Date: 20090219

Dockets: A-88-08
A-87-08
A-86-08

Citation: 2009 FCA 48

CORAM : LÉTOURNEAU J.A.
BLAIS J.A.
TRUDEL J.A.

BETWEEN:

A-88-08

OLEG ROMAR

Appellant

and

HER MAJESTY THE QUEEN

Respondent

- -

A-87-08

DAVID ELKINS

Appellant

and

HER MAJESTY THE QUEEN

Respondent

- -

A-86-08

RAPHAEL EVANSON

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Hearing held at Montréal, Quebec, on February 3, 2009.

Judgment delivered at Ottawa, Ontario, on February 19, 2009.

REASONS FOR JUDGMENT BY:	LÉTOURNEAU J.A.
CONCURRED IN BY:	BLAIS J.A. TRUDEL J.A.

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REASONS FOR JUDGMENT

LÉTOURNEAU J.A.

Issues

[1] The Court has before it three appeals joined for the purpose of the proceedings and joint hearing pursuant to an order dated May 6, 2008.

[2] The appellants submitted a specific issue which, if decided against them, is sufficient to dispose of their appeals. They allege that Mr. Justice Angers of the Tax Court of Canada (judge) erred when he found at paragraph 121 of his reasons for judgment that the Canadian Institute of Chartered Accountants (CICA) Handbook was silent about the generally accepted accounting principles (GAAP) that applied in Canada to the financial statements of partnerships CMRA and CMRA 2. They contend that, because the GAAP included rules prescribing the discounting of promissory notes in an inflationary context, the judge made an error of law by applying US accounting principles to the determination of the value of the research and development expenditures recorded by these two partnerships in their financial statements.

[3] If, on the contrary, this Court was to accept this first submission made by the appellants, three other corollary issues then ensue on which this Court must rule. Was there actually a research project undertaken by these two partnerships? Were the scientific research and experimental development (SR&ED) expenditures claimed by the appellants reasonable within the meaning of

section 67 of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), as amended (Act)? Finally, did the deductions claimed have the effect of unduly or artificially reducing the income of the appellants under subsection 245(1) of the Act as it read at the relevant time?

[4] Finally, the appellants are seeking costs both here and before the Tax Court of Canada if they succeed on appeal. Conversely, in view of the respondent's consent to judgment for some of the expenditures claimed, which would still not prevent their appeals from being dismissed for the most part, they are asking to be exempted from costs here.

[5] They are also asking to be released from the order by the Tax Court of Canada to pay the costs of the respondent's three experts (Dr. Kenneth, Dr. Borgard and Dr. Brodeur), who were called to testify about matters concerning the research undertaken by the two partnerships.

[6] Considering my findings on the issue of the applicable GAAP, it will not be necessary to deal extensively with the corollary issues. It is sufficient to state the following.

[7] The hearing of the three cases before the judge was the forum for an all-out experts' war between the parties (expert report and rebuttal report) in connection with the issues to determine whether

(a) the research for which the deductions were claimed was scientific research (see paragraphs 41 to 66 of the reasons for decision);

(b) this research contributed to the advancement of science and technology (*ibid*);

(c) the expenditures were truly incurred on account of promissory notes payable in Brazilian currency (*ibid* at paragraphs 67 to 71);

(d) it was "known that the Brazilian currency was undergoing rapid devaluations and that inflation was on the rise" (*ibid*, at paragraphs 71, 83 to 90);

(e) business practices in Brazil were adapted to inflation (*ibid*, at paragraphs 91 to 96);

(f) the earnings of the two partnerships in question (CMRA and CMRA 2) were presented in a manner that provided the most accurate picture of their affairs according to generally accepted accounting principles (*ibid* at paragraphs 98 to 121);

(g) the expenditures incurred in the circumstances were reasonable (*ibid* at paragraphs 129 to 143, on which point no fewer than four experts were heard with a rebuttal report); and

(h) the transactions for which deductions were claimed were carried out in accordance with normal business customs or practices (*ibid* at paragraphs 154 to 157).

[8] In his 65-page reasons for judgment, the judge meticulously examined and discussed in great detail the evidence that was submitted to him, especially that of the experts heard on the three corollary issues.

[9] Counsel for the appellants takes issue with the judge for not having accepted the testimony given by the appellants and for not having mentioned their testimony in his judgment. However, counsel does acknowledge that it was up to the judge to assess the evidence and that we cannot replace his assessment with ours.

