

**Date: 20071010**

**Docket: A-373-06**

**Citation: 2007 FCA 317**

**Present: SEXTON J.A.**

**BETWEEN:**

**LOBA LIMITED**

**Appellant**

**and**

**MINISTER OF NATIONAL REVENUE**

**Respondent**

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on October 10, 2007.

**REASONS FOR ORDER BY:**

**SEXTON J.A.**

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**REASONS FOR ORDER**

**SEXTON J.A.**

[1] The appellant asserts that ten (10) letters sent by the appellant to the respondent should be inserted in the appeal book. The respondent objects.

[2] There appears to be no doubt that the letters were sent by the appellant prior to the decision being appealed from.

[3] The appellant asserts that these letters were relevant to the decision being taken as to the registrability of the pension plan in question. The respondent asserts that the letters related to other

pension plans and are therefore not relevant. The respondent further asserts that the letters were not considered by the Minister and therefore cannot be considered by this Court.

[4] The appellant's position is that because the respondent was in possession of the letters and they were relevant to the decision being made, there was an obligation on the respondent to consider them in making the decision.

[5] It is most difficult on a motion of this kind to decide whether evidence is relevant. It would appear preferably to include the letters in question in the appeal book and leave it to the panel hearing the appeal to determine the relevance of such documents and whether they should have been considered by the respondent. See *Sourani v. Canada*, 2002 FCA 334 at paragraphs 23-24.

"J. Edgar Sexton"

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-373-06

**STYLE OF CAUSE:** LOBA LIMITED v. MINISTER OF  
NATIONAL REVENUE

**MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES**

**REASONS FOR ORDER BY:** SEXTON J.A.

**DATED:** October 10, 2007

**WRITTEN REPRESENTATIONS BY:**

Michael S. Rankin

FOR THE APPELLANT

Roger Leclaire  
Justine Malone

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Lang Michener LLP  
Ottawa, Ontario

FOR THE APPELLANT

John H. Sims, Q.C.  
Deputy Attorney General of Canada  
Ottawa, Ontario

FOR THE RESPONDENT