

DATE: 19th February 2010.

Gana Kiritharan,
307 – 10 Stonehill Court,
Scarborough, Ontario
Tel: 416-820-8581

TO: Canadian Judicial Council,
Ontario Judicial Council,

Dear Sir / Madam,

Re: Claim of Serious Ethical Failures in Kiritharan vs TD Canada Trust (07 – CV – 341987PD 2)

I Gana Kiritharan one party in above mentioned Civil Case, filed in Toronto Court house of Ontario Civil Court (also victim in Toronto Police Services Fraud Complains # 2529262). I would like to bring your kind attention of incidents happened during my Civil Case (also experience incurred during criminal complaint) which I claim as confusion in our law and serious ethical failure in our Judiciary which eventually lead above issue to present status, which I would claim as miscarriage of justice.

Though for the complaints 3, 4, 5 and 6, appeal may be considered as more appropriate, I chose not to do so for following reasons.

- a. I do not have enough money to continue this civil proceeding.
- b. I found extremely difficult to obtain necessary legal advice. (Please find letter to Upper Canada Law Society.)
- c. Ontario Judiciary has necessarily or unnecessarily created a question that when there is evidence to suspect a commission of crime in a bank or by a bank; whether it is responsibility of criminal section or civil section to investigate and bring justice to the victims. I believe finding an answer for this question beyond my resources and responsibility. I am calling for a public enquiry to find answer to this question.

Details of my Complaint as Follows:

1. Communication between TD Canada Trust lawyer and Superior Court Master in absence other party, unprofessional treatment by superior court registers. (? spread of illegally obtained psychiatric diagnosis regarding plaintiff between law professionals.)

Complaint against: Master Jane Egan – Ontario Superior Court – Toronto Court House.
Register Salma Bapoo – Ontario Superior Court – Toronto Court House.
393 University Ave.

On the day on first telephone case conference (February 20th, 2008) around 9.00 AM, I contacted TD Canada Trust lawyer to confirm that I was available in my phone line. Then I got informed by TD Canada Trust Lawyer Ms. Susan Rai that she just talked to Master Egan and as she informed she will call me for a telephone conference in few minutes. As I did not take the incident seriously I did not inquire about the detail of such communication.

Later around April 2008 when I went to the masters' office to know about the procedure of entering a court order Master Egan's register Salma Bapoo may have treated me in an unprofessional manner. She may have requested another register to stand behind her and watch me all the time while I was talking to register Salma Bapoo.

I also experienced similar unprofessional treatment by other registers when I went to the 10th floor of Toronto Court Office to file documents in this case.

Around July 2008 I came to know I was diagnosed with “Delusional Disorder of Persecutory Type” by Canadian Psychiatrist and I made this diagnosis public when I received it. Any Psychiatric diagnosis received by legal professional before July 2008 may obtained illegally and I feel even above diagnosis is a mistake and any treatment based on such diagnosis came as unnecessary harassment for me.

2. Unnecessary delay of Court Order and Improper way of amending it.

Complaint against: Master Birnbaum – Ontario Superior Court – Toronto Court House.
393 University Ave.

At the end of the Motion on November 12th, 2008, I was informed by Master Birnbaum that she will issue her court order in writing. As I failed to receive any court order after one week I went to the Masters’ office of Toronto court office and inquired register Gbemi Kester (Master Birnbaum’s register) whether the court order had been sent to me. She informed the court order is not ready yet and failed to give any reason for it or inform me when it will be released. Again as I failed to receive after another two weeks I went back to Master’s office and inquired the reason for the delay. Then register Gbemi Kester informed me she do not know the exact reason for the delay and informed me master can take up to 3 months to issue the court order. Though I contacted few more time I received similar answers.

Finally I received the court order around January 20th, 2009, that is 2 months and one week after the motion date. When going through the court order I found in page 2 of the order word plaintiff was mistakenly used in two places where the word defendant supposed to come. When I brought it to the attention of the masters’ office I received a amended court order around February 17th, 2009 (3 months and 5 days after motion date) and found that it is signed using the date January 19, 2009 or court officials just inserted the previously signed 3rd page of court order after amended page 1 and 2 (Tap 7, Page 143 – 150).

