for" and at least PLN 28 million appeared to have been diverted to the control of Lesperance's wife. Wareh is seeking a permanent injunction prohibiting Lesperance from "receiving or disbursing any proceeds from the sale of the Polish company ... to the detriment of the client-investors", an accounting "of all client-investor funds", and damages "for Wareh's related losses incurred as a result of Lesperance's breaches of his partnership duties".

Lesperance has denied wrongdoing and, in a counterclaim, stated the 'investment for citizenship' program became impractical after a new "ultra nationalist" president was elected in Poland in 2015. He claimed that Wareh had started legal action in Poland to recover funds for his clients and blamed that for triggering a criminal investigation in Poland into the group's passport scheme. Among other things, this "could lead to the fact that they were seeking Polish citizenship to be disclosed to authorities in their home country", exposing them to potential problems, and jeopardized the sale of Starka, the proceeds of which would amount to PLN 75 million (approximately \$19 million), which Lesperance stated "will be more than sufficient to replay all of the client-investors in full plus interest".

On August 31st, 2017, Wareh's counsel notified the court that a settlement between the parties that Wareh had expected to be completed by the end of June had hit a glitch and had not yet been finalized.

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