

Date: 20080829

Docket: T-1069-04

Citation: 2008 FC 980

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

**SAM LÉVY ET ASSOCIÉS INC., Trustees in Bankruptcy
AND
SAMUEL S. LÉVY, Trustee in Bankruptcy**

Respondents

ASSESSMENT OF COSTS – REASONS

DIANE PERRIER, ASSESSMENT OFFICER

[1] On February 10, 2005, the Court made an order dismissing an application for judicial review with costs to the respondents.

[2] On July 13, 2007, counsel for the respondents filed a bill of costs, requesting that it be assessed without the appearance of the parties. On May 16, 2008, letters were forwarded to the parties establishing a timetable. The parties made their written submissions and I am therefore ready to assess the costs.

[3] The fees to be assessed are allowed in the amount of \$2,871.54 (\$2,520 + 6% GST of \$151.50 + 7.5% QST of \$200.34). I allowed the following items for the assessment of fees: Item 2 – respondents' record (4 units); Item 13(a) – preparation for hearing (4 units); Item 14(a) – counsel fee per hour in Court on December 15, 2004 (3.25 hours x 2 units); Item 15 – preparation of written argument at the request of the Court, filed on January 13, 2005 (5 units); and Item 26 – assessment of costs (1.5 units).

[4] The respondents claim 5 units for the appearance notice filed on June 7, 2004, under Item 2. The assessment officer cannot allow it because according to the definition of Item 2 of Tariff B, this involves the preparation and filing of all defences, replies, counter-claims or respondents' records and materials. The notice of appearance is only a document showing that the respondent intends to contest the application. This is not the same type of document as under Item 2 of Tariff B.

[5] The respondents are claiming 3 units for preparation and filing a contested motion on July 13, 2004, under Item 5. The respondents withdrew their motion on September 17, 2004. Therefore, the assessment officer cannot allow it because no Court order deals with the costs of this motion.

[6] The respondents claim 1 unit for the hearing of the application on July 21, 2004, but because the Court order makes no mention of costs, the assessing officer cannot allow them.

[7] Because Item 13 of the bill of costs mentions the filing of the record on August 6, 2004, I have allowed 4 units under Item 2 for the filing of the respondents' record.

[8] I am of the opinion that the assessment of the bill of costs should be only 3 units because the assessment does not strike me as complex. Because the respondents are seeking assessment under Item 28, I would allow 50% of the 3 units, that is to say, 1.5 units.

[9] I have studied the disbursements and they cannot be allowed. Taxi fares for the service of the appearance cannot be allowed because an appearance is not a document for which costs can be assessed, especially since this document does not have to be served personally and taxi fares are office expenses.

[10] Expenses for photocopies claimed for the filing of the motion on July 13, 2004 and for the hearing on July 21, 2004 cannot be allowed because the Court order of July 21, 2004 makes no mention of costs.

[11] Expenses for photocopies for the hearing on December 15, 2004 (494 pages) are not allowed because the assessment officer must be sure that photocopies were made for the file. On the basis of the notations on record, I am unable to determine if photocopies were actually made for the hearing on December 15, 2004. Therefore, the assessment officer cannot allow them.

[12] Travel expenses for filings and appearances cannot be allowed. Taxi fares for the filing of the motion of July 13, 2004 as well as for the appearance on the motion of July 21, 2004 are office operating expenses and as such cannot be allowed.

[13] Considering that counsel for the respondents is from Quebec City, no travel expenses may be claimed for meals or for taxi fares for the hearing of the application for judicial review on December 15, 2004, which was held in Quebec City.

[14] The bill of costs for \$4,141.88 submitted by the respondents is allowed in the amount of \$2,871.54. A certificate of assessment will be issued for this amount.

MONTRÉAL, QUEBEC
August 29, 2008

DIANE PERRIER
ASSESSMENT OFFICER

Certified true translation

Brian McCordick, Translator

**FEDERAL COURT
SOLICITORS OF RECORD**

DOCKET NUMBER: T-1069-04

Between:

ATTORNEY GENERAL OF CANADA

Applicant

AND

**SAM LÉVY ET ASSOCIÉS INC., Trustees in Bankruptcy
AND
SAMUEL S. LÉVY, Trustee in Bankruptcy**

Respondents

WRITTEN ASSESSMENT OF COSTS

PLACE OF ASSESSMENT: Montréal, Quebec

REASONS BY DIANE PERRIER, ASSESSMENT OFFICER

DATED: August 29, 2008

WRITTEN SUBMISSIONS:

Laurence St-Gelais For the applicant

Daniel Des Aulniers For the respondents

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For the respondents