

Federal Court



Cour fédérale

Date: 20251104

**Dockets: T-2353-24
T-2354-24**

Citation: 2025 FC 1778

Docket: T-2353-24

BETWEEN:

THE MINISTER OF NATIONAL REVENUE

Applicant

and

**R.D. STEWART GROUP INC. AND
ROBERT D. STEWART (ALSO KNOWN AS
ROBERT D STEWART)**

Respondents

Docket: T-2354-24

AND BETWEEN:

THE MINISTER OF NATIONAL REVENUE

Applicant

and

**ROBERT D. STEWART MANAGEMENT
CONSULTANTS LTD. (ALSO KNOWN AS
ROBERT D STEWART MANAGEMENT
CONSULTANTS LTD) AND ROBERT D.
STEWART (ALSO KNOWN AS ROBERT D
STEWART)**

Respondents

REASONS FOR ORDER

LAFRENIÈRE J.

[1] A contempt hearing was held at the Federal Court in Edmonton on October 28, 2025. At the close of evidence, I provided brief oral reasons, with written reasons to follow, to explain the basis for finding the Respondents guilty of contempt and for imposing various sanctions and costs orders against them.

[2] These Reasons apply to both Court files T-2353-24 and T-2354-24. A copy will be placed on each file.

I. Overview

[3] The Respondent, Robert D. Stewart, also known as Robert D Stewart [Mr. Stewart] is the director of the Respondents, R.D. Stewart Group Inc. and Robert D. Stewart Management Consultants Ltd. (also known as Robert D Stewart Management Consultants Ltd) [together the Corporate Respondents]. Collectively, the Corporate Respondents and Mr. Stewart are referred to in these Reasons as the Respondents.

[4] The Applicant, the Minister of National Revenue [Minister], brought contempt proceedings against the Respondents after they failed to comply with the Order of Justice Julie Blackhawk dated November 13, 2024, as corrected in April 2025 [Corrected Compliance Order], which required the Respondents to provide the Canada Revenue Agency [CRA] with information and documents sought by the Minister within 30 days of service of the Compliance Order.

[5] On July 16, 2025, Justice Denis Gascon found that the Minister had satisfied the Court there was a *prima facie* case of contempt of the Corrected Compliance Order. The Respondents were ordered to attend before a Justice of this Court on October 28, 2025, and be prepared to hear proof of the acts of contempt with which they are charged, present any defence that they may have to that charge, and speak to the Applicant's submissions on an appropriate sentence if they are found to be in contempt [Contempt Hearing Order].

[6] The Minister was ordered to serve and file written submissions on sentencing prior to the sentencing hearing date. The Minister was also granted leave to enter directly into evidence at the contempt hearing the Court files, including any affidavits of service, without the need for oral proof of these documents.

[7] The Respondents were personally served with the Contempt Hearing Order but failed to appear at the hearing. Given their failure to appear without notice or lawful excuse, both the contempt hearing and the sentencing phase proceeded in their absence, with only one witness, Ji eun Kim (also known as Nicey Kim) being called to testify by the Minister.

II. Facts

[8] Ms. Kim is an Income Tax Auditor with the CRA. In the normal course of her duties, Ms. Kim had conduct of audit matters in respect of the Corporate Respondents. I fully accept Ms. Kim's testimony as it was not contentious and well supported by the documentary evidence.

[9] The facts before me are summarized as follows.

[10] By separate letters dated February 28, 2023, addressed to each Corporate Respondent and to Mr. Stewart, the Respondents were informed that the corporate income tax returns of the Corporate Respondents had been selected for audit for the January 1, 2020 to December 31, 2021 period. The Respondents were asked to provide for the purpose of the audit the following information and documents on or before the expiry of 30 days from the date of the letters:

