

FIRST BASIC COURT OF BELGRADE
BEOGRAD

Ustanicka St. No. 14

33 P 789/11

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FIRST BASIC COURT OF BELGRADE
Ustanicka 14 - RECEIVED]

PLAINTIFF: MILAN BEKO, from Belgrade, Andre Nikolica St. No. 23a, represented by his attorney Selimir Glisic, a lawyer from Belgrade, Trnska St. 1a

RESPONDENT: VERICA BARAC from Belgrade, President of the Anti-Corruption Council, Nemanjina St. 11, represented by her attorney Jelisaveta Vasilic, a lawyer from Belgrade, Molerova St. No. 70

COUNTER STATEMENT

The Respondent fully contests the statement of the claim, both as to the grounds and amount, for the following reasons:

1. The Plaintiff states in his lawsuit that the Respondent claimed in the "Analysis of the Application of Anti-Monopoly Regulations from 2006 to 2010 and Problems in the Work of the Commission for Protection of Competition" that Milan Beko exerted pressure on the President of the Commission, which is a fictional and untrue statement.
 - a. This statement is not correct because the above Analysis is not the Respondent's private letter, but it is a report of the Anti-Corruption Council, which is the Government's body, fighting against corruption. The Analysis is an official report that must be signed by an authorized person, namely the President of the Council.
 - b. It is true that it is stated in the Analysis that the Plaintiff exerted pressure on the President of the Commission for Protection of Competition, but it is not an untrue statement as claimed by the Plaintiff. It is a fact only taken over by the Council from the statement of the former President of the Commission for Protection of Competition. Specifically, Dijana Markovic-Bajalovic, in a statement published in the daily newspaper *Blic* on 04.10.2010 entitled "Milan Beko is Responsible for My Dismissal", explicitly states that in the spring of 2008 she was first offered gifts indirectly by Milan Beko and then, when she, as the President, did not give up the investigation of the abuse of a dominant position, Mr. Beko's lawyer, Milenko Ristivojevic, told her in the presence of Milan Beko to watch out for her child.

EXHIBIT: Diana Markovic-Bajalovic's statement published in *Blic* on 10.04.2010.

2. The Plaintiff further states in the lawsuit that it had been stated in the Council's letter sent to the Government of the Republic of Serbia on 15.12.2010, on page 1, paragraph 2, and on page 2, paragraphs 4 and 5, that Milan Beko and Miroslav Miskovic are behind the phantom companies from Luxembourg and Cyprus.
 - a. It is true that the Council, in its letter sent to the Government on 15.12.2010, on page 2, paragraph 2, apprises the Government of the fact that the Commission for Protection of Competition had shown courage in acting independently and that the Commission's decision did not suit the monopolists, politicians and tycoons, but the name of Milan Beko was not mentioned in this paragraph, and therefore, it is not clear what insulted him in it. As the Plaintiff was not mentioned in this paragraph at all, he has probably identified himself as a monopolist or tycoon, and so it is not clear why it bothered him, or how the Respondent injured his honor and reputation, when he sees himself as such.

EXHIBIT: Council's letter to the Government of 15.12.2010, paragraphs 1 and 2.

- b. It is true that it is stated on page 2, paragraphs 4 and 5, of the said letter that Milan Beko and Miroslav Miskovic stand behind some phantom companies from Luxembourg and Cyprus. However, the Respondent does not understand what is untrue and offensive in the statement of such facts. Specifically, the Plaintiff himself explicitly stated, in his statement made at the main hearing on 12.09.2006 in the case of the former Special Department of the Belgrade District Court KP 6.11, conducted following the Indictment Kt. S. 6 / 06 issued by the Special Prosecutor's Office, that he makes companies for special purposes and is not familiar with their names, as they are just taken from the drawer, and that such companies are established with minimum capital and a limited status. This statement, and the fact that in almost all privatizations, buyers were newly established companies registered at the same address in Luxembourg, whose only purpose was to appear as buyers in different privatizations and which did not have any business, or assets, or reports on their business performance and operation, show that they were phantom companies. The Respondent had to explain what she meant under the term phantom companies; they are precisely the kind of companies as described by the Plaintiff in the above statement. Specifically, these are companies that have not been established to do business, but rather only to participate in the acquisition of companies with minimum initial capital, without operating assets, without any business operation report. These companies are not even known to their own founders, who cannot remember their names because they take them out of a drawer; these are companies that have only been registered but do not exist in reality, because they do not do any business. Such companies, with no capital or business are kept in a drawer and they appear as phantoms when some job needs to be done, or more precisely when a financial transaction should be conducted. As a rule, transactions conducted through phantom companies and special banks are a way to launder money.

- c. The Respondent does not understand why the Plaintiff believes that he can, at the hearing in court, describe all the phantom features of his company "Novafin" from Luxembourg, and at the same time claim that the Respondent has no right to call such a company a phantom company, which it really is.

EVIDENCE: Plaintiff's Statement of 12.09.2006.

3. The Plaintiff states that the statement in the above-mentioned letter, that *Salford* exploited producers and small businesses, and that *Salford's* operation seriously disrupted the market, is not true. It is true that the Council warned the Government of the exploitation of small producers owing to the dictation of a low purchase price of milk, but it cannot be claimed that these statements are not true, because they stem from the Commission's Decision No. 5/0-02-607/2010-03, which was confirmed by the Decision of the Commission for Protection of Competition No. 5/0-02-43/2011 of 24/01/2011, by which *Salford* was fined an amount of three million euros because of the abuse of its dominant position in the unprocessed milk market.

Therefore, it cannot be claimed that the statements in the Council's letter sent to the Government are not true because such an attitude stems from the decision of a competent institution.

EVIDENCE: Commission's Decision of 24.01.2011.

The Council wrote in the letter that this Investment Fund was controlled by the Plaintiff, but it is not insulting for the Plaintiff, because it is not offensive when someone controls an investment fund, or when an investor invests funds in the local economy. Here the word "control" does not mean that it must be ownership control, as some types of control can be exercised by management consulting. In a statement to the TV B92 reporter Jugoslav Cosic on the show *Izmedju redova (Between the Lines)* of 21 November, 2010, the Plaintiff said that his role on the board of *Salford* was to advise, provide practical support, which means that he provided some assistance and exercised some control over the said company.

EVIDENCE: A part of the statement made on TV B92.

Considering all the above stated, the Respondent fully contests the statement of the claim and makes a proposal that the statement of the claim be rejected as unfounded.

(*S i g n a t u r e*)

Verica Barac

President of the Anti-Corruption Council

[Stamp: LAWYER

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