



## Markets

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### Black Says Prosecutors Have No Case

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CHICAGO — Former media mogul Conrad Black said Monday that he remains confident that the U.S. government has no case against him and he does not understand "what any of us are doing here" facing charges of fraud and racketeering.

"I've always said they had no case and nothing has changed," Black said as he headed into federal court with his daughter Alana Black for the beginning of his trial's fifth week.

Black, 62, cautioned against taking his opponents "too seriously," saying their attempts to show any wrongdoing by him or any of his co-defendants — all former executives of his former newspaper company Hollinger International — have thus far failed.

"They tried to shock the jury with Bora Bora. The company ended up making money off Bora Bora," he said, referring to a trip Black and his wife took to the South Pacific island on a corporate jet. Prosecutors have alleged it was an improper use of company funds.

Black and two of his three co-defendants are accused of pocketing \$60 million in non-compete payments from various deals. He is also accused of misusing about \$20 million in company funds for personal expenses, including the vacation to Bora Bora.

Attempts to show that Black and the others had paid themselves non-compete fees from the sale of newspapers that were not approved — and that they concealed management fees to avoid a tax hit — also failed, Black said. He said testimony by Toronto lawyer Darren Sukonick last week revealed it was his law firm, Torys LLP, who suggested the move.

"So what are we doing here? What are any of us doing here?" Black wondered.

Sukonick's testimony was further undermined Monday by William "Bud" Rogers, a senior corporate lawyer from New York-based law firm Cravath, Swaine & Moore, who advised Hollinger International during its sale of U.S. newspapers in the late 1990s. Rogers became involved with Hollinger International when former Hollinger Vice President Peter Atkinson hired him to deal with the sale of American Trucker, a free periodical available at U.S. truck stops, to Primedia Inc.

In 2001, Rogers was representing Citigroup Inc.'s Salomon Smith Barney unit, which was considering underwriting a Hollinger bond offering.

He testified that his firm's work on that underwriting led to some questions about payments made to Hollinger International senior executives for non-compete agreements that had not been disclosed.

When he contacted Hollinger legal executive Mark Kipnis about the payments, Kipnis told him that Torys had advised the company not to disclose the payments and that Sukonick had said Cravath agreed with his firm's take.

Rogers said he was "shocked" by that comment "because I knew we didn't agree with that conclusion."

"We scratched our heads, frankly, to try to understand how they (Torys) could have reached that conclusion," Rogers told the court.

"Those payments were required to be disclosed," he added, saying he told Kipnis that "this (disclosing the non-competes) is not a close call."

He also told Atkinson that a failure to publicly disclose the non-compete payments could lead to "defective" filings and leave the company open to shareholder lawsuits, Rogers said.

Earlier Monday, prosecutors tried to repair some of Sukonick's damaged testimony by suggesting the lawyer had believed in 2001 that the non-compete agreements with CanWest Global Communication Corp. were required and that they included all of the defendants.

"Had I known this was not true, we would have taken action to determine whether my belief was correct," he told prosecutor Julie Ruder. "There would have been more discussion about this."

The lawyer has testified about tens of millions of dollars in non-compete payments, which prosecutors allege Black and other executives used to illegally funnel money away from Hollinger International. He was one of a number of lawyers who advised Hollinger International in the sale of Canadian big city newspapers to CanWest for \$3.2 billion in late 2000.

The deal included payments from CanWest in exchange for Hollinger's promise not to compete with the papers in areas where they circulated. While such payments are common in business, prosecutors say the money belonged to Hollinger shareholders, not executives.

Defense lawyer Michael Schachter reminded jurors Monday that it was Sukonick who had added

the names of Atkinson and former chief financial officer John Boulton to the CanWest agreement.

The non-compete payments made to Black and his former top executive David Radler as part of the CanWest deal are not in dispute.

Radler also was accused of pocketing money, but he pleaded guilty in return for a 29-month prison sentence and an agreement to testify against Black.

Kipnis is charged with helping to arrange the transactions.

Sukonick acknowledged he added Atkinson's and Boulton's names, but that he did so "in accordance with the instructions I received from Peter Atkinson."

"So the answer is you \_ you were the one who wrote the names," Schachter said, noting there's no evidence that Atkinson requested the CanWest non-compete agreements to back up Sukonick's claims.

Schachter, who is one of Atkinson's lawyers, also suggested Sukonick had initially said he didn't recall how his client and Boulton ended up signing non-competes, but "suddenly remembered" about Atkinson asking for them after several meetings with U.S. officials.

Jurors perked up with Rogers' testimony after appearing to have trouble following Sukonick's technical points \_ delivered in 14 hours of prerecorded video \_ at certain points last week. Observers had said prosecutors need to get back to broader themes or run a real risk of losing the jury in the details.

Inside the courtroom, Black sat back on his leather chair with his right hand on his chin, watching Sukonick's video testimony on one of three large screens, pausing at times to speak with his lawyers.



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