

**THE QUEEN'S BENCH  
Winnipeg Centre**

BETWEEN:

**THE CITY OF WINNIPEG,**

plaintiff,

- and -

**CASPIAN PROJECTS INC., CASPIAN CONSTRUCTION INC., ARMIK BABAKHANIANS, SHAUN ANDRE BABAKHANIANS, JENIK BABAKHANIANS, TRIPLE D CONSULTING SERVICES INC., PAMELA ANDERSON, 4816774 MANITOBA LTD. operating as MOUNTAIN CONSTRUCTION, PAUL R. LAMONTAGNE, FABCA PROJECTS LTD., FABCA-PMG PROJECTS LTD., FABCA WARDLAW LTD., FABCA KING EDWARD LTD., GREGORY CHRISTO FIORENTINO, PETER GIANNUZZI, MARIA ROSA FIORENTINO, DUNMORE CORPORATION, OSSAMA ABOUZEID, ADJELEIAN ALLEN RUBELI LIMITED (also known as A.A.R.), PETER CHANG, GRC ARCHITECTS INC., PATRICK DUBUC, 8165521 CANADA LTD. operating as PHGD CONSULTING, 2316287 ONTARIO LTD. operating as PJC CONSULTING, FSS FINANCIAL SUPPORT SERVICES INC., PHIL SHEEGL, 2686814 MANITOBA LTD., ABC LTD., DEF LTD., GHI LTD., JKL LTD., JOHN DOE I, JOHN DOE II, JOHN DOE III, JOHN DOE IV, JOHN DOE V, JOHN DOE VI, JOHN DOE VII, and JOHN DOE VIII,**

defendants.

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**NOTICE OF MOTION**

HEARING DATE: January 16, 2020 at 10:00am

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**JAN 06 2020**

**MARR FINLAYSON POLLOCK LLP**

Barristers and Solicitors  
240 River Avenue  
Winnipeg MB R3L 0B4

**MICHAEL G. FINLAYSON**

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File No. 12538604

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defendants.

**NOTICE OF MOTION**

The plaintiff will make a motion before the presiding judge on January 16, 2020 at 10:00 a.m., or as soon after that time as the motion can be heard, at the Law Courts Complex, 408 York Avenue, Winnipeg, Manitoba.

**THE MOTION IS FOR:**

1. an interim order requiring the Royal Canadian Mounted Police (the "RCMP") and/or the Manitoba Prosecution Services ("MPS") to preserve and to not part with possession of all information, documents, notes, correspondence, records, including electronic records, and other particulars seized by the RCMP from the

defendants or from any other person in the course of the RCMP's investigation relating to the redevelopment of the former Canada Post Building located at 266 Graham Avenue, in Winnipeg, Manitoba for use as the Winnipeg Police Service Headquarters (the "WPS Headquarters Project"), including certain work at 245 Smith Street, in Winnipeg and the construction of an outdoor shooting range at Wyper Road, in Winnipeg, which investigation is known as Project Dalton ("Project Dalton") (hereinafter, the "Seized Documents") pending the outcome of the motion herein as it relates to the relief sought in paragraph 4 below, subject to such conditions as the Court may deem just in the circumstances;

2. an interim order permitting the plaintiff and its expert(s) to access, examine and make copies of the Seized Documents pending the outcome of the motion herein as it relates to the relief sought in paragraph 4 below, subject to such conditions as the Court may deem just in the circumstances;
3. an order compelling the RCMP and/or the MPS, non-parties, to produce copies of the Seized Documents, subject to such conditions as the Court may deem just in the circumstances;
4. an order fixing the time by which production of the Seized Documents sought herein must be completed;
5. costs; and
6. such further and other relief as counsel may advise and this Honourable Court may permit.

**THE GROUNDS FOR THE MOTION ARE:**

1. Court of Queen's Bench Rules 1.04, 30.10, 37 and 45;
2. Section 490 of the *Criminal Code*, R.S.C. 1985, c. C-46, and in particular, subsection 490(15) thereof;
3. Guaranteed Maximum Price Contract between the plaintiff and the defendant, Caspian Projects Ltd., effective November 18, 2011, and in particular clause 11(b) thereof;
4. the plaintiff's action seeks damages from the defendants in respect of a fraudulent scheme perpetrated by the defendants on the plaintiff during the currency of the WPS Headquarters Project, which amounts to a serious issue to be tried in the within action;
5. the Seized Documents sought herein from the RCMP and/or the MPS are relevant and material to a determination of the matters at issue in these proceedings and may provide evidence of the fraudulent scheme perpetrated by the defendants on the plaintiff during the currency of the WPS Headquarters Project referenced above;
6. there is no ongoing investigation into the WPS Headquarters Project and no charges have been laid in respect of Project Dalton;
7. the Seized Documents are in the possession, control or power of the RCMP and/or the MPS and are being detained by the RCMP and/or the MPS pursuant to section 490(3.1) of the *Criminal Code*; these Seized Documents will shortly be returned to the persons from whom they have been seized or forfeited pursuant to section 490 of the *Criminal Code*;

8. in the event that the Seized Documents are returned to the persons from whom they have been seized or forfeited pursuant to section 490 of the *Criminal Code*, there is a real risk that the Seized Documents will be disposed of or dissipated by the defendants or other related parties;
9. the interim preservation of the Seized Documents is necessary so as to enable the plaintiff to advance its claims against the defendants;
10. it would be unfair and unjust to require the plaintiff to proceed to trial without having inspected and received the aforementioned Seized Documents;
11. the plaintiff has an interest in the aforementioned Seized Documents and seeks access thereto for the purpose of assessing and pursuing its legal rights as against the defendants arising from information in the Seized Documents;
12. the balance of convenience weighs in favour of the plaintiff; and
13. such further and other grounds as counsel may advise and this Honourable Court may permit;

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

1. the pleadings filed herein;
2. the affidavit of Michael Jack, sworn January 6, 2020;
3. the affidavit of Victor Neufeld, to be filed;
4. such further and other materials as counsel may advise and this Honourable Court may permit.

January 6, 2020

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- AND TO: DUNMORE CORPORATION  
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- AND TO: 8165521 CANADA LTD. o/a PHGD CONSULTING  
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- AND TO: 2316287 ONTARIO LTD. o/a PJC CONSULTING  
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1900-155 Carlton Street  
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AND TO: JOHN DOE VI  
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AND TO: Manitoba Prosecutions Services  
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