

fc2

Court File No: 2-107-23

FEDERAL COURT OF APPEAL

BETWEEN:

HARRY LAWRENCE NUTTER

FILED	FEDERAL COURT OF APPEAL COUR D'APPEL FÉDÉRALE		DEPOSE
	AVR 20 2023		
M. ELIZABETH CAVERLY			
HALIFAX, N.S.			

Appellant

-and-

MINISTER OF NATIONAL REVENUE

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 requested by the appellant. The appellant requests that this appeal be heard at the Federal Law Courts, 1815 Upper Water Street, 5th floor, in the City of Halifax, in the Province of Nova Scotia.

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 to 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 Judgment 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 Court 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.

DATE: 20 April 2013

Elizabeth Caverly
Director - Directrice

Issued by: _____

Federal Court of Appeal
Suite 1720, 1801 Hollis Street
Halifax, Nova Scotia

TO: Caitlin Ward
ATTORNEY GENERAL OF CANADA
Department of Justice Canada
National Litigation Sector
5251 Duke Street, Suite 1400
Halifax, Nova Scotia
B3J 1P3
902.293.3496

Respondent

APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal from the Tax Court of Canada dated and signed in Ottawa April 3, 2023 by The Honourable Justice Susan Wong quashing the appeal of HARRY LAWRENCE NUTTER v. HIS MAJESTY THE KING, file no. 2022-2166(IT)G.

THE APPELLANT ASKS that an order to appeal under s27(2)(b) of the *Federal Court Act(FCA)* to appeal from the before mentioned Judgment from the Tax Court of Canada pursuant to s 27(1.1)(a) of the *FCA*.

THE APPELLANT is seeking costs as stated in paragraph 16 of the Written Submissions, applied with the Appellant's Motion Record, pursuant to s400 (1)(2)(3)(a) to (o) of the *Federal Court Rules (RULES)*.

THE GROUNDS OF THE APPEAL are as follows:

1. As the before mentioned Judgment states on pg. 3, par. 5,6,7,8, and 10 Appellant provided valid objections to the 2018 and 2021 taxation years. The Appellant has provided 11 objections in total and has never abandoned his right to appeal.
2. It was decided at hearing as stated at par. 2 and 3 on pg. 4 of the Judgment that Judicial review by the Federal Courts was better suited for remedy.
3. A response to fact is sought under s 130(1) of the Tax Court of Canada Rules. This section provides that : A party may, at any time, by sending a request to admit, for the purposes of the appeal only, the truth of a fact or the or the authenticity of a document. The May 31, 2022 objection clearly is asking for a truth of a fact. The same question was asked in several forms over several objections. The Appellant is seeking answer to the truth of fact, for the record, under what premise did the Minister create an assessment on July 24, 2017 that did not have the Information slips to justify the accounting. Under what premise did the Minister create an assessment on November 22, 2018 with no information slips to justify the accounting and a written explanation of the income figures. On what premise did the Minister create a Requirement on March 8, 2019 that process had full awareness of debt

figures that are overstated. *equitable estoppel*

4. A fiduciary relationship between the CRA and the Taxpayer as documented through written submission and payments was clearly established. Still the Minister on March 8, 2019 created a Requirement figures with a process that was fully informed as being overstated and under protest.
5. As Tab C of the Appellant's Motion Record documents the Minister overstated debt obligations arbitrarily with awareness. Through process this is defined as fraud in the real world. Rules of fundamental justice show an infringement of s7 of the Charter with the November 22, 2018 assessment.
6. The Requirement created on March 8, 2019 is either arbitrarily seeking administrative process through overstating debt obligations or the Minister is incompetent in process. In either instance an infringement on s 8 of the Charter applies.
7. The Appellant stands with the position that the overstated figures breach rules of fundamental justice, reasonableness, and are inconsistent with the needs of the state.
8. The Minister is taking away the nuts and bolts or essential ingredients to service obligations with the overstated debt. The overstated figures impugn the Taxpayers ability to service debt.
9. Liquidity is the nuts and bolts of servicing debt. When the Minister overstates obligations it affects available credit and cash outflows available to service the debt. This on items attached to financial statements that are assigned to a calendar for tax purposes. This can include raw materials, inventories, RRSP contributions, tax deductions and voluminous other financial instruments. As a result overstating debt obligations can induce bankruptcies and provide platforms for various other nefarious activities.
10. The Minister has through informal process has twice admitted to improper conduct with 2 reassessments, October 18, 2018 and May 6, 2019. While the *ITA* allows waiver to open up tax years it eliminates a taxpayer's right to appeal. Most items referred to in this matter start with s 130 Tax Court of Canada Rules and the Minister's error that impugned the Taxpayers ability to execute the servicing of debt for several tax years. The process offered no remedy to the burden the Minister placed on the Taxpayer.