- a. general ledger (including journal entries), and/or equivalent computerized records;
- b. grouping schedules for Income Statement and Balance Sheet Accounts for each year-end;
- c. year-end adjusting entries;
- d. trial balances;
- e. reconciliation and details of shareholder loan accounts;
- f. minute book of the business;
- g. all business bank account statements, deposit books or duplicate deposit slips, cancelled cheques, and bank account reconciliations;
- h. supporting documentation to verify the following expenses claimed:
 - i. salary and wage expenses claimed during the 2020 tax year;
 - ii. travel expenses claimed during the audit period; and
 - iii. dues from investments in related parties;
- i. supporting documentation to verify the management and administration fees claimed during the audit period:
 - i. written management fees agreement/contract for the services between the parties;
 - ii. names and recipients and their business numbers;
 - iii. the relationship between the corporation and the recipients;

- iv. if the recipient is a related/association corporation, the details on how it was reported by the recipient corporation;
 - v. details on how often the services were provided and a description of work performed;
 - vi. information on how the compensation was determined;
 - vii. information on the amounts of management fees paid and the dates of those payments; and
 - viii. supporting documentation to verify the payment of the management and administration fees;
- j. supporting documentation to verify the subcontract expenses:
- i. copies of all subcontract agreements/contracts;
 - ii. copies of invoices received; and
 - iii. supporting documentation to verify the payment of the subcontract expenses.

[hereinafter referred to as “the Information and Documents”]

[11] The February 28, 2023 letters went unanswered.

[12] On July 24, 2024, the CRA sent separate letters pursuant to subsections 230(1) and 231.1(1) of the *Income Tax Act*, RSC 1985, c 1 (5th Supp), [the Act] entitled “Final Request to Provide Books and Record” to the Corporate Respondents [Requests] wherein the CRA requested production of the Information and Documents within 30 days from the date of the Requests. The same day, the CRA sent separate letters to Mr. Stewart pursuant to subsections 230(1) and 231.2(1) of the Act [Requirements] wherein Mr. Stewart was required, in his capacity

as director of the Corporate Respondents, to produce the Information and Documents on or before the expiry of 30 days from the date of the Requirements.

[13] The July 24, 2024 letters were sent by registered mail to Mr. Stewart, who signed for delivery on July 27, 2024. Once again, the letters from the CRA went unanswered.

[14] On November 12, 2024, the Department of Justice Canada [DOJ] filed two separate applications on behalf of the Minister pursuant to subsection 231.7(1) of the Act for an order directing each of the Corporate Respondents and Mr. Stewart to provide the Information and Documents.

[15] On November 13, 2024, Justice Blackhawk issued an Order bearing the style of cause of the two proceedings [Original Compliance Order]. The Order required R.D. Stewart Group Inc. and Mr. Stewart to provide the Information and Documents to Ms. Kim or to another CRA officer who may be identified for that purpose within 30 days after being served with a copy of the Order.

[16] The Respondents were personally served with the Original Compliance Order on December 17, 2024; however, R.D. Stewart Group Inc. and Mr. Stewart did not provide the Information and Documents as ordered within 30 days of service of the Order, or at all. Nor did they attempt to communicate with Ms. Kim, the CRA or counsel representing the Minister.

[17] On February 3, 2025, the DOJ sent a letter to the Respondents [February 3 Letter] informing them that instructions had been received to seek a contempt order for non-compliance if the Information and Documents were not provided within 10 days of receipt of the letter.

[18] On April 4, 2025, the DOJ submitted a letter to the Federal Court Registry seeking advice and direction from Justice Blackhawk concerning what counsel characterized as possible “inadvertent omission” in the Original Compliance Order that was noticed when preparing for the contempt of court applications. Counsel explained in his letter that two separate requests, each dated July 24, 2024, were sent to each corporate respondent, as well as two separate requirements, each dated July 24, 2024, were sent to Mr. Stewart with respect to each of the Corporate Respondents. Counsel suggested that the Court had inadvertently referred to only one of the Corporate Respondents, R. D. Stewart Group Inc., when the Order should have also referred to the other corporate respondent, Robert D. Stewart Management Consultants Ltd. Counsel requested corrections to the Original Compliance Order pursuant to Rule 397(2) of the *Federal Court Rules*, SOR/98-106 [the Rules].

[19] Shortly thereafter, Justice Blackhawk issued the Corrected Compliance Order which bears the same date as the Original Compliance Order.

[20] On April 17, 2025, the Corrected Compliance Order was served personally on Mr. Stewart. It was also sent by email to the Corporate Respondents’ primary agent for service on May 5, 2025.

