

Players ask court to order CHL teams to provide financial, tax documents

By Rick Westhead



David Branch, Tara Walton/Toronto Star via Getty Images



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A group of former players suing the Canadian Hockey League are asking a Calgary judge to order 42 minor league teams to turn over their tax returns and financial statements dating back to 2011 to establish whether those franchises are profitable or lose money.

The players are also asking a Alberta Court of Queen's Bench judge to order Western Hockey League commissioner Ron Robison and Ontario Hockey League commissioner David Branch to produce all of the leagues' revenue-sharing agreements.

Robison and Branch have testified that one third of the teams in the WHL and one third of the teams in the OHL lose money each season. Neither Branch nor a WHL spokesman responded to an email requesting comment.

Ted Charney, a lawyer for the former players, wrote in court papers filed Sept. 26 and obtained by TSN that the leagues should be required to disclose documents relating to broadcast revenue, merchandising, funding from the National Hockey League, and any other revenue streams.

Charney represents former junior players who say CHL franchises are raking in millions of dollars from ticket revenue, corporate sponsorships and TV rights fees, and are worth tens of millions of dollars. The

players. Besides a payout for themselves, the former players want the leagues to be forced to pay current players at least minimum wage.

It's unclear how many former players have joined the litigation. Unless the case is certified as a class action and players become class representatives, they are not required to be publicly identified.

The CHL, the umbrella organization that represents the OHL, WHL and Quebec Major Junior Hockey League, has argued that it is a development league featuring amateur student athletes. It has also argued that if it's required to pay damages to the players, some teams may go out of business.

"Mr. Robison and Mr. Branch swear in their affidavits that approximately one third of CHL teams are profitable, one third break even and one third sustain losses," Charney wrote in his court motion. "They make claims about [the] extent of club losses, but neither mentions the magnitude of profits... The profitable clubs need the other clubs to stay in business and provide real competition, or else the profitable clubs would inevitably suffer."

Charney wrote that the OHL and WHL have already indicated that they share revenue generated by the Memorial Cup, the World Junior Hockey Championship (a tournament whose broadcast rights are controlled by TSN), and Rogers Sportsnet. "Other known sources of revenue, such as merchandising, sponsorships, and participating in a popular video game, are not mentioned," he wrote.

In affidavits sworn in November of 2015, six WHL and OHL team owners wrote that their teams would suffer financial hardship and possibly go out of business if they were required to pay players minimum wage.

"These bald statements are made without any supporting documentation, including financial statements tax records," Charney wrote.

Documents recently filed in court include allegations about the financial health of a number of CHL teams including the Tri-City Americans, a WHL franchise in Kennewick, Wash., that's worth an estimated \$4.65 million, according to Kevin Mongeon, an assistant professor of sport management at Brock University hired by Charney to estimate the value of CHL teams.

General manager Bob Tory, who is among the team's owners, wrote in a Dec. 16, 2015, affidavit that the team "often loses money each year," including a loss of \$158,662 for the 2013-14 season. The Americans generate about \$2.9 million in revenue, Tory testified. He also testified the Americans have about \$1.5 million in business-related annual expenses and \$1.3 million in hockey-related expenses, including rent, fees for the arena, player equipment and supplies, team travel and meals, and salaries for coaches, trainers and scouts.

"If the team were required to pay its players' minimum wage, the consequences of this additional expense item would be severe," Tory testified. "The only way that the team could continue to operate would be for the team to reallocate funds spent on players' benefits and supports to minimum wage payments."

Brendan O'Grady, a colleague of Charney, wrote that Tory has offered no proof of his claims.

“Mr. Tory’s affidavit did not attach any financial documentation in support of his statements,” O’Grady wrote in a Sept. 22 affidavit. “None of the Tri-City Americans’ financial statements or tax documents are on the record to support his claims.”

Charney is also asking the court to order Branch and Robison to provide proof about academic scholarships the WHL and OHL provide to players. Robison testified that the WHL has awarded more than 5,500 scholarships since 1993 and that the league spends \$2 million a year on scholarships. Branch testified that the OHL paid \$6.2 million in scholarships during the 2014-15 season and that 49 per cent of OHL graduates claim their scholarships.

“These statistics,” Charney wrote, “are intended to characterize the clubs and leagues as altruistic development programs run for the best interest of the players, rather than as revenue-maximizing businesses. The affidavits of Mr. Robison and Mr. Branch do not include any of the source documents used to arrive at their statistical conclusions, nor is their methodology or source of information explained.”