I also found that defendant lawyers claim of hours for time for November 12th, 2008 motion increased by 6.2 hours after completion of motion. If the reason for this is not negligent, then the costing details may be prepared fraudulently or defendant lawyer may have spend 6.2 hours discussing the issue with somebody after completion of the motion. (Tab 9 Pages 171 & 176)

3. Contradicting Court Orders. (Tab 7 – Pages 149 – 150)

Complaint against: Master Birnbaum – Ontario Superior Court – Toronto Court House.
393 University Ave.

At the motion on November 12th, 2008, I requested the court to order that there is enough evidence to suspect that there was a commission of crime in accounts managed under the name of Plaintiff (Gana Kiritharan or Kiritharan Kanagalingam) in Defendant bank (TD Canada Trust).

When responding to this request Master Birnbaum in her order (paragraph 5.1) said that “There is no relief this court can find or grant on this motion today. This is civil, not a criminal, court.”

But when analyzing the possible worst case scenario Master Birnbaum in same order (paragraph 5.4.vi and v) said that “There is an air of unreality in the suggestion that Mr. Kiritharan’s publishers, who are in India, would deposit money to a secret account in his name without any evidence that he directed them to send the money to TD Canada Trust or how they would know where he banks in Canada. No response is needed to these questions: ...”

For my intellectual capacity it appears that, while in Paragraph 5.1 Master Birnbaum refusing to order for a criminal investigation as it is not a responsibility of Civil Court, in paragraph 5.4.vi and v she make suggestion of questions which need not to be answered in a criminal investigation. I feel both these court orders are contradiction with each other.

4. Court Order based on Edited and Misleading information.

Complaint against: Master Birnbaum – Ontario Superior Court – Toronto Court House.
Hon Justice Moore – Ontario Superior Court – Toronto Court House.
393 University Ave.

During the motion on November 12th, 2008, and on motion for summary judgment on July 14th, 2009 defendant TD Canada Trust submitted edited evidences and misleading information to the court. Though I brought this issue to the attention to the court, court has issued court orders based in such misleading information.

Details of such misleading information are presented in tab 3 (Pages 49 – 55, also Pages 24 – 26, 27 – 34, 35 – 43, and 29, 30 and 130.)

Brief summery of such misleading information as follows:

A. Total Account Enquiry. (Pages 51 – 55)

Bank Produced this document for the first time on 12th of November 2008 motion. When I analyzed the document I discovered that the document may contained another page and the bank with fraudulent intention concealed that page.

Again during Motion on 14th of July 2009, I brought the issue of 2nd Page of "Total Account Enquiry" to the attention of Honorable Justice Moore. Hon Justice Moore requested bank lawyer to produce the 2nd page. After few minutes interval bank produced a new print out of "Total Account Enquiry". Hon Justice Moore asked me whether I agree with the new print out. When I told I do not agree with the new print out, Hon Justice Moore did not expect me to explain why I do not agree with the new print out, but Hon Justice Moore tear the copy of new print out in his hand to two pieces, retuned the tore pieces to Litigant section of the court room continued the proceeding with other documents filed for the day and delivered his decision.

B. Explanation for the Word "Collection Item". (Pages 24 – 26)

Accounting abbreviation "Collection Item" may be more important word in this issue. My Line of Credit and Checking (Value) Accounts were closed with this accounting abbreviation. TD Canada Trust may be given more than 3 explanations for this term.

I was able to explain the word with some formal financial documents. As I understand it is a way of receiving money for default checks and default accounts. Collection Item gets credited only when money received. As my account details say that "Collection Item CR" it may confirm money was collected towards my account from unknown resources.

C. My Claim to Inspect Transaction Records. (Pages 27 – 34)

One of the reason I suspected that the bank concealing some information, an attempt by bank tellers to print some additional information on the daily transaction records (slips) I signed for daily counter transaction. I claimed to inspect these records through the first letter sent to the bank. Bank failed to produce any document related to this issue under various excuses. The documents provided after a court order were not clear. When I claimed to inspect the original bank failed to produce two of the originals. The documents produced by the bank on 12th of November 2008 motion informed an enquiry on my first letter was conducted immediately and copies of the documents were available in Ottawa branch as

early as 22nd of March 2007 and the copies may have been made from originals and the two originals not produced by the bank may disappeared only after 22nd of March 2007.

