

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Roy Den Hollander,

Plaintiff,

Docket No. 03 CV 2717 (PKC)

-against-

Fed. R. Civ. P. 15(d)
Supplemental Complaint

Flash Dancers Topless Club, et al.,

Defendants,

Magomet Ali Kurban
Viktor Vladimirovich Kononenko
Baraev Mobster 1
Cynthia D. Zahnow

Additional Defendants.
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I. Introduction

1. The events included in this supplemental complaint happened after the original complaint (“Complaint”) was filed on April 18, 2003.

II. Krasnodar Is Calling

2. Early on June 4, 2003, the plaintiff received a telephone threat from a thuggish-sounding man speaking in Russian who warned the plaintiff it would be “bad” for him if he traveled to Krasnodar, Russia to investigate some of the defendants in this RICO action.
3. After the threatening caller hung up, the plaintiff dialed *57, the recorded message said the call had been traced; also the plaintiff noted the number that registered on his caller id by the threatening call.
4. The plaintiff contacted a telephone supervisor at the foreign area code listed on his caller id, but that area code had no such number because, according to the operator, the caller likely used a device that sends out a false number.
5. The plaintiff contacted his telephone provider’s Harassing Call Center but the *57 trace failed to show a working number because the call, according to the Center, probably came from a number that did not exist or a prepaid calling card, still the Center opened a case.

6. On June 19, 2003, the plaintiff filed a complaint with his local police precinct No. 13, but the case was subsequently closed because there was no information as to the telephone number from where the call was made.
7. The plaintiff also notified the Federal Bureau of Investigation (“FBI”) about the threatening call.
8. The FBI’s Russian Organized Crime Unit declined to take any action concerning the threatening call but began looking into other matters contained in the RICO Complaint.
9. When the threatening call was made on June 4, 2003, none of the defendants had yet been served, but a number of them were on notice of the RICO action having been filed as a result of the plaintiff’s request for waivers of service of summons that had been mailed to them, along with a copy of the Complaint, on April 20 or 26, 2003.
10. The defendants who had notice of the RICO action and a copy of the Complaint before the threatening call of June 4, 2003 were Flash Dancers Topless Club, Jay-Jay Cabaret, Cybertech Internet Solutions, Lynn Lepofsky, Barry-Night Manager Flash Dancers, Kuba Mundy & Associates, Nicholas J. Mundy, Peter Petrovich, Alina A. Shipilina, Doctor Marc L. Paulsen, Anastasia and Nicolay Vasilyeva and Bob Henning.
11. On information and belief, the defendants in ¶ 10 knew the plaintiff was an attorney admitted to practice in the Southern District Court of New York and therefore a Court officer.
12. On information and belief, the defendants listed in ¶ 10, or some group of them, most likely Mundy, Petrovich and Shipilina, agreed and arranged for the threatening call to be made in order to intimidate the plaintiff into not serving the Complaint or not otherwise prosecuting the RICO action.
13. On information and belief, the defendants listed in ¶ 10, or some group of them, most likely Mundy, Petrovich and Shipilina, contacted Inessa Shipilina, Magomet Ali Kurban, Viktor Vladimirovich Kononenko or Baraev Mobster 1 in Krasnodar to have one of them make the threatening call or arrange for it to be made.
14. Magomet Ali Kurban and Viktor Vladimirovich Kononenko are Krasnodar organized crime members who work closely with fellow Enterprise members Alina and Inessa Shipilina.
15. Magomet Ali Kurban and Viktor Vladimirovich Kononenko enabled defendants Alina and Inessa Shipilina to take control of the gymnasium at the Kuban State Physical Culture Academy, a state university, and use the gymnasium for personal profit by running various private enterprises out of it.
16. The defendants listed in ¶ 10, or some group of them, most likely Mundy, Petrovich and Shipilina, engaged in the predicate acts of obstructing justice by arranging for the

threatening of an attorney admitted to practice before the Court and therefore an officer of the Court, 18 U.S.C. 1503, tampering with a witness and victim via the threat, 18 U.S.C. 1512, using interstate or foreign facilities to arrange for the intimidation of the plaintiff, 18 U.S.C. 1952, and communicating by foreign telephone facilities to protect and further the Enterprise's Scheme, which is wire fraud under 18 U.S.C. 1343.