[21] The Respondents did not provide the Information and Documents to the CRA within 30 days of service of the Corrected Compliance Order, or at all.

[22] On July 14, 2025, the Minister filed an *ex parte* motion for an order requiring the Respondents to appear before a judge of the Court and hear proof of the acts of their alleged contempt and to be prepared to present any defence that they may have and to speak to submissions on sentencing.

[23] On July 16, 2025, Justice Gascon granted the Minister's motion and issued the Contempt Hearing Order.

[24] The Contempt Hearing Order was personally served on the Respondents on July 29, 2025.

[25] On September 22, 2025, the Minister was directed to file proof of service on the Respondents of the motion record filed by the Minister on May 29, 2025. Service thereof was validated by Order dated October 7, 2025.

III. Issues to be Determined

[26] The Respondents are charged with disobeying the Corrected Compliance Order, thereby constituting contempt of Court under paragraph 466(b) of the Rules.

[27] The issue to be determined is whether the Respondents are guilty of contempt of court beyond a reasonable doubt and, if so, what sanction should be imposed on them.

IV. Contempt Phase

[28] Paragraph 466(b) of the Rules provides that a person is guilty of contempt of court who disobeys an order or process of the court. Rule 469 provides that a finding of contempt shall be based on proof beyond a reasonable doubt. The onus to prove contempt on the criminal standard lies on the party charging the alleged contemnor, in this case the Minister.

[29] The following general principles govern the use of the Court's power to find a party in civil contempt of court for breaching a court order.

[30] First, three elements must be proved beyond a reasonable doubt: (1) the order alleged to have been breached must state clearly and unequivocally what should and should not be done; (2) the party alleged to have breached the order must have had actual knowledge of it; and (3) the party allegedly in breach must have intentionally done the act that the order prohibits or intentionally failed to do the act that the order compels: *Carey v Laiken*, 2015 SCC 17 at paras 32–35 [*Carey*].

[31] Second, the exercise of the contempt power is discretionary. Courts discourage the routine use of this power to obtain compliance with court orders. The power should be exercised cautiously and with great restraint as an enforcement tool of last rather than first resort. A judge

may exercise discretion to decline to impose a contempt finding where it would work an injustice.

[32] Third, the principal objective of the contempt power is to foster compliance with court orders (*Carey* at para 30). Indeed, “[t]he rule of law is directly dependent on the ability of the courts to enforce their process and maintain their dignity and respect” (*United Nurses of Alberta v Alberta (Attorney General)*, 1992 CanLII 99 (SCC), [1992] 1 SCR 901 at 931.

[33] With these principles in mind, I turn to the three elements set out in *Carey*.

A. *The Order clearly and unequivocally states what should be done*

[34] The operative paragraph of the Corrected Compliance Order reads as follows:

1. The Respondents shall provide the Information and Documents within 30 days after being served with a copy of this Order, to Ji eun Kim (also known as Nicey Kim) of the Canada Revenue Agency, Edmonton Tax Services Office, Suite 10, 9700 Jasper Avenue, Edmonton, Alberta, T5J 4C8, or to another CRA officer who may be identified for that purpose.

[35] I find the language of the foregoing provision to be clear and unequivocal, beyond a reasonable doubt. The Corporate Respondents and Mr. Stewart are identified in the style of cause of the Order as Respondents. They are also identified in the preamble of the Corrected Compliance Order as the parties who are required to provide the Information and Documents. Moreover, the Information and Documents required to be provided is fully listed and defined in the preamble. Finally, the deadline to comply with the Corrected Compliance Order (within 30 days of service thereof) is unambiguous.

B. *The Respondents had actual knowledge of the Order*

[36] The affidavit of service of Kim Cyr sworn on April 23, 2025, confirms that on April 17, 2025, Mr. Stewart was served personally by hand with the Corrected Compliance Order, along with a service letter from DOJ dated April 15, 2025, notifying the Respondents of the corrected Order. Service of the Corrected Compliance Order on the director of the Corporate Respondents constitutes personal service on the two companies: Rule 130(1)(a)(i) of the Rules.