[10] In *Housen v. Nikolaisen*, [2002] 2 S.C.R. 235, at paragraph 18, under the heading "Recognizing the Expertise of the Trial Judge and His or Her Advantageous Position", the Supreme Court indicated as follows how an appellate court should deal with findings of fact:

> [18] The trial judge is better situated to make factual findings owing to his or her extensive exposure to the evidence, the advantage of hearing testimony *viva voce*, and the judge's familiarity with the case as a whole. Because the primary role of the trial judge is to weigh and assess voluminous quantities of evidence, the expertise and insight of the trial judge in this area should be respected.

[11] The judge was perfectly entitled, on the basis of the expert evidence before him, to make the findings he did. The appellants were unable to show any palpable or overriding errors that would justify any intervention from us.

[12] This leads me to the discussion of the main issue. Truthfully speaking, I could do so without any description of the facts. However, for a better understanding of the issue, I will set out some of the general facts and others that are more specific to the issue in this appeal.

Facts

[13] The Minister of National Revenue (Minister) disallowed the business losses deducted by the appellants on account of their interest in the CMRA and CMRA 2 partnerships.

[14] The judge described the origins of the two partnerships at paragraphs 4 to 9 of the reasons for judgment. He wrote the following:

> CMRA
>
> [4] CMRA was formed on July 16, 1985, by Corporation Planagex Ltée (Planagex) and Investmed R.B. Inc. (Investmed). Both of these tax consulting companies were controlled by CMRA's promoters, namely the Appellants Oleg Romar and Yves Beaudry. The CMRA partnership contract refers to an issue price of C$1.00 per partnership share. Under the terms of clause 4.2 of that contract, 24.528% of this price was payable in Canadian funds upon the issuance or acquisition of the shares, and 75.472% was in the form of a promissory note, payable in four equal annual instalments commencing in the seventh year and ending in the tenth year after the issuance of the shares. The four annual instalments were payable in Brazilian funds, and the amount, payable in cruzeiros, was fixed at the exchange rate in effect on the date of issuance of the partnership shares, that is to say, the rate when the shares were issued in 1985. Simple interest on the four annual instalments, at a rate of 11.5%, was payable with each instalment.
>
> [5] In the course of its fiscal year, which ended December 31, 1985, CMRA received C$18,199,908 from its members. It also received promissory notes worth a total of 369,199,023,074 Brazilian cruzeiros, payable from the seventh to the tenth year following their issuance, at a rate of 11.5%. During the same fiscal year, CMRA paid Investmed C$4,199,750, which is 23.08% of the amount of Canadian funds that CMRA received from its members on account of subscription, administration and other fees.
>
> CMRA 2

> [6] The CMRA 2 partnership was formed on February 25, 1986, also under the laws of Ontario, by the same promoters who formed CMRA. The partnership contract refers to an issue price of C$1.00 per share, and, under clause 4.2 of the contract, the price of each share was payable in the same manner as with CMRA: 24.528% in Canadian funds, and the balance, 75.472%, in the form of notes, each of which was payable, in Brazilian funds, in four equal annual instalments commencing in the seventh year and ending in the tenth year following the issuance of the partnership shares, and the amount, payable in cruzeiros, was fixed at the exchange rate in effect on the 1986 issue date of the shares. Simple interest on the four annual instalments, at a rate of 11%, was payable with each instalment.
>
> [7] CMRA 2's fiscal year ended on December 31, 1986. In the course of that year, CMRA 2 received a total of C$19,050,413 in Canadian funds from its members. It received 612,358,624 cruzeiros worth of promissory notes payable 7-10 years later at a rate of 11%. CMRA 2 paid Techmed 23.08% of the Canadian funds received. This amounts to C$4,396,010.
>
> [8] During their respective fiscal years, both partnerships entered into scientific research and experimental development (SR&ED) contracts with Coral Sociedade Brasilieira De Pesquisas & Desenvolvimento ("Coral"), a corporation controlled by Texas businessman Allen F. Campbell through a Dutch company that he controlled, with a view to setting up and heading research activities at its laboratory in Cambridge, England, and at another laboratory in Brazil.
>
> [9] Thus, the funds invested in CMRA and CMRA 2 were to be used for Coral's research. CMRA's contract was entered into on July 16, 1985, and CMRA 2's contract was entered into on February 25, 1986.

