

Date: 20080923

Docket: A-569-07

Citation: 2008 FCA 282

**CORAM: EVANS J.A.
SHARLOW J.A.
RYER J.A.**

BETWEEN:

MICHAEL ANGLEHART

Applicant

and

MINISTER OF NATIONAL REVENUE

Respondent

Heard at Ottawa, Ontario, on September 23, 2008.

Judgment delivered from the Bench at Ottawa, Ontario, on September 23, 2008.

REASONS FOR JUDGMENT OF THE COURT BY:

SHARLOW J.A.

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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Ottawa, Ontario, on September 23, 2008)

SHARLOW J.A.

[1] Mr. Anglehart has applied under subsection 147.1(13) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), for an order that the effective date of the revocation of the AMB Inc. Pension Plan for Specified Employees (the AMB Plan) should not be January 1, 1996, the date upon which the AMB Plan was first registered and also the revocation date stipulated in the notice of intention to revoke the registration. Mr. Anglehart argues that the effective date should be some later date that would avoid the adverse tax consequences to Mr. Anglehart of the revocation.

[2] Mr. Anglehart's application is based on a number of factors which I summarize as follows:

1. Mr. Anglehart has produced evidence that he was an employee of AMB Inc. at the relevant time. He was never informed that his status as an employee

was in question, and the Minister failed to give him a timely opportunity to establish that he was an employee of AMB Inc.

2. The AMB Plan was registered when his superannuation funds were transferred to the AMP Plan and, based on all of the information available to Mr. Anglehart at that time or that could have been made available to him at that time, the transfer complied with all relevant regulations and policies.
3. Mr. Anglehart did not know and could not have known that there was any question as to whether the AMB Plan met the statutory requirements for registration as of January 1, 1996.
4. The Minister knew in 1997 that the registrability of the AMB Plan was questionable, but failed to take steps to protect Mr. Anglehart's interest or to warn him.

[3] We are sympathetic to the plight of Mr. Anglehart, who may suffer significant prejudice because of his participation in a scheme that was later found to be ill conceived. However, despite the able submissions of his counsel, we are not persuaded that we should intervene in the decision of the Minister to choose January 1, 1996 as the effective date of the revocation, given the Minister's conclusion that the AMB Plan never met the statutory purpose test.

[4] This application will be dismissed with costs.

“K. Sharlow”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-569-07

STYLE OF CAUSE: Michael Anglehart v. Minister of
National Revenue

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: September 23, 2008

REASONS FOR JUDGMENT OF THE COURT BY: (EVANS, SHARLOW, RYER JJ.A.)

DELIVERED FROM THE BENCH BY: SHARLOW J.A.

APPEARANCES:

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Justine Malone FOR THE RESPONDENT

SOLICITORS OF RECORD:

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