

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 :
 MINTZ, LEVIN, COHN, FERRIS, GLOVSKY :
 AND POPEO, P.C., :
 :
 Plaintiff, :
 :
 -against- :
 :
 JORGE PINHOL, BEVERLY SECURITIES LTD., :
 BEVERLY SECURITIES INC., AND :
 JOHN RISLEY, :
 :
 Defendants. :
 :
 ----- X

Civil Action No.: 11-cv-08728-KBF

**DECLARATION OF DEFENDANT
JOHN RISLEY IN SUPPORT OF MOTION
TO DISMISS**

Pursuant to 28 U.S.C. § 1746, JOHN RISLEY, under the penalty of perjury, declares the following to be true:

1. I am a citizen of Canada and reside in Chester, Nova Scotia.
2. I am one of the defendants herein, am familiar with all the facts and circumstances set forth below, and submit this declaration and the annexed Exhibit in support of my motion to dismiss the Complaint of plaintiff Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. (“Mintz Levin” or “Plaintiff”) pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(b)(2) for failure to state a claim upon which relief can be granted and for lack of personal jurisdiction.
3. Briefly stated, this action should be dismissed as against me for the following reasons: (i) I was never a client of the Plaintiff and therefore a cause of action for unpaid legal fees cannot be maintained against me; (ii) Mintz Levin never provided any legal services to me, individually or for my benefit, and as such, could not have reasonably expected any compensation from me individually; and (iii) this Court lacks personal jurisdiction over me.

4. I never retained Plaintiff to perform any legal services in my individual capacity. In fact, the engagement letter Plaintiff proffers was expressly entered between Mintz Levin, on the one hand, and defendant Jorge Pinhol (“Pinhol”), defendant Beverly Securities, Ltd. (“BSL”), and defendant Beverly Securities, Inc. (“BSI”) (collectively, the “Client Defendants”) on the other hand. I have no financial or ownership interest in BSL or BSI. A copy of the executed engagement letter is attached to the Complaint as Exhibit D, and the Complaint is attached to the accompanying Declaration of Aurora Cassirer, Esq. as Exhibit A.

5. Further, I was not a named party in any action in which Plaintiff represented any of the Defendants.

6. Nor did I receive or execute a personal guarantee requiring me to assume any responsibility for any legal bills addressed to any of the Client Defendants.

7. During the course of its representation of the Client Defendants, Mintz Levin never provided any legal services to me individually or for my benefit.

8. Because at that time a company with which I was affiliated was considering lending money to the Client Defendants, I attended a meeting of a working group of legal advisors assembled by Pinhol (the “Working Group”) in Geneva, Switzerland in or about late August or early September 2006 on two brief occasions. Also present was William Humphreys, an English solicitor who advises me on various entities with which I affiliate at times. That attorney was not David Lawson, who represented the Client Defendants, who were, unlike me, signatories to the engagement letter.

9. Aside from one non-substantive email sent in early September 2006, I do not believe I ever transmitted letters, facsimiles or emails to Mintz Levin or communicated with Mintz Levin attorneys via telephone.

10. In fact, non-party David Lawson (“Lawson”), whom Plaintiff alleges was the lead counsel of the Working Group, has previously informed Plaintiff that I was wholly uninvolved with Mintz Levin’s retention and the claims in this action. In a January 2, 2012 letter to Mintz Levin, Lawson represented that “I understand that the fourth Defendant, Mr. Risley, is being represented by his own legal counsel. As far as I am aware, he had nothing whatsoever to do with the engagement of your firm by BSL or BSI.” A copy of the January 2, 2012 letter is attached hereto as Exhibit A.

11. I am a Canadian citizen, and I live in Chester, Nova Scotia and work in Bedford, Nova Scotia. I have no ongoing personal contractual relationship with New York and do not transact any business individually in New York.

WHEREFORE, your declarant respectfully requests that this Court enter an Order dismissing the Complaint as against him with prejudice and granting such other and further relief as it deems necessary and proper.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 18, 2012



JOHN RISLEY