[15] Subsequently, at paragraphs 12, 13, 20 and 21, he described the payments made to Coral by each of the two partnerships:

> [12] In the course of its fiscal year 1985, CMRA paid Coral C$350,000 for each product, that is to say, C$14,000,158, by cheque issued to Coral and transferred to Coral's Canadian bank account. During the same fiscal year, CMRA issued 18 notes to Coral, denominated in Brazilian currency, in connection with the 40 Coral projects. Based on the exchange rates in effect at the time of the transactions between CMRA and Coral in 1985, the Canadian-dollar equivalent of the principal amount of 369,199,023,074 cruzeiros was C$56,000,623, which amounts to C$1,400,000 for each of the 40 projects.
>
> [13] In its financial statements for the period from July 16 to December 31, 1985, CMRA entered an expense of C$70,000,781 on account of the contract signed with Coral. CMRA relied not only on the C$14,000,158 in cash payments to Coral, but also on the principal amount of the term notes denominated in Brazilian currency and signed by CMRA in favour

> of Coral, in the amount of 369,199,023,074 cruzeiros, which it converted into C$56,000,623 based on the exchange rate in effect on the date of the transaction with Coral.
>
> . . .
>
> [20] Over the course of its fiscal year ended December 31, 1986, CMRA 2 paid Coral C$14,654,404, which amounts to roughly C$350,000 for each of the 42 projects. CMRA also issued Brazilian-currency-denominated notes payable to Coral in respect of the 42 projects, in the amount of 612,358,624 cruzados.
>
> [21] In its financial statements for the period from February 25 to December 31, 1986, CMRA 2 entered a research expense of C$73,272,012 on account of the service contract entered into with Coral on February 25, 1986. In order to arrive at this amount, CMRA 2 did the same thing as CMRA: it entered the initial amount paid in cash as well as the value of the Brazilian-currency-denominated term notes converted into Canadian dollars based on the exchange rate in effect on the date of the transactions entered into with Coral.

[16] In both cases, the eighteen (18) term notes in Brazilian currency signed by CMRA as well as the thirteen (13) CMRA 2 notes signed or issued to the order of Coral did not have any inflation indexation formula, no monetary adjustment formula and no exchange rate adjustment formula. Although a hedge agreement protecting CMRA and CMRA 2 and their members in the event of an appreciation in the value of Brazilian currency had been concluded between the two partnerships and Coral, there was none to ensure Coral's protection in the event of a devaluation of Brazilian currency.

[17] Finally, the notes were assigned by Coral to Medical Research Trust. Neither Coral nor Trust claimed payment of the notes at maturity, and consequently the two partnerships and their members were never required to pay anything on these notes.

[18] The goal of the research was to develop diagnostic kits. It was conducted in the Coral laboratories in Cambridge, England. However, no research was conducted at its premises in Brazil.

[19] Both partnerships claimed SR&ED expenditures of more than C$143,272,793, which gave rise to equivalent losses for 1985 and 1986.

Respondent's consent to judgment

[20] Although the judge found that all the SR&ED expenditures recorded in the financial statements of the two partnerships were unreasonable in the circumstances, the respondent indicated her willingness to consent to judgment for certain amounts paid in cash to Coral by the two partnerships.

[21] In the case of CMRA, the amount is C$1,750,020, corresponding to five products having a possible diagnostic utility at an estimated cost of C$348,914 each.

[22] The respondent will accept payments of C$348,914 per product paid by CMRA 2 to Coral for the forty-two (42) products included in its contract with Coral. Accordingly, the total amounts to C$14,654,404.

[23] Because the appellants were members of both partnerships, along with some six hundred (600) other partners, the respondent agrees that only a portion of the above-mentioned amounts

would be apportioned to the appellants, corresponding to their respective interest in each of these two partnerships.

[24] Therefore, the judgment to be rendered in each of these three dockets will take this concession by the respondent into consideration.

Was the CICA Handbook silent on the GAAP applicable in Canada and did the judge err in applying American accounting principles on a supplementary basis?

[25] In order to better understand the significance of the issue of the application of GAAP, it is important to contrast the positions of the two opposing parties.

[26] Counsel for the appellants contends that the value of the SR&ED expenditures appreciates from the initial amount. In the context of this case, this means that expenditures incurred by means of the promissory notes payable in Brazilian currency must be calculated according to the exchange rate in Canadian dollars applicable at the time these notes were issued. On the basis of this method of calculation, the CMRA and CMRA 2 partnerships respectively posted research expenditures of 70 and 73 million Canadian dollars in their financial statements for the 1985 and 1986 taxation years respectively.

[27] While acknowledging the initial step of taking into consideration the original cost to determine the value of the research expenditures, the respondent submits, and I agree, that the basic objective of the exercise is to establish an accurate picture of the taxpayer's affairs and of his actual

earnings for the year in question. She cites *Canderel Ltée v. Canada*, [1998] 1 S.C.R. 147, at paragraphs 33 to 37 and 53, in support of her opinion: see also *Bernick v. The Queen*, 2004 D.T.C. 6409, at paragraph 26 (F.C.A.).