[37] The Respondents did not appear at the contempt hearing and no questions arise with respect to proof of service of the Corrected Compliance Order. On the evidence before me, I find that the Minister proved the Corporate Respondents were personally served with Corrected Compliance Order and that all three Respondents had notice of it on April 17, 2025.

C. *The Respondents intentionally failed to do the act that the Order compels*

[38] As stated by the Supreme Court of Canada, “all that is required to establish civil contempt is proof beyond a reasonable doubt of an intentional act or omission that is in fact in breach of a clear order of which the alleged contemnor has notice”: *Carey* at para 38. A contemnor need not intend to disobey the court order.

[39] Ms. Kim’s evidence is that the Respondents have not complied with two Requests and Requirements, the Original Compliance Order and the Corrected Compliance Order. There is also no record of any attempt by the Respondents or representatives to contact Ms. Kim or the

CRA at any time after the Original and Corrected Compliance Orders were served on the Respondents.

[40] The uncontested evidence before the Court is that the Respondents knew of Justice Blackhawk's two Orders requiring them to disclose the Information and Documents within a prescribed period, that they failed to do so, and that they have still not done so to date. The omission on their part is a clear breach of the Corrected Compliance Order.

[41] Based on the evidence before me, I am satisfied beyond a reasonable doubt that the Respondents are guilty of contempt for failing to comply with the Corrected Compliance Order.

V. Sentencing Phase

[42] Rule 472 of the Rules governs the penalties that may be imposed on a finding of contempt:

Penalty	Peine
472 Where a person is found to be in contempt, a judge may order that	472 Lorsqu'une personne est reconnue coupable d'outrage au tribunal, le juge peut ordonner :
(a) the person be imprisoned for a period of less than five years or until the person complies with the order;	a) qu'elle soit incarcérée pour une période de moins de cinq ans ou jusqu'à ce qu'elle se conforme à l'ordonnance;
(b) the person be imprisoned for a period of less than five years if the person fails to comply with the order;	b) qu'elle soit incarcérée pour une période de moins de cinq ans si elle ne se conforme pas à l'ordonnance;

(c) the person pay a fine;	c) qu'elle paie une amende;
(d) the person do or refrain from doing any act;	d) qu'elle accomplisse un acte ou s'abstienne de l'accomplir;
(e) in respect of a person referred to in rule 429, the person's property be sequestered; and	e) que les biens de la personne soient mis sous séquestre, dans le cas visé à la règle 429;
(f) the person pay costs.	f) qu'elle soit condamnée aux dépens.

[43] When considering an appropriate sentence in the case of civil contempt, the usual criminal law sentencing principles apply (*Tremaine v Canada (Human Rights Commission)*, 2014 FCA 192 at para 19 [*Tremaine*]). The Federal Court of Appeal in *Tremaine* outlines the framework for determining a “fit” sentence and emphasizes the importance of deterrence and proportionality as the objectives of sentencing:

[21] In order to determine what is a “fit” sentence in a particular case, the sentencing judge must consider the range of sentences for similar offences set out in prior jurisprudence and adjust the sentence depending on the objectives of sentencing and any aggravating and mitigating factors applicable to the case at hand (*R. v. Nasogaluak*, 2010 SCC 6, [2010] 1 S.C.R. 206 at paragraph 43; *Professional Institute of the Public Service of Canada v. Bremsak*, 2013 FCA 214, [2013] F.C.J. No. 1009 at paragraph 33 [*Bremsak*]).

[22] Courts also ought to consider the importance of specific and general deterrence for preserving public confidence in the administration of justice, while maintaining proportionality in sentencing (*Canada (Minister of National Revenue) v. Marshall*, 2006 FC 788, [2006] F.C.J. No. 1008 at paragraph 16 [*Marshall*]).

[44] There are several aggravating and mitigating factors a court may consider when determining a sentence for civil contempt. It remains that the trial judge has wide discretion

when determining the appropriate sanction, based on the facts of the case (*Tremaine* at para 26, citing *Professional Institute of the Public Service of Canada v Bremsak*, 2013 FCA 214 at para 36).

