

MAVERICK OILFIELD SERVICES LTD
LATIGO TRUCKING

FORM 301 Rule 301
Notice of Application

T-1836-21

✓
(General Heading — Use Form 66)
(Court seal)

FILED	FEDERAL COURT COUR FÉDÉRALE	DEPOSE
	DEC - 2 2021	
	FRANK FEDORAK	
VANCOUVER, BC		

CRA
CANADA REVENUE AGENCY
Notice of Application
TO THE RESPONDENT:

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

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicant. The applicant requests that this application be heard at *(place where Federal Court of Appeal (or Federal Court) ordinarily sits)*.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must file a notice of appearance in Form 305 prescribed by the Federal Courts Rules and serve it on the applicant's solicitor or, if the applicant is self-represented, on the applicant, WITHIN 10 DAYS after being served with this notice of application.

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 APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

(Date) DEC - 2 2021


Issued by: (Registry Officer)

Address of local office: FRANK FEDORAK
REGISTRY OFFICER
AGENT DU GREFFE

TO: (Name and address of each respondent)

(Name and address of every other person required to be served)

Courts Administration Service
P.O. Box 10065, 3rd Floor
701 West Georgia Street
Vancouver, B.C. V7Y 1B6

Application

This is an application for judicial review in respect of a written decision (the "Decision") of the Respondent dated November 02, 2021, denying the Applicant's request under the Income Tax Act (Canada) (the "Act") for the cancellation of all penalties and interest assessed under the Act

The applicant makes application for:

An order, pursuant to subsection 18(1) and 18.1(3) of the Federal Court Act, to set aside the Decision and to refer it back to the Respondent for determination in accordance with the Court's direction and for such other relief as counsel may advise and the court permit.

The grounds for the application are:

- (a) On June 19, 2020, the Applicant applied to the Respondent for the cancellation of penalties and interest under subsection 220(3.1) on the grounds that the Applicant's company went through an extremely unusual period, experiencing extraordinary circumstances which ultimately prevented him from continuing to maintain his impeccable history of tax compliance.
- (b) Maverick Oilfield Services Ltd was founded by the Applicant in 1978, building it into a \$40 million + revenue generating company at its peak, and providing employment for over 300 Canadians. The Applicant was beguiled into handing over the reins of the company to a cunning and deceitful individual, whose decisions included delaying paying CRA, while misinforming the Applicant. Upon discovery, the Applicant took back control of Maverick and paid off the CRA debt using all his personal savings and assets as well as funds saved for his grandkids' education.
- (c) According to the Respondent's guidelines set out in Information Circular IC07-1R1, "extraordinary circumstances" preventing a taxpayer from reporting and / or making a payment when due under the Act may constitute grounds for waiver or cancellation of interest or penalties under the Act.
- (d) On April 26, 2021, the Respondent denied the Applicant's request in writing.
- (e) The Respondent claimed they had carefully considered the facts and circumstances of the case, including the corporation's compliance history, as well as the actions taken by the Applicant to bring the payroll account into compliance, before denying the Applicant's request for relief.
- (f) The Respondent allowed certain interest relief as a result a prior agreement once the Applicant paid off the outstanding balance.

- (g) The Respondent admitted to applying eleven (11) penalty charges in error, which by all accounts is gross negligence.
- (h) The Respondent fails to provide any explanation, nor justification as to how or why they were denying the Applicant's request. They did attempt to explain why the Applicant did not qualify for relief under financial hardship, although the Applicant had not sought relief under such. They did not address the Applicant's impeccable history of compliance, nor take into account the Applicant's extraordinary steps to pay off CRA's debt as quickly as possible.
- (i) On July 29, 2021, the Applicant wrote to the Honourable Diane LeBouthillier, Minister of National Revenue, requesting her to exercise her discretionary powers, and to review the Applicant's request fairly and objectively, and in the spirit in which the Taxpayer Relief Provision was intended. The Applicant was informed that the matter would be sent back to the Respondent, for a thorough review.
- (j) On November 02, 2021, The Respondent wrote her decision denying the Applicant's request.
- (k) As with previous responses, the Respondent failed to explain or provide any justification or explanation as to how or why the Applicant's request was being denied.
- (l) None of the Respondent's responses addressed the Applicant's assertion that the cause of penalties and interest were due to extraordinary circumstances, nor did the Respondent provide any cogent arguments to support their conclusions.
- (m) The information circular IC07-1R1 is unambiguous in instructing the Respondent to use common sense, and to not place limits on criterion which may justify approving taxpayer relief for those that seek it.
- (n) Paragraph 33 of IC07-1R1 stipulates the following:

Factors used in arriving at the decision

33. Where circumstances beyond a taxpayer's control, actions of the CRA, inability to pay, or financial hardship has prevented the taxpayer from complying with the act, the following factors will be considered when determining if the minister's delegate will cancel or waive penalties and interest:

- a) whether the taxpayer has a history of compliance with tax obligations
- b) whether the taxpayer has knowingly allowed a balance to exist on which arrears

- interest has accrued
- c) whether the taxpayer has exercised a reasonable amount of care and has not been negligent or careless in conducting their affairs under the self-assessment system
 - d) whether the taxpayer has acted quickly to remedy any delay or omission.

The Respondent has been repeatedly made aware of the Applicant's diligence in all the four criteria above, but has continuously ignored it.

This application will be supported by the following material:

1. Affidavit of Mr. Mike Schnell
2. IC07-1R1
3. Copies of previous requests for taxpayer relief.
Copies of letters of denial from the Respondent.
4. <https://www.canada.ca/en/taxpayers-ombudsperson/programs/reports-publications/special-reports/right-know.html>

The link above is for the Taxpayer Bill of Rights, found on the Canada.ca site. A Report Summary immediately following provides a scathing indictment of the Respondent's inability to live up to its own core values of fairness, openness and accountability, as well as the Respondent's refusal to provide explanations and justifications for its decisions as required by the Act that governs it.

5. Such other affidavit or other documentary evidence as counsel may advise and the Court permit.

November 02, 2021



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