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| F<br>I<br>L<br>E<br>D | FEDERAL COURT<br>COUR FÉDÉRALE<br><br>March 08, 2023<br>08 mars 2023<br><br>Sherri Ally |
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Court File No.: T-\_\_\_\_-23

**FEDERAL COURT**

B E T W E E N :

**MINISTER OF NATIONAL REVENUE**

Applicant

and

**HELCIM INC.**

Respondent

APPLICATION UNDER subsections 231.2(3) of the *Income Tax Act*, RSC, c 1 (5<sup>th</sup> Supp), as amended and 289(3) of the *Excise Tax Act*, RSC 1985, c E-15.

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**NOTICE OF APPLICATION**

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TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicant. The relief claimed by the applicant appears on the following page.

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 the Federal Court, 180 Queen Street West, Suite 200, Toronto, Ontario M5V 3L6.

IF YOU WISH TO OPPOSE THIS APPLICATION, 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 prepare a Notice of Appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicant's solicitor, or where 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.

March 8, 2023

*Issued by:*

\_\_\_\_\_  
*(Registry Officer)*

Address of local office: Federal Court  
180 Queen Street West  
Suite 200  
Toronto, Ontario M5V 3L6

TO: Osler, Hoskin & Harcourt LLP  
Attention: Theo Stathakos  
1055 West Hastings Street  
Suite 1700, The Guinness Tower  
Vancouver, BC V6E 2E9  
Tel: 604.803.0759  
Email: [tstathakos@osler.com](mailto:tstathakos@osler.com)  
Counsel for the Respondent

## APPLICATION

### THE APPLICANT MAKES AN APPLICATION FOR:

- a. an Order, pursuant to subsections 231.2(3) of the *Income Tax Act*, RSC 1985, c 1 (5<sup>th</sup> Supp), as amended (the “**ITA**”) and 289(3) of the *Excise Tax Act*, RSC 1985, c E-15 (the “**ETA**”) authorizing the applicant, the Minister of National Revenue (the “**Minister**”) to impose on the respondent, Helcim Inc. (“**Helcim**”), a requirement under subsections 231.2(1) of the ITA and 289(1) of the ETA to provide information and documents relating to an ascertainable group of one or more unnamed persons; and
- b. such further and other relief as this Honourable Court deems appropriate.

### THE GROUNDS FOR THE APPLICATION ARE:

- a. Helcim is a Canadian company incorporated on January 26, 2007. Its headquarters is located in Calgary, Alberta;
- b. Helcim offers mobile payment device options and processing products and services such as card readers;
- c. the Minister seeks the names of all Canadian merchants that have registered with and use Helcim’s mobile payment and processing products and services (the “**Merchants**”) for the period from January 1, 2019 to present (the “**Period**”). The Minister further seeks the Merchants’ contact information, banking information, and total monthly aggregate of transactional information between the Merchant and their customers (“**Sales History**”);
- d. Helcim knows the names of its Merchants and maintains records that include their identities, contact information, banking information, and Sales History;
- e. the Merchants are an ascertainable group;

- f. the Minister seeks to verify whether the Merchants have complied with their duties and obligations under the ITA and/or the ETA, including whether they properly reported all of their income during the Period and collected, reported, and remitted all goods and services tax (“GST”) and/or net tax.
- g. the Minister does not know the identities of the Merchants, consequently, she seeks judicial authorization to impose on Helcim a requirement to provide information and documents relating to the Merchants, including their names, contact information, banking information, and Sales History;
- h. the Minister relies on section 231.2 of the ITA, section 289 of the ETA, and the *Federal Courts Rules*, SOR/98-106, as amended; and
- i. such further and other grounds as counsel for the Minister may submit and this Honourable Court may accept.

**THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:**

- a. the Affidavit of David Erwin and the exhibits attached thereto; and
- b. such further and other material as counsel for the Minister may submit and this Honourable Court may accept.

March 8, 2023



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**ATTORNEY GENERAL OF CANADA**

Department of Justice

Ontario Regional Office

Tax Law Services Section

120 Adelaide Street West, Suite 400

Toronto, Ontario M5H 1T1

**Per: Rita Araujo / Peter Swanstrom**

Tel: 647-256-7326 / 647-256-7448

Fax: 416-973-0810

Counsel for the Applicant