[45] Aggravating factors, which must be established beyond a reasonable doubt, include:

- a. Whether the offending conduct was a prolonged course of conduct as opposed to an isolated incident;
- b. The scope or scale of the offending conduct;
- c. Whether the offending conduct continued even after it was found to constitute contempt;
- d. The offender's motivation;
- e. Whether the offender has previously been found guilty of contempt.

(*Bell Canada et al v Red Rhino Entertainment Inc*, 2021 FC 895 at para 13.)

[46] The Applicant acknowledges that the Respondents are first time contemnors. Moreover, there is no history of non-compliance by the Respondents with their obligations under the Act. A first offence is a mitigating factor to be considered by the Court when determining the sentence (*Tremaine* at para 24, citing *Canada (Attorney General v De L'Isle*, 1994 CanLII 19676 (FCA), [1994] FCJ No 955, 56 CPR (3d) 371 (CA) at 373). However, there are numerous aggravating circumstances in this case.

[47] First, the Respondents have shown a complete indifference and/or unwillingness to comply with the Corrected Compliance Order. They have had ample time to comply with their obligations under the Act over the past two and a half years and, despite a clear warning from

DOJ that contempt proceedings were being contemplated, they failed to take any steps to comply with the Corrected Compliance Order after it was served on them.

[48] Second, the Respondents failed to take any steps to comply with the Corrected Compliance Order or communicate with the Applicant or the Court after the Contempt Hearing Order was served on them.

[49] Third, the Respondents failed to appear at the contempt hearing, as ordered by the Court, without notice or reasonable excuse.

[50] A further aggravating factor is the failure by R.D. Stewart Group Inc. and Mr. Stewart to comply with the Original Compliance Order directed at them. The said Order was clear and unambiguous. And yet, it was completely ignored for several months before it was corrected in April 2025.

[51] It is unclear why the Respondents failed to comply with the Corrected Compliance Order. I can only infer that Mr. Stewart is unwilling to reveal information and documents that may work against his favour or that of his two companies.

[52] It was open to the Respondents to establish at the hearing mitigating circumstances, such as good faith attempts to comply (even after the breach), an apology or acceptance of responsibility, but they failed to do so.

[53] As stated by Justice Russel Zinn in *Canada (National Revenue) v Money Stop Ltd*, 2013 FC 133 at para 14 [*Money Stop*], “compliance with the Income Tax Act is a fundamental civic duty which cannot be taken lightly or ignored.”

[54] The breach in the present case is not unintentional. The Respondents have known for many months of the Corrected Compliance Order, and they have been provided, more than once, with an opportunity to comply or explain their non-compliance. They have done neither.

[55] Based on an examination of the Court’s prior penalty decisions which involved failures to comply with compliance orders issued under the Act, the Minister submits that a sentence similar to that imposed by Justice Michael Kelen in *Canada (Minister of National Revenue) v. Marshall*, 2006 FC 788 [*Marshall*] is appropriate. In that case, the respondent was ordered to pay a \$3,000.00 fine, to pay the Minister’s legal costs of \$2,000.00 and to comply with the Court’s compliance order by providing the requested documents or providing an explanation as to why those documents could not be obtained. Failure to pay the fine and costs subjected the respondent to 30 days’ imprisonment, while failure to provide the requested documents subjected the respondent to 10 days’ imprisonment.

A. *Range of fines*

[56] The Minister submits that it would be appropriate for the Respondents to be ordered to pay a fine of \$3,000.00. While the amount requested falls within the range of fines imposed in cases of contempt related to orders to produce tax documents (\$500.00 to \$5,000.00) identified by the Federal Court of Appeal in *Simon v Bacon St-Onge*, 2023 FCA 1 at para 31 [*Bacon St-*

Onge], citing *Bowdy's Tree Service Ltd v Theriault International Ltd*, 2020 FC 146 at para 12, as I pointed out to Applicant's counsel at the hearing, many of the cases relied on by the Federal Court of Appeal to fix a range date back several years and, in my view, should be revisited given the passage of time.

[57] Counsel for the Applicant did not anticipate that the impact of inflation on the range of fines would be raised by the Court at the hearing, nor was he in the position to provide any assistance on the matter. What is clear however is that in today's dollars, the range of fines would be significantly higher.