11. Through waiver s152(4.2) and s220(3.1) of the *ITA* allow the Minister to reopen tax years however the Appellant does not want to abandon his right to appeal. As such the Appellant is seeking a lump sum.
12. The costs the Appellant is seeking require a refund of the taxes stated in par. 15 of the Appellant's Motion Record. In vacating or restating these tax years will require approximately \$51,000.00 reduction in the Taxpayer's RRSP deduction limit, the Taxpayer has excess. This along with the loss of income described in par. 11 and table on pg. 5 of the Appellant's Motion Record breakdown the lump sum amount in par. 16. The Taxpayer's function for income was identical in the tax years 2016, 2017, 2018, and 2019.
13. Paragraph 9 of the Appellant's Motion Record merely shows the loss capital gain attributed to being frozen out of the liquidity needed to purchase the financial instrument chosen. Although these figures are real and easily proven they are not included in the lump sum. The Appellant has experienced enormous cost in terms of time, liquidity and assets as a result of the Minister's actions. The taxpayer created platforms to service all obligations and the Minister impugned process. If not for the actions of the Minister we would not be having this conversation.
14. The Appellant is also seeking to recover costs from a Judgment from Madam Associate Judge Alexandra Steele dated March 22, 2023, file No: T-1915-22, related to this matter.
15. The Appellant is entering corrections to the Tax Court of Canada Notice to Appeal as follows:
 - Paragraph 16 should state RRSP contributions not GST.
 - Paragraph 25(c) all such amounts.
 - In the Appellant's Motion Record
 - Paragraph 16 costs on Respondent not cots.
16. At hearing on March 28, 2023 the Appellant in terms of *fortiori* S24 of the Charter. Although in procession at the time of hearing the Appellant did not enter asks to add Chaoulli v. Quebec(2005) 1 S.C.R. 791 and Kourtessis v. M.N.R.(1993) 2S S.C.R. 53 to the record.

The Appellant requests that the Tax Court of Canada send a certified copy of the following material that is not in the possession but is in the possession of that court to the appellant and to the Registry.

- Appellant's Notice to Appeal
- Appellant's Amended Notice to Appeal
- Appellant's Motion Record Volume 1 and 2
- Respondent's Motion Record Volume 1 and 2

ALL OF WHICH IS RESPECTFULLY SUBMITTED

DATED AT Halifax, In the Province of Nova Scotia, this 20th day of April 20, 2023.

H LARRY NUTTER
Appellant

P. O. Box 816
1680 Bedford Row
Halifax, Nova Scotia
B3H 2V2

Ph. 902.441.3457

TO: Federal Court of Appeal
Suite 1720,1801 Hollis St.
Halifax, Nova Scotia
B3J 3N4

AND TO: Caitlin Ward
Suite 1400, 5251 Duke St.
Halifax, Nova Scotia
B3J 1P3
902.293.3496

Solicitor

I HEREBY CERTIFY that the above document is a true copy of the original issued out of / filed in the Court on the 20th

day of April A.D. 2023

Dated this 20th day of April 2023

Elizabeth Caverly
Director - Directrice

