



FEDERAL COURT

LaBOUTIQUE REALTY LTD.

Court File No. T-2406-22

FILED	FEDERAL COURT COUR FÉDÉRALE	DÉPOSÉ
	NOV 18 2022	
	FRANK FEDORAK (NF)	
VANCOUVER, BC		1

Appellant

and

FINANCIAL TRANSACTIONS and REPORTS ANALYSIS CENTRE of CANADA (FINTRAC)

Respondent

NOTICE OF APPEAL

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the appellant. The relief claimed by the appellant appears below.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court directs otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at 701 West Georgia Street, Vancouver, British Columbia V7Y 1B6.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341A prescribed by the *Federal Courts Rules* and serve it on the appellant's solicitor, or, if the appellant is self-represented, on the appellant, WITHIN 10 DAYS after being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341B prescribed by the *Federal Courts Rules* instead of serving and filing a notice of appearance.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

NOV 18 2022

November ____, 2022

ORIGINAL SIGNED BY
MODELISA HENNESSY
A SIGNÉ L'ORIGINAL

Issued by: _____
(Registry Officer)

Address of local office:

Pacific Centre
P.O. Box 10065
701 West Georgia Street
Vancouver, British Columbia
V7Y 1B6

TO: Financial Transactions and Reports Analysis Centre of Canada (FINTRAC)
234 Laurier Avenue West
Ottawa, Ontario
K1P 1H7

APPEAL

THE APPELLANT APPEALS to the Federal Court from the order of Sarah Paquet (the "Director"), Director and Chief Executive Officer of the Financial Transactions and Reports Analysis Centre of Canada ("FINTRAC"), in file RAU-2022-0001/AMP-2021-0009 dated July 7, 2022 which was served on the appellant on October 19, 2022, by which the Director imposed a total administrative monetary penalty of \$275,385 against the Appellant pursuant to subsection 73.15(2) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (S.C. 2000, c. 17) (the "Order").

THE APPELLANT ASKS:

- (a) that the Order of the Director be set aside;
- (b) that the Court make a determination, in place of the Order of the Director, as to the amount of the monetary penalties which the appellant should be ordered to pay; or, alternatively
- (c) that the matter be remitted to the Director for reconsideration with such directions as the Court sees fit to provide.

THE GROUNDS OF APPEAL are as follows:

1. This appeal is brought by the appellant pursuant to s. 73.21 of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (S.C. 2000, c. 17) (the "Act").
2. The Director made an error of fact, law, or mixed fact and law, when making the following decisions:
 - a. that the appellant committed Violations numbered 1, 3, 4, 5 and 6 in the Notice of Violation as follows:
 - i. failure to report a suspicious transaction ("Violation #1");
 - ii. failure to appoint a compliance officer ("Violation #3");
 - iii. failure to develop and apply written compliance policies and procedures ("Violation #4");
 - iv. failure to assess and document the risk of a money laundering or terrorist financing offence ("Violation #5");
 - v. failure to develop and maintain a written ongoing compliance training program ("Violation #6"); and(collectively, the "Violations").

b. that the penalties imposed for the Violations be as follows:

- i. \$165,000 for Violation #1;
- ii. \$24,750 for Violation #3;
- iii. \$24,750 for Violation #4;
- iv. \$33,000 for Violation #5; and
- v. \$24,750 for Violation #6

(collectively, the "Penalties").

3. The Director erred by failing to properly weigh and consider the factors required to be considered under s. 73.11 of the *Act*: the harm done by the violation, the history of compliance of the Appellant, and that penalties have as their purpose to encourage compliance with the *Act*, rather than to punish.

The appellant requests FINTRAC to send a certified copy of the following material that is not in the possession of the appellant but is in the possession of the tribunal to the appellant and to the Registry:

- 1. All correspondence, memoranda, records of communication, notes and records of any other kind or nature related to the investigation conducted by FINTRAC in relation to file RAU-2022-0001/AMP-2021-0009; and
- 2. All correspondence, memoranda, records of communications, notes and records of any other kind or nature that were provided to, reviewed by or made available for review by the Director for the purpose of conducting the review and making the determinations upon which the Order was made.

November 18, 2022



Jeffrey P. Scouten,
Lawyer for the Appellant

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I HEREBY CERTIFY that the above document is a true copy of
the original issued out of / filed in the Court on the _____
day of _____ NOV 18 2022 _____ A.D. 20 _____

Dated this _____ day of _____ NOV 18 2022 _____ 20 _____



**MODELISA HENNESSY
REGISTRY OFFICER
AGENT DU GREFFE**

SOR/2004-283, ss. 35 and 38