[28] As the judge had ruled, the respondent asserts that, in order to do so, "one had to discount the value of the long-term payments, except if the interest rates had been reasonable, which they were not in the instant case": see paragraph 121 of the reasons for judgment.

[29] In my opinion, determining whether, at that time, that is, in 1985 – 1986, the CICA Handbook had GAAP covering, as in this case, a situation involving transactions with deferred payments in a highly inflationary economy, is a mere question of fact. Either the Handbook dealt the matter or it did not.

[30] However, in an attempt to turn this into a question of law, the appellants refer us to sections 1650.05 to 1650.10 of the June 1983 version of the Handbook. Their interpretation of these sections, according to them, covers transactions with deferred payments. According to their reasoning, the interpretation of these sections or, if we prefer, the scope of these sections would then involve a question of law.

[31] This approach does not lack ingenuity, but it requires an interpretation of these provisions that goes far beyond what the purpose and wording of these sections allow.

[32] The excerpts to which we are referred deal with the conversion of foreign currency and the objectives of conversion in a context in which the final goal of the conversion is to express in Canadian currency the entries of the financial statements of a foreign establishment. Sections 1650.05 and 1650.06 reflect this reality:

> **OBJECTIVES OF TRANSLATION**
>
> **1650.05** **For foreign currency transactions:** the objective of the translation is to express such transactions in a manner that achieves consistency with the accounting treatment for domestic transactions. Since domestic transactions are automatically measured in Canadian dollars, the Canadian dollar is the appropriate unit of measure for foreign currency transactions. Accordingly, the temporal method should be used to translate foreign currency transactions.
>
> **1650.06** **For foreign operations:** the ultimate objective of the translation is to express financial statements of the foreign operation in Canada in a manner which best reflects the reporting enterprise's exposure to exchange rate charges as determined by the economic facts and circumstances.

[Emphasis added.]

[33] It seems fairly clear to me that these provisions do not specifically deal with the manner in which transactions subject to deferred long-term payments and to spiralling inflation, which, I would add, is anticipated to be more than 200%, are to be reported in the financial statements of Canadian partnerships.

[34] One of the accounting experts, Mr. Weiner, who testified on behalf of the respondent, stated in his testimony that the CICA Handbook did not mention anything on this point: see Volume III of the Excerpts of Documents for Hearing, at pages 9756 and 9757.

[35] Considering this omission in the GAAP, he conducted research in order to arrive at an opinion. He studied accounting practices, literature on this topic and the standards published by organizations empowered in foreign jurisdictions to develop accounting practices: *ibid* at page 9756.

[36] Among the publications he read on this point, he noted one published by Ross Skinner in 1972, a Canadian author who the judge mistakenly considered was American. It is interesting to note that the author insisted on the necessity of discounting the amount of the transaction when the payment of the amounts promised is deferred over a long period at unreasonable interest rates in a highly inflationary context, and, I would add, exacerbated by the fact that they are not compounded.

[37] In conducting his research, Mr. Weiner discovered an opinion of the Accounting Principles Board, on the basis of which the American organization issued a directive as early as August 1971. I will reproduce it in its entirety while underlining some of the more relevant sections:

> In respect of discounting, APB Opinion No. 21: Interest on Receivables and Payables addressing the specific issue of discounting was issued (August 1971) by the Accounting Principles Board:
>
>> 12. Note exchanged for property, goods, or services. When a note is exchanged for property, goods, or service in a bargained transaction entered into at arm's length, there should be a general presumption that the rate of interest stipulated by the parties to the transaction represents fair and adequate compensation to the supplier for the use of the related funds. That presumption, however, must not permit the form of the transaction to prevail over its economic substance and thus would not apply if
>>
>> (1) interest is not stated; or
>> (2) **the stated interest rate is unreasonable** (emphasis added by author); or
>> (3) the stated face amount of the note is materially different from the current cash sales price for the same or similar items or from the market value of the note at the date of the transaction.

> In these circumstances, the note, the sales price, and the cost of the property, goods, or service exchanged for the note should be recorded of [sic] the fair value of the property, goods, or services or at an amount that reasonably approximates the market value of the note, whichever is the more clearly determinable. The amount may or may not be the same as its face amount, and any resulting discount of premium should be accounted for as an element of interest over the life of the note. In the absence of established exchange prices for the related property, goods, or service or evidence of the market value of the note, the present value of a note that stipulates either no interest **or a rate of interest that is clearly unreasonable** (emphasis added by author) should be determined by discounting all future payments on the notes using an imputed rate of interest as described in paragraphs 13 and 14. This determination should be made at the time the note is issued, assumed or acquired; any subsequent changes in the prevailing interest rates should be ignored.
>
> [Emphasis added.]

