

SUPREME COURT OF CANADA -- JUDGMENT IN APPEAL

OTTAWA, 2007-06-01. THE SUPREME COURT OF CANADA HAS TODAY DEPOSITED WITH THE REGISTRAR JUDGMENT IN THE FOLLOWING APPEAL.

FROM: SUPREME COURT OF CANADA (613) 995-4330

COUR SUPRÊME DU CANADA -- JUGEMENT SUR APPEL

OTTAWA, 2007-06-01. LA COUR SUPRÊME DU CANADA A DÉPOSÉ AUJOURD'HUI AUPRÈS DE LA REGISTRAIRE LE JUGEMENT DANS L'APPEL SUIVANT.

SOURCE: COUR SUPRÊME DU CANADA (613) 995-4330

COMMENTS/COMMENTAIRES: comments@scc-csc.gc.ca

Reasons for judgment will be available shortly at: / Motifs des jugements disponibles sous peu à:

<http://scc.lexum.umontreal.ca/en/2007/2007scc24/2007scc24.html>

<http://scc.lexum.umontreal.ca/fr/2007/2007csc24/2007csc24.html>

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Davis & Company, a partnership v. 3464920 Canada Inc. (formerly known as Monarch Entertainment Corporation) - and between - Robert C. Strother v. 3464920 Canada Inc. (formerly known as Monarch Entertainment Corporation) - and between - Robert C. Strother, Strother Family Trust (Trust No. 1) and University Hill Holdings Inc. (formerly known as 589918 British Columbia Ltd.) (Company No. 1) v. 3464920 Canada Inc. (formerly known as Monarch Entertainment Corporation) - and between - 3464920 Canada Inc. (formerly known as Monarch Entertainment Corporation) v. Robert C. Strother, Davis & Company, a partnership, J. Paul Darc, Pacific Cascadia Capital Corporation, Sentinel Hill Entertainment Corporation, Sentinel Hill Productions Corporation, Sentinel Hill Productions II Corporation, Sentinel Hill Productions (1999) Corporation, Sentinel Hill Management Corporation, Sentinel Hill 1999-1 Master Limited Partnership, Sentinel Hill 1999-2 Master Limited Partnership, Sentinel Hill 1999-3 Master Limited Partnership, Sentinel Hill 1999-4 Master Limited Partnership, Sentinel Hill 1999-5 Master Limited Partnership, Sentinel Hill 1999-6 Master Limited Partnership, J. Paul Darc and Leslie Marie Darc, Trustees of the Darc Family Trust, and the said Darc Family Trust, Sentinel Hill 1998 Master Limited Partnership, Sentinel Hill 1998-2 Master Limited Partnership, Sentinel Hill Productions No. 5 Limited Partnership, Sentinel Hill Productions No. 7 Limited Partnership, Sentinel Hill 1999 Master Limited Partnership, Sentinel Hill Ventures Corporation, Sentinel Hill Alliance Atlantis Equicap Millenium Limited Partnership, Sentinel Hill Productions III Corporation, Sentinel Hill Alliance Atlantis Equicap Limited Partnership, Sentinel Hill GP Corporation, Company No.1, Company No. 2, Company No. 3, Company No. 4, Company No. 5, Company No. 6, Company No. 7, Company No. 8, Company No. 9, Company No. 10, Partnership No. 1, Partnership No. 2, Partnership No. 3, Partnership No. 4, Partnership No. 5, Partnership No. 6, Partnership No. 7, Partnership No. 8, Partnership No. 9, Partnership No. 10, Trust No. 1, Trust No. 2, Trust No. 3, Trust No. 4, Trust No. 5, Trust No. 6, Trust No. 7, Trust No. 8, Trust No. 9 and Trust No. 10 - and - Canadian Bar Association (B.C.)
2007 SCC 24 / 2007 CSC 24

Coram: McLachlin CJ and Bastarache, Binnie, LeBel, Deschamps, Fish, Abella, Charron and Rothstein JJ.

The appeals from the judgments of the Court of Appeal for British Columbia (Vancouver), Number CA030145, 2005 BCCA 35, dated January 21, 2005, and 2005 BCCA 385, dated July 25, 2005, are allowed in part, McLachlin C.J. and Bastarache, LeBel and Abella JJ. dissenting in part. All parties shall bear their own costs on the appeals. The cross-appeal is dismissed with costs.

Mr. Strother shall account to Monarch Entertainment Corporation (now 3464920 Canada Inc.) for the personal profit gained directly from the Sentinel group and indirectly through his earnings as a partner of Davis & Company on account of billings to Monarch, but only for the period January 1, 1998 to March 31, 1999. A reference is directed to determine the appropriate calculation of Strother's profit. Monarch shall have a money judgment against Strother in the sum thus ascertained.

Davis & Company is not liable for Strother's breaches of fiduciary duty except under the terms of s. 12 of the *Partnership Act*, R.S.B.C. 1996, c. 348. The liability of Davis & Company is limited to vicarious liability for the sum found to be due by Strother to Monarch.

Les appels interjetés contre les arrêts de la Cour d'appel de la Colombie-Britannique (Vancouver), numéro CA030145, 2005 BCCA 35, en date du 21 janvier 2005, et 2005 BCCA 385, en date du 25 juillet 2005, sont accueillis en partie. La juge en chef McLachlin et les juges Bastarache, LeBel et Abella sont dissidents en partie. Toutes les parties supporteront leurs propres dépens relativement aux appels. L'appel incident est rejeté avec dépens.

Monsieur Strother doit rendre compte à Monarch Entertainment Corporation (maintenant 3464920 Canada Inc.) du profit personnel qu'il a tiré directement du groupe Sentinel et indirectement grâce au revenu qu'il a touché en tant qu'associé du cabinet Davis & Company pour les services facturés à Monarch, mais uniquement pour la période du 1^{er} janvier 1998 au 31 mars 1999. Un renvoi est ordonné aux fins de détermination du profit réalisé par M. Strother. Un jugement condamnant M. Strother à verser à Monarch la somme ainsi déterminée sera rendu.

Le cabinet Davis & Company n'est pas responsable des manquements de M. Strother à une obligation fiduciaire sous réserve des dispositions de l'art. 12 de la *Partnership Act*, R.S.B.C. 1996, ch. 348. Davis & Company est uniquement responsable du fait d'autrui à l'égard de la somme déclarée due à Monarch par M. Strother.
