

**FEDERAL COURT**

**BETWEEN:**

**Andre Brand**

**Applicant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**APPLICATION UNDER SECTION 18.1 OF THE FEDERAL COURTS ACT**

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**NOTICE OF APPLICATION**

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**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 Halifax, NS.***

***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: March 17, 2023

Issued by: \_\_\_\_\_

TO: Canada Revenue  
Agency 305 René-  
Lévesque Blvd W,  
Montreal, Quebec H2Z  
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## APPLICATION

1. This is an application for judicial review of the decision of the Minister of National Revenue (the "Minister"), dated of March 7, 2023 (the "Decision"), denying the Applicant's request for the cancellation of interest and penalties assessed against him in respect of his 2019 taxation year, pursuant to the taxpayer relief provisions in subsection 220(3.1) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5<sup>th</sup> Supp.) (the "Act").

### Relief Sought

2. The Applicant makes application for:
  - a. a Declaration that the Minister's Decision to deny interest and penalty relief was unreasonable;
  - b. an Order setting aside the Minister's Decision and directing the Minister to grant the Applicant's request for interest and penalty relief;
  - c. in the alternative, an Order setting aside the Minister's Decision and referring the Decision of the Minister back for redetermination in accordance with such directions as this Honourable Court deems appropriate;
  - d. in the further alternative, an Order setting aside the Minister's Decision and referring the Decision of the Minister back for redetermination;
  - e. an Order granting the Applicant costs of this Application; and
  - f. such further and other relief as this Honourable Court may deem just.

### Grounds for Application

3. The grounds for the application are:
  - a. The Applicant submitted a request for cancellation of interest and penalties in respect of his 2019 taxation year (the "Taxpayer Relief Application").
  - b. In a letter dated Nov 22, 2022, the Minister communicated its first decision regarding the Taxpayer Relief Application. The Minister denied the Applicant's request.
  - c. On or about December 2, 2022, the Applicant requested an administrative review of the Minister's decision.

- d. By letter dated March 7, 2023, the Minister issued the Decision that is the subject of this Application. The Minister again denied the request.
- e. In denying the Taxpayer Relief Application, the Minister erred in fact and law, and made a decision that is unreasonable. The Minister:
  - i. acted without jurisdiction, beyond her jurisdiction or refused to exercise her jurisdiction;
  - ii. failed to observe a principle of natural justice or procedural fairness;
  - iii. failed to take into account unusual circumstances during the 2019 tax filing time frame;
  - iv. advised tax payer to use "My account" to download the T slips:
  - v. failed to provide the complete list of T5 slips for download from "My Account";
  - vi. erred in law in making a decision or an order, whether or not the error appears on the face of the record;
  - vii. based her Decision or order on an erroneous finding of fact that she made in a perverse or capricious manner and/or without regard for the material before her; or.
- f. In particular:
  - i. the Minister, in making her Decision, failed to have regard for the evidence before her when considering the Applicant's situation;
  - ii. the Minister acted contrary to law and thereby erred in law and fettered her discretion by misinterpreting what constitutes "extraordinary circumstances" warranting relief;
  - iii. the Minister failed to take into account the Applicant's efforts to resolve his tax matters and associated debts; and
  - iv. the Minister based her Decision on perverse and capricious findings not warranted by the facts and evidence before her and thereby acted without jurisdiction.
- g. subsection 220(3.1) of the Act;
- h. sections 18.1 and 18.2 of the *Federal Courts Act*; R.S.C. 1985, c. F-7;
- i. Part 5 of the *Federal Courts Rules*, SOR/98-106;
- j. CRA Income Tax Information Circular IC07-1R1; and
- k. such further and other grounds as counsel may advise and this Honourable Court may permit.

## Evidence to be Relied Upon

4. This application will be supported by the following material:
  - a. The Taxpayer Relief Applications;
  - b. the Decisions;
  - c. the Affidavit of the Applicant; and
  - d. such further and other materials as may be necessary to support this application and this Honorable Court may permit.
  
5. The applicant requests, pursuant to Rule 317 of the Federal Court Rules, that the Minister send a certified copy of the following material that is not in the possession of the Applicant but is in the possession of the Minister, the Canada Revenue Agency or their officials to the Applicant and to the Registry:
  - a. all documents and communications (including but not limited to memoranda, reports, studies, comments, notes, and documents and communications in electronic form such as email correspondence or voicemail messages) relating to, or in any way concerned with the Decision of the Minister.

Dated: March 16, 2023

Andre Brand  
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