D. Date of Closure of my TD Visa Emerald Card. (Pages 35 – 43)

One of the evidence for money belong to me was existed under TD Canada Trust custody was date of closure my TD Visa Emerald Card when it become default. According to C - 1 Guide Line of Banking Superintendent, bank supposed to Write-Off the account in 180 Days (6 Months). In Court Documents bank say they Written-Off the account in 240 Days (8 Months). But Evidence (Account Details Provided by TD Canada Trust and TransUnion Credit Report) indicate account was Written-Off only after 540 Days (18 Months). This may be because the concealed account (or Any other form of Assert) provided security for my Visa Card loan amount. Bank may be omitted accounting statements giving correct write-off date from the evidences.

E. Bank's Account Management Policy. (Pages 29, 30 and 130)

When I claimed to inspect Account Management Policy of Personal Accounts and Default Accounts of the Bank, bank lawyer informed the court that such documents do not exit. But again on 12th of November 2008 motion bank stated that "The Bank's practice is to write off an account that has been in arrears for 180 days or more...." This may confirm that bank has an account management policy.

5. Refusal to Accept Evidences.

Complaint against: Master Birnbaum – Ontario Superior Court – Toronto Court House.
Hon Justice Moore – Ontario Superior Court – Toronto Court House.
393 University Ave.

Also Toronto Police Services.

During the motion on November 12th, 2008, and on motion for summary judgment on July 14th, 2009 also for the Police Complaint (Fraud Complain # 2529262) filed with the Toronto Police Services I provided with evidences to suspect a commission of crime in accounts managed under my name, also provided necessary legal arguments which were best for my intellectual capacity. Unfortunately in all instances the law professional (and Police Officers) failed to accept my evidences and refused order or carry out a proper criminal investigation. Details of such evidences are presented in tab 2 (Pages 17 – 47);

Brief summery of such evidences as follows:

A. What happened to My Line of Credit and Value (checking) Account? (Pages 19 – 26.)

Due to some unexpected financial situations I stopped monthly payments for my TD Line of Credit and TD Visa Emerald card. My Line of Credit and Checking accounts with TD Canada Trust were closed while I was out of Canada as follows: (Pages 19 – 22)

My Line of Credit:

Date	Trans Description	Trans Amount	Balance
10/19/2005	Collection Item	11,611.72 CR	
10/19/2005	Close Account	0.00 DR	0.00

My Value (Checking) Account:

Date	Trans Description	Trans Amount	Balance
06/28/2005	Collection Item	107.30 CR	
06/28/2005	Close Account	0.00 DR	0.00

Also my Line of Credit in TransUnion Canada credit report reported as "Balance 0.00, Closed Consumer Request". Here the important question may be what we understand by the word "Collection Item". Based on some formal financial documents I was able to understand it as a way of receiving money for default checks or accounts and a Collection

Item get Credited only when money was received. As here it is being reported as Collection Item XXX.XX CR, it may confirm above accounts may be closed with money received from unknown resource. A banking record from TD Canada Trust record management system called "Deposit Account Transaction Enquiry" for above two transactions may provide more details about the transactions. Though I claimed for these records from the bank I failed to provide it. Again when I request the civil court to order for these documents, court failed to order for it.

B. Printing Additional Information on Daily Transaction Records (Slips). (Pages 27 – 34)

Between November 2004 and March 2005, when I went for regular banking transactions at different branches of TD Canada Trust in Scarborough area; I experienced tellers were printing additional information on daily transaction records, I was supposed to sign. Bank provided these details only after Civil Court ordered to provide them on 20th February 2008. As the provided details were not complete I requested to inspect originals. Bank produced only 8 out of 10 original were being claimed. The originals which were not provided were signed by me on 2nd of November 2004 and on 4th of February 2005. Though I requested for the inspection of these originals, civil court failed to uphold my right to inspect these originals. Additional information printed on these transaction records may be regarding a secrete account managed in my name.

C. Date of Closure of TD Visa Emerald Card. (Pages 35 – 43)

When I stopped payments for my TD Emerald Visa Card, the bank supposed to Write-Off the account in 180 Days (6 Months). (As per C - 1 Guide Line of Banking Superintendent.) In Court Documents bank say they Written-Off the account in 240 Days (8 Months). But Evidence indicate account was Written-Off only after 540 Days (18 Months). This may be because the concealed account (or Any other form of Assert) provided security for my Visa Card loan amount. The money was in concealed account may have been disposed Illegally before write-off of the Visa account.

