

B.C. Traffic Company Ordered to Pay \$1.5M for Defaming Richmond Competitor



One of B.C.'s largest traffic control service companies, Valley Traffic Systems (VTS) has to pay \$1.5 million after its defamation campaign caused a competitor to lose out on a lucrative BC Hydro contract.

VTS and Richmond-based Ansan Group were competitors a decade ago for commercial dealings including a multi-year traffic control contract with BC Hydro and a contract involving Telus.

In mid-2012, Ansan Group employees found a series of defamatory publications posted online and on Telus' ethics complaint webpage about the company and its owner Raoul Malak. The publications were also sent to then-Premier Christy Clark and the minister responsible for BC Hydro, Rich Coleman.

VTS won the BC Hydro contract in 2013 and Ansan Group and its owner took VTS to court for defamation.

Remon Hanna, a former Ansan Group employee who 'left on bad terms' and began working with VTS, was found to have used a pseudonym to write an article, a poem, a Telus Ethics Line complaint and an email to government officials targeting Ansan Group and owner Malak.

Between 2013 and 2018, VTS paid Hanna around \$500,000 per year as a contractor, adding up to a total of \$2.4 million.

VTS and Hanna were found liable in 2017 of defaming Ansan Group 'with the intent of achieving an unfair competitive advantage.'

VTS's contract with BC Hydro ended in 2018.

According to VTS owner Philip Jackman, BC Hydro was 'disgusted and wanted to end the contract as soon as possible.'

VTS later appealed and a new trial was held this year to reconsider some of the allegations and deal with the remaining matters including damages.

VTS worked with contractor to defame Ansan

In a judgment issued earlier this week, B.C. Supreme Court judge Andrew Mayer found VTS's owner Jackman and vice-president Trevor Paine had worked with Hanna to defame their competitor.

Judge Mayer rejected VTS's attempt to cut ties with Hanna and claim he was acting on his own.

He found VTS's testimonies were not credible because they were inconsistent and at times defied 'business logic or common sense.' He did not believe Hanna was hired 'solely as a strategic partner.'

VTS's decision to hire Hanna 'despite a dearth of qualifications or resources' was suspicious, said Judge Mayer, who determined VTS knew Hanna was the author behind the defamatory publications.

He added VTS had disseminated links to defamatory websites on purpose by sending separate emails to the websites, to VTS staff, the City of Langley and a union official, rather than engaging in 'simply unprofessional gossip.'

'Sending these emails to such a broad group is not consistent with an innocent and ill-conceived exercise in gossip or joke-telling amongst close friends or associates,' wrote Judge Mayer.

Although VTS claimed it had a profit-sharing arrangement with Hanna to obtain the BC Hydro contract, Judge Mayer found the fact that it was not put in writing 'does not accord with business logic.'

To pay Hanna \$2.4 million was 'far out of proportion' to VTS's pay for its senior staff and VTS and Hanna failed to establish Hanna's work before and after the BC Hydro contract justified the payments.

VTS also continued to pay Hanna around \$1.5 million after the first trial in 2017, which Judge Mayer saw as a means to ensure Hanna would not 'seek to implicate Mr. Jackman and Mr. Paine in the appeal.'

Judge Mayer also determined the individuals 'intended to harm the reputation of Mr. Malak and the Ansan Group for the purpose of putting VTS in a better position to obtain the BC Hydro contract and other traffic control services work from entities.'

'Significant' punitive damages needed for deterrence

Judge Mayer ultimately ruled that VTS's owner and vice-president both worked with Hanna to defame their competitor. Furthermore, VTS is liable for their conduct and has to share the burden of paying damages along with Hanna.

He awarded Malak, Ansan Group's owner, \$500,000 in general damages and an additional \$200,000 in aggravated damages to reflect 'the particularly high-handed, spiteful, malicious conduct of Mr. Hanna, Mr. Jackman and Mr. Paine and the resulting distress, humiliation, indignation and anxiety experienced by him.'

Ansan Group, on the other hand, will get \$300,000 in damages.

VTS, Hanna, Jackman and Paine will also have to pay Ansan Group and Malak \$500,000 in punitive damages as punishment for their conduct.

Hanna, Jackman and Paine were motivated 'primarily by a desire to obtain a competitive advantage over the Ansan Group' to take business away from them, said Judge Mayer.

'A significant punitive damages award will send a message that defamation carried out for this purpose will attract significant damages.'

Source – Vikki Hui / Richmond News