17. The defendants listed in ¶ 10, or some group of them, most likely Mundy, Petrovich and Shipilina, engaged in the predicate acts in ¶ 16 to maintain, directly or indirectly, their interests in and control of part of the Enterprise and to participate in the operation, management or exert authority within the Enterprise in violation of 18 U.S.C. 1962(b) & (c).
18. The defendants listed in ¶ 10, or some group of them, most likely Mundy, Petrovich and Shipilina, agreed to commit the predicate acts in ¶ 16 in furtherance of the common purpose, the Scheme, of the RICO enterprise in violation of 18 U.S.C. 1962(d).
19. Inessa Shipilina, Magomet Ali Kurban , Viktor Vladimirovich Kononenko or Baraev Mobster 1's conduct in arranging and making the threat constitute the predicate acts of obstructing justice by threatening an attorney admitted to practice before the Court, 18 U.S.C. 1503, tampering with a witness and victim, 18 U.S.C. 1512, using interstate or foreign facilities to arrange for and intimidate the plaintiff, 18 U.S.C. 1952, and communicating by foreign telephone facilities to protect and further the Enterprise's Scheme, which is wire fraud under 18 U.S.C. 1343.
20. Inessa Shipilina, Magomet Ali Kurban , Viktor Vladimirovich Kononenko or Baraev Mobster 1 engaged in the predicate acts in ¶ 19 to maintain, directly or indirectly, their interests in and control of part of the Enterprise and to participate in the operation, management or exert authority within the Enterprise in violation of 18 U.S.C. 1962(b) & (c).
21. Inessa Shipilina, Magomet Ali Kurban, Viktor Vladimirovich Kononenko or Baraev Mobster 1 agreed to commit the predicate acts in ¶ 19 in furtherance of the common purpose, the Scheme, of the RICO enterprise in violation of 18 U.S.C. 1962(d).

III. The Letter

22. On July 2, 2003, defendants Anastasia and Nicolay Vasilyva sent a letter to the Court that made a number of factual claims, including their employment or lack of and that FBI Special Agent Barry P. Babler had investigated the two of them as well as defendant Anastasia's father who traveled from Russia to their Milwaukee, Wisconsin home on December 25, 2002.
23. The plaintiff went to Milwaukee, Wisconsin from August 21 to 25, 2003 to check out the accuracy of the statements made by the defendants Vasilyevas to the Court.

24. On Friday, August 22, 2003, the plaintiff interviewed for about fifteen minutes Cynthia D. Zahnow in the presence of witnesses at the shop she managed, "Custom Tailoring," where defendant Anastasia claimed in her letter to be working.
25. Zahnow knew about the RICO action, had seen the Complaint and claimed Anastasia no longer worked for her.
26. According to Zahnow, before Anastasia's father visited Milwaukee, the FBI came to Zahnow's store to ask her questions about the Vasilyevas as part of its investigation into the father, which delayed his visit for about six weeks.
27. The plaintiff then visited the Milwaukee FBI office, about an hour after the Zahnow interview, where he talked with Special Agent Babler, who appeared very nervous, in the reception area of the FBI office without another agent present.
28. According to Babler, he conducted an FBI inquiry into Anastasia's father, but the inquiry, which he emphasized was not an investigation, did not delay the father's visit, was done after the father arrived, didn't even take a month, was routine and resulted from a random check of paper work that came across Babler's desk.
29. Babler was familiar with the RICO action, had read the 91 page Complaint and, according to him, the Vasilyevas' requested legal advice from him as an FBI agent on how to deal with the Complaint that involved Russian mafiosi.
30. Babler denied giving the Vasilyevas any advice.
31. Babler added he was surprised that the plaintiff was not on the FBI's list of people who travel periodically to Russia, apparently he checked.
32. The plaintiff requested the first name of Anastasia's father, which Babler agreed to provide if the plaintiff called him back later that afternoon.
33. When the plaintiff called Babler back, he claimed he could not reveal the name because it would impact an FBI investigation, apparently the former inquiry was now a current investigation, and Babler asked whether the plaintiff lived in Wisconsin or New York to which the plaintiff replied New York.
34. Early Monday morning on August 25, 2003, the plaintiff received a call from Police Officer Sean Schmidt of the Brookfield Town Police threatening him with arrest for aggravated harassment as a result of the interview with Cynthia Zahnow on Friday August 22nd.
35. According to Officer Schmidt, Zahnow claimed the FBI had talked with the plaintiff right after the plaintiff's interview with Zahnow, which she had no way of knowing unless told by the FBI, and that she was filing the aggravated harassment complaint against the

plaintiff after the FBI contacted her and told her to complain to the local police about the plaintiff.