D. Investment Account Details saying "Total Portfolio as of 07/31/99 - 104,260.00". (Page 44)

I opened an Investment account with TD Canada Trust around June – July 2002. Statement of this account, for the period of Jul 1, 2002 – Jul 31, 2002, in one place saying "Total Portfolio as of 07/31/99 – 104,260.00". Though I claimed explanation for this, bank failed to explain it. This arise a question whether this account was opened earlier by some one else and money belong to me deposited into this account. Any money belong to me came during this period may came from Sri Lanka or Diaspora Tamil society for my education.

E. Intentionally altered My Equifax Credit Report. (Pages 45 – 47)

Around April 2004 I took an Equifax Power Score and found the score as 687. Then again I took the score in November 2004 and found the score as 686. After taking the second one only I realized my April 2004 score may an intentionally altered one and the actual score could be between 725 and 735. Though I tried to bring this issue to the attention to Toronto Police Services and Equifax Credit Agency, they failed to make any action regarding this issue.

6. Awarding Cost. (Tab 9 – Pages 171 -178)

Complaint against: Master Birnbaum	– Ontario Superior Court – Toronto Court House.
Hon Justice Moore	– Ontario Superior Court – Toronto Court House.
	393 University Ave.

At the end of motion in front of Master Birnbaum on November 12th, 2008, Master asked for the cost details. I submitted my cost details and Master enquired defendant lawyer and confirmed it was already served to defendant. When defendant failed to produce a cost details

Master instructed to the defendant lawyer to provide cost details within 3 days but failed to give any instructions whether such delayed cost details need to be served to me or any why I can object any details in such cost details. I failed to receive a cost details from defendant and when I received the court order around January 20th, 2009 and Amended Court Order around February 17th, 2009 I found that there is an order asking me to pay 1000.00 dollars to the defendant.

Again at the end of motion for summary Judgment on July 14th, 2009, Hon Justice Moore asked defendant for cost details. (Though I had a cost details which was served to defendant Hon Justice Moore did not expect me to provide a cost details.) Only after requested for cost details defendant provided a copy of their cost details to me at the motion and then provided a copy to the Judge. Then Hon Justice Moore briefly explained what defendant asking for the cost and asked whether I want 2 minute to discuss about cost with defendant. As I afraid unnecessary confrontation I declined such offer. Based on defendant request I was asked to pay 5,000.00 dollars for whole proceeding.

When analyzing the cost details submitted at motion for summary judgment I found that I may have been billed twice for the motion happened on November 12th, 2008. . I brought this issue to the assessment officer C. Chiba on 4th of September 2009. She failed to take any action regarding this.

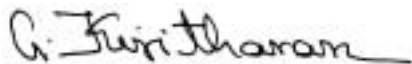
I believe it is very unfortunate that documentary evidence to suspect commission of crime is filed with Ontario Judiciary (Civil and Criminal) but every body trying to dismiss the evidences and my claims as delusions but willing to make decisions (judicial and medical) based on misleading information submitted by the bank. I experienced more trauma when asked for justice than the one created by the fraud itself.

In total I claim I am a victim of mistake some thing similar to Walkerton (Ontario) E-Coli disaster. My Questions for Ontario (also Canada) Judiciary are following. When a person (victim) came up to the judiciary and complaint he is a victim of fraud and produce some documents as evidences;

- a. How Judiciary should evaluate such evidences?
- b. If the suspected fraud is in a bank or by a bank, which section of a judiciary should deal the issue?
- c. If the initial evaluation of evidences confirms that there is reason to suspect commission of crime, then what are the measures in judiciary to collect more evidences from suspected criminals?
- d. If suspected criminal is a bank, then is there any change in procedure to collect more evidences?

Whether our judiciary has a well defined procedure for above situation, and followed such procedure in my case? Or as in Walkerton case our Judiciary also a department runs in grandparenting licensing system which tries to make decisions (or Judgments) by concealing evidences and misleading public.

Yours truly,



Gana Kiritharan.