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Lindsay Krieger			
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Court File No.: \_\_\_\_\_

**FEDERAL COURT**

**IN:**

**RE: THE MATTER OF A PRODUCTION ORDER ISSUED UNDER 462.48(3) OF THE  
CRIMINAL CODE**

MINISTER OF NATIONAL REVENUE

Applicant

ATTORNEY GENERAL OF CANADA

Respondent

APPLICATION UNDER 462.48(7) OF THE *CRIMINAL CODE* R.S.C., 1985, c. C-46

**Notice of Application**

Applicant: Minister of National Revenue

Respondent: Attorney General of Canada

**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 Edmonton, Alberta

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.

June 3, 2024

Issued by:

Address of local office:

TO: Respondent, Public Prosecution Service of Canada  
700 Epcor Tower  
10423 101<sup>st</sup> Street  
Edmonton, AB T5H 0E7

# Application

## Relief Sought:

The applicant makes an application for the determination of an objection or objections made pursuant to 462.48(6) of the *Criminal Code* R.S.C., 1985, c. C-46 (“CC”) in relation to an order made pursuant to 462.48(3) CC on May 9, 2024 and varied on May 22, 2024.

The applicant requests that the objection(s) be confirmed.

## Grounds:

### Jurisdiction:

The jurisdiction to determine an objection is granted by 462.48(7) CC to “the Chief Justice of the Federal Court, or by such other judge of that Court as the Chief Justice may designate to hear such applications.”

### Special Rules:

Pursuant to 462.48(12)(a) CC, this application is required to be heard *in camera*.

### Background:

On May 9, 2024, a Justice of the Court of King’s Bench of Alberta issued an order under 462.48(3) CC. The order was subsequently varied on May 22, 2024 (the “Order”). The applicant understands that all of the evidence supporting the issuance of the original order has been sealed by order of the Justice of the Court of King’s Bench of Alberta.

The Minister of National Revenue (the “Minister”) has objected to the disclosure of certain information or documents that were the subject of the Order. The appropriate delegated authority provided a certified objection on May 22, 2024. The objection relates to only a portion of the information or documents ordered produced. The production of the information/documents not objected to is currently ongoing.

Pursuant to 462.48(9) CC, an application to determine an objection shall be made within ten days after the objection is made, unless the Chief Justice of the Federal Court (or designate) considers a greater or lesser period to be appropriate.

As the production of a portion of the information/documents is expected to be ongoing past the expiration of the limitation period under 462.48(9) CC, it is anticipated that the

position of the parties in relation to this application may change as circumstances develop.

#### Basis for Objection:

The Order was obtained by a Peace Officer for the purpose of investigating one or more specified offences listed in 462.48(1.1) CC.

The Order required the Minister of National Revenue to produce certain information and documents. Of relevance to this application are specific requirements of the Order, including:

- 1) That the Minister provide unredacted copies of all of the listed documents; and
- 2) That the Minister provide “any other relevant information pertaining to [... records] or other documents obtained that is relevant to the taxpayer’s records.”

The Minister of National Revenue objects to providing unredacted copies of the documents in the Minister’s possession. These documents contain personal tax information of third parties who are unrelated to the investigation, as well as a range of other information that may be sensitive, private, or otherwise privileged. The Minister makes the objection pursuant to 462.48(6)(d) and 462.48(6)(b) CC.

The Minister of National Revenue objects to the request beginning with “any other relevant information.” The request is so broad that the Minister is unable to ascertain what the term is meant to include or to not include. In light of the specific purpose of 462.48 CC and long-standing special rules regarding income tax information and their use in criminal proceedings, the Minister is of the view that disclosure in accordance with the term of the Order would not be in the public interest. The Minister makes the objection under 462.48(6)(d) CC.

Pursuant to 462.48(7) CC, this matter can only be determined by the Chief Justice of the Federal Court, or by such other judge of that Court as the Chief Justice may designate to hear such applications. There is no statutory authority in the Criminal Code for this matter to be determined by the Superior Court (or any other court) where the Order was obtained.

#### Specially Managed Proceeding

The applicant believes that an application under 462.48(7) CC has never previously been heard before the Federal Court. In light of the unique procedural requirements, the specific grant of jurisdiction, and the developing factual circumstances, many of the provisions of Part 5 of the *Federal Courts Rules* may not be conducive to an efficient and orderly resolution of this application.

It may be appropriate for the Court to order that this matter proceed as a specially managed proceeding pursuant to Rule 384.

### **Documentary Evidence:**

This application will be supported by the following material:


- 1) The order issued by the Court of King's Bench of Alberta on May 9, 2024.
- 2) The order varying the above-noted order, on May 22, 2024.
- 3) The objection certified by the delegate of the Minister of National Revenue on May 22, 2024.

This application may further be supported by the following material:

- 4) Any further clarifications, amendments, or subsequent objections made by the Minister of National Revenue in regards to the Order.
- 5) An affidavit of the delegate of the Minister of National Revenue.
- 6) Copies of documents that may be subject to the Order, including documents that were objected to and/or documents that were not objected to.
- 7) In relation to the relevant statutory provisions, including any predecessor provisions:
  - a. Debates of the House of Commons and/or Senate of Canada.
  - b. Minutes/Reports of committees of the House of Commons and/or Senate of Canada.
  - c. Minutes of Proceedings of the Senate of Canada.
  - d. Any other recorded information relating to the provisions in the legislature of Canada, including Journals or evidence received.
- 8) Such further evidence as counsel may advise and the Court may permit.

June 3, 2024

Per: \_\_\_\_\_



**Alexander S. Millman**  
Counsel for the Applicant

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