36. The complaint filed by Zahnow falsely and misleadingly claimed the plaintiff had been coming to her business and also calling her even though the plaintiff only made one visit and no calls.
37. Since the only FBI agent the plaintiff talked to during his trip was Babler, the most likely chain of events is that after the plaintiff interviewed Zahnow, she contacted Anastasia Vasilyeva who then brought in Babler to figure a way to thwart the plaintiff's investigation.
38. On information and belief, all three agreed on a course of action at Babler's suggestion to intentionally thwart the plaintiff's investigation by having Zahnow make false harassment accusations against the plaintiff with the local police in order to harass and scare the plaintiff off his investigation and back to New York.
39. The plaintiff, indignant and disturbed over FBI Special Agent Babler's interference into the RICO investigation and apparent efforts to use the local police to scare the plaintiff out of town, visited the Brookfield Town Police at 11:30 am where he appraised Acting Chief Chris Perket of the RICO case and his lack of appreciation for the intimidation implicated in the threat of arrest.
40. At around 12:45 pm, the plaintiff visited the Milwaukee FBI Headquarters to complain to someone in charge about Babler's interference in a pending federal case, but the man in charge was out of town and the acting head, Jeffrey Troy, busy.
41. At 2 pm the plaintiff telephoned the FBI's acting head as instructed by Troy's secretary, but he was still busy, and his secretary assured the plaintiff that Jeffrey Troy would telephone him on August 26, 2003 back in New York, the plaintiff is still waiting for that call.
42. After returning to New York, the plaintiff mailed a letter to FBI Director Mueller demanding to know why FBI Special Agent Babler was trying to thwart the plaintiff's investigation into this RICO case by advising to have Zahnow file false aggravated harassment charges against the plaintiff.
43. In a December 16, 2003 letter from David C. Larson, Acting Chief, Investigative Law Unit for the FBI, Exhibit A, Mr. Larson confirmed that Babler gave advice to a defendant in this case to contact the local police.
44. On information and belief Zahnow, Babler and defendant Anastasia Vasilyeva knew the plaintiff was an attorney admitted to practice in the Southern District Court of New York and therefore a Court officer.

45. Zahnow, Babler and defendant Anastasia Vasilyeva intentionally committed the predicate acts of obstructing justice by corruptly influencing, intimidating and impeding an attorney admitted to practice before the Court and causing with false accusations the threat of arrest to be made against that attorney in violation of 18 U.S.C. 1503, and tampering with a witness and victim in violation of 18 U.S.C. 1512.
46. Zahnow and defendant Anastasia Vasilyeva engaged in the predicate acts in ¶ 45 to maintain, directly or indirectly, their interests in and control of part of the Enterprise and to exert control; that is, authority in conducting some of the affairs of the Enterprise in violation of 18 U.S.C. 1962(b) & (c).
47. Zahnow and defendant Anastasia Vasilyeva agreed to commit the predicate acts in ¶ 45 in furtherance of the common purpose, the Scheme, of the RICO enterprise in violation of 18 U.S.C. 1962(d).
48. Zahnow, Babler and defendant Anastasia Vasilyeva agreed to commit the offenses under 18 U.S.C. 1503 & 1512, which constitute violations of 19 U.S.C. 371, the federal conspiracy statute.

IV. Mundy's End Run

49. Defendant Mundy, after receiving the RICO Complaint along with the plaintiff's request for waiver of summons service, filed a complaint against the plaintiff with the Lawyers Disciplinary Committee for the Supreme Court, Appellate Division of New York State.
50. Besides claiming to the Disciplinary Committee that the plaintiff "may indeed be mentally incompetent" and "paranoid delusion," member Mundy "urge[d] the Committee to assist in any way possible in putting an end to [the plaintiff's] actionable conduct" by which he meant this RICO suit.
51. Member Mundy's disciplinary complaint states, "Mr. Den Hollander's District Court complaint [RICO], prepared *pro se*, is 91 pages in length and contains 915 numbers (sic) paragraphs. It is a meandering, disorganized, prolix narrative, and an embarrassment to the justice system. A review of the caption alone should question whether Mr. Den Hollander is fit to practice law."
52. On information and belief, member Mundy used the U.S. Postal Service to send the disciplinary complaint to the Committee with the intent of protecting and furthering the Enterprise's Scheme by his "urgent request" to have the Committee "censure or suspend" the plaintiff, which would threaten the plaintiff's livelihood and his ability to pursue the RICO action, or at least start an investigation that could intimidate the plaintiff into withdrawing the RICO claim.
53. Member Mundy knowingly filed unproven and unfounded accusations against the plaintiff apparently with the intent of effectively denying the plaintiff access to the Court

by threatening him with a difficult disciplinary committee proceeding if the plaintiff continued with the RICO action.