[58] For instance, the fine of \$3,000 in *Marshall* was imposed in 2006. Using an inflation calculator tool offered online by the Bank of Canada, \$3,000 in 2006 is equivalent in purchasing power to \$4,530.22 today, an increase of \$1,530.22 over 19 years. As for the fine of \$5,000 in *Money Stop* which was imposed in 2013, this would amount to \$6,686.94 in 2025.

[59] In the present case, the contempt is serious. The Respondents failed to provide a reasonable excuse for non-compliance and there are essentially no mitigating circumstances, other than the fact that the breach is the Respondents' first offence. In the absence of any evidence of impecuniosity or financial hardship, I consider a fine of \$4,000 should be imposed on each of the Corporate Respondents. Two separate fines of \$4,000 each are also warranted against Mr. Stewart given that he is the director and directing mind of two distinct companies and he therefore breached the Corrected Compliance Order twice.

B. Costs

[60] The Corrected Compliance Order awards costs to the Applicant in the amount of \$3,979.04 and the Contempt Hearing Order provides for costs of \$1,000.00 against the Respondent.

[61] The Applicant seeks costs on a solicitor-client basis for services relating to preparation for the contempt hearing and attendance at the hearing, consisting of legal fees for senior counsel, a second counsel and a paralegal in the amount of \$29,241.92 and disbursements of \$1,732.64.

[62] It is customary practice to impose costs on a solicitor-client basis in contempt cases as “a party who assists the Court in the enforcement of its orders and in the enforcement of respect for its orders should not, as a rule, be put out of pocket for having been put to that trouble.” (*Lari v Canadian Copyright Licensing Agency*, 2007 FCA 127 at para 38, citing *Pfizer Canada Inc v Apotex Inc* (1998), 1998 CanLII 8951 (FC), 86 CPR (3d) 33 at para 8).

[63] While I see no reason to deviate from this practice in this case, the Applicant has failed to establish the basis for claiming costs for a second counsel or the rather exorbitant amount claimed for the services of a paralegal. Taking into account the factors set out in Rule 400(3) of the Rules, including the importance and relative complexity of the issues raised in the two applications, the work undertaken by counsel in preparing for trial and drafting detailed sentencing submissions, and the attendance of counsel for a half-day hearing, I find it fair and

reasonable to award costs to the Minister in the amount of \$13,000.00, as well as the disbursements as claimed, plus an additional amount of \$160.00 to effect personal service of the Orders to be issued separately in each proceeding and concurrently with these Reasons [Orders].

VI. Conclusion

[64] I therefore conclude that the circumstances of this case require each of the Corporate Respondents to pay a fine in the amount of \$4,000.00 and require Mr. Stewart to pay a fine of \$4,000.00 in both applications. The Respondents shall also pay the Minister's costs and disbursements, divided in half between the two applications, payable jointly and severally by the Corporate Respondent and Mr. Stewart. Finally, the Respondents shall be required to pay the outstanding costs, the fines, and costs fixed in these Orders and to comply with the Corrected Compliance Order within 30 days of service of these Orders by providing the Information and Documents set out in the Corrected Compliance Order.

[65] If the Respondents fail to comply with the terms of these Orders, the Minister may request that a warrant be issued to apprehend Mr. Stewart and bring him before any judge of this Court to show cause why he should not be imprisoned in accordance with the Orders to be issued in each file.

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“Roger R. Lafrenière”

Judge

Montréal, Quebec
November 4, 2025

FEDERAL COURT
SOLICITORS OF RECORD

DOCKETS: T-2353-24 AND T-2354-24

DOCKET: T-2353-24

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PLACE OF HEARING: EDMONTON, ALBERTA

DATE OF HEARING: OCTOBER 28, 2025

REASONS FOR ORDER: LAFRENIÈRE J.

DATED: NOVEMBER 4, 2025

APPEARANCES:

John O'Callaghan
Bertrand Malo

FOR THE APPLICANT

No appearance

FOR THE RESPONDENTS

SOLICITORS OF RECORD:

Attorney General of Canada
Edmonton, Alberta

FOR THE APPLICANT