54. Tellingly, Mundy's disciplinary complaint against the plaintiff cited no ethical canons or disciplinary rules the plaintiff was supposed to have violated that allegedly caused Mundy to invoke the power of the Committee.
55. Member Mundy's conduct constitutes the predicate act of mail fraud under 18 U.S.C. 1341, since his attempt to misuse the Committee was incident to an essential part of the Enterprise's Scheme that it remain untouched by the law.
56. On information and belief, defendant Mundy knew the plaintiff was an attorney admitted to practice in the Southern District Court of New York and therefore a Court officer.
57. Member Mundy's conduct constitutes the predicate acts of obstruction of justice by threatening an attorney admitted to practice before the Court, which violates 18 U.S.C. 1503 and tampering with a witness and victim in violation of 18 U.S.C. 1512.
58. Member Mundy engaged in the predicate acts in ¶¶ 55 & 57 to maintain, directly or indirectly, his interests in and control of part of the Enterprise and to participate in the operation, management or exert authority within the Enterprise in violation of 18 U.S.C. 1962(b) & (c).

V. Shipilina's Delusive Declaration

59. On July 13, 2004, Judge Castel ordered defendant Alina Shipilina to provide the addresses for four other defendants if she had knowledge of those addresses.
60. The four defendants are Tanya-Phodes Studio prostitute, Stephanos-bank employee, Juginta Raszyukevichina ("Azul") and Salvador-partner Phodes Studio.
61. In her July 21, 2004 declaration, defendant Shipilina knowingly made false, incomplete and misleading statements regarding her dealings and relationships with these four defendants.
62. On information and belief, defendant Shipilina intentionally covered up the full extent of her dealings and relationships with the four defendants in order to protect and further the Enterprise's Scheme.
63. On information and belief, in order to facilitate the carrying on of the Enterprise's illegal activities, defendant Shipilina intentionally covered up the full extent of her dealings and relationships with the four defendants.
64. On information and belief, defendant Shipilina reasonably foresaw that her delusive declaration would be communicated to the Court and the plaintiff by the U.S. Postal Service.

65. Defendant Shipilina falsely and misleadingly says in her Declaration ¶ A. that she only “believe[d]” defendant Perlin “was a principal in Phodes Studio,” she was together with Tanya only a “few times,” she “did not socialize with [Tanya] and she had no “reason to know [Tanya’s] last name.”
66. Defendant Shipilina falsely and misleadingly says in her Declaration ¶ B. that she does not “remember in which bank [Stephanos] worked,” “never knew [Stephanos’] last name,” “never had any reason to know his address,” and cannot “tell if this is the same person” whom she visited at his bank in September 2000 in Cyprus.
67. Defendant Shipilina falsely and misleadingly fails to say in her Declaration ¶ C. that she and Azul worked together at The Men’s Club in Mexico City, traveled together to resort locations with their customers and keeps Azul’s telephone numbers in her electronic organizer.
68. Defendant Shipilina falsely and misleadingly says in her Declaration ¶ D. that she “was never informed as to the nature of [Salvador’s] business connections, if any, with Phodes Studio,” she “went to his house with other people” when she went alone, and “was unaware of his specific address.”
69. Defendant Shipilina’s conduct constitutes the predicate acts of mail fraud under 18 U.S.C. 1343 and using the mail in aid of a racketeering enterprise under 18 U.S.C. 1952.
70. By falsely concealing facts from the Court in her July 21, 2004 affidavit, defendant Shipilina also obstructed justice by corruptly influencing and impeding the due administration of justice by the Court in violation of 18 U.S.C. 1503.
71. Defendant Shipilina engaged in the predicate acts in ¶¶ 69 & 70 in order to maintain, directly or indirectly, her interests in and control of part of the Enterprise and to participate in the operation, management or exert authority within the Enterprise in violation of 18 U.S.C. 1962(b) & (c).
72. By intentionally concealing facts in her affidavit, defendant Shipilina also committed perjury under 18 U.S.C. 1621.

VI. Effect on Interstate and Foreign Commerce

73. The additional activities recounted in this supplemental complaint either impact interstate and foreign commerce directly or were carried out to protect and further the Enterprise’s activities cited in the Complaint that effect interstate and foreign commerce (Complaint ¶ 874)

VIII. Pattern of Racketeering Activities

74. The predicate acts recounted in this supplemental complaint illustrate the continuing nature of the Enterprise's illegal activities to protect and further the Enterprise's continuing Scheme to infiltrate and expand its activities into the U.S. and other markets.
75. The predicate acts recounted in this supplemental complaint occurred over a temporal proximity of eleven months and when included with the activities in the Complaint, the period is approximately five years.
76. The predicate acts recounted in this supplemental complaint illustrate that the Enterprise continues to further its Scheme by protecting valuable members from exposure and the law with obstruction of justice, tampering with a witness and victim, using interstate or foreign facilities and the mail, and engaging in wire and mail fraud.

IX. Damages

77. The Enterprise's additional illegal activities recounted in this supplemental complaint have increased the harm to the plaintiff's business and property by causing loss of profits, business interruption expenses, loss of business opportunities and damage to the plaintiff's reputation and good will in the amount of \$100,000.

Dated: New York, NY
August 23, 2004

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