[38] The judge agreed with Mr. Weiner's testimony. He wrote the following at paragraph 110 of his reasons for judgment:

> [110] The witness noted that the GAAP that he followed in his report were those in effect in 1985 and 1986. Since the CICA's handbook was silent with respect to the way in which to post delayed-payment transactions, the witness consulted certain publications, notably one by the American Ross M. Skinner, entitled "Accounting Principles: A Canadian Viewpoint" (1972), the relevant excerpt of which is at page 48:
>
>> In transactions where payment is not called for within a short period of time after performance it is clear that fair measurement of the amount of the transaction requires that the payments provided for under the contract be discounted, **unless a reasonable rate of interest is provided for in the contract** (emphasis added by author).
>>
>> Thus, while this concept of discounting delayed payment transactions is obviously economically sound, it has complications in practice. Since most business transactions do not involve abnormal payment delays there may be a tendency in practice to ignore the discount factor implicit in the occasional transactions involving delayed payments.
>>
>> The error in this has recently been recognized in APB Opinion No. 21, entitled "Interest on Receivables and Payables".

> In Canada, there has been no equivalent official recommendation. In its absence, occasional examples may be encountered of delayed payment amounts being recorded of face value rather than fair value. The practice, however, should no longer be regarded as generally accepted

[39] With respect, it was up to the trial judge to assess the evidence, especially that of the experts given to help him in reaching his decision. I would breach my duty of deference if I were to interfere in a process of challenging the decision on this point.

[40] This breach would be all the more flagrant and reprehensible considering that the judgment is supported by two recent opinions of the most respected accounting firms.

[41] In fact, as mentioned by the judge on the basis of the evidence adduced before him, the firm Clarkson Gordon, which did business in the 1980s, was tasked with auditing the financial statements of CMRA as at December 31, 1985: see paragraph 99 of the reasons for judgment.

[42] The services of this firm were retained the following year by CMRA 2 to prepare its financial statements. That is when it noted that the interest rate of 11% was markedly insufficient because the notes were payable in Brazilian currency. It should be noted that in the three years ending on December 31, 1984, the cumulative rate of inflation in Brazil amounted to 1321%: see the opinion of the accounting firm Peat Marwick, dated March 4, 1986, forwarded to the accounting firm Clarkson Gordon, Volume III of the Excerpts of Documents for Hearing at page 9427.

[43] At paragraph 101 of his reasons for judgment, the judge noted the following excerpt from the testimony of Doug Cameron, who worked for the Clarkson Gordon firm:

> The consequence of that was that we felt that the value of the notes was overstated in these financial statements, the value of the notes and the research expense was overstated in these financial statements by a significant amount.
>
> [Emphasis added.]

[44] The Clarkson Gordon firm discovered that as of February 27, 1986, the standard interest rate for a short-term loan in Brazil of three months was already 225%, but was only 11% for the CMRA and CMRA 2 transactions for a long term of seven to ten years. It therefore consulted the Peat Marwick firm to obtain an opinion about its accounting analysis of the CMRA financial statements for 1985.

[45] On March 4, 1986, Peat Marwick sent Clarkson Gordon an opinion based on the GAAP in Canada: see Volume III of the Excerpts of Documents for Hearing at page 9423. This opinion also mentioned the fact that the CICA Handbook was silent on several accounting issues, including discounting in the case of long-term debts. Like Mr. Weiner, the accounting expert, the Peat Marwick firm consulted the statements of other professional accounting organizations, working documents and research in Canada and the United States, practices adopted by regulatory authorities or under legislation and, finally, methods that were being used at that time: *ibid*, pages 9425 and 9427.

[46] At page 9429, the accounting firm stressed that the opinion issued in the United States in August 1971 for the purpose of American GAAP (opinion recommending the necessity of discounting future payments when the interest rates are unreasonable) is generally followed in Canada. It added that the high interest rates in Canada since 1980 meant that the practice of discounting in financial statements in Canada was used more often.

[47] Referring more specifically to the financial statements of CMRA, it unequivocally concluded that it was necessary to discount the promissory notes. I will reproduce this conclusion found on pages 9433 and 9434:

> **IV CONCLUSION**
>
> The transaction represented by the Research and Development Proposal and Agreement is so pervasive a component of the Partnership's financial statements, and the failure to discount would have so material an impact on those financial statements, that we cannot conclude with credibility that failure to discount would be a generally accepted practice in this circumstance. Consequently, we believe the promissory note in question should be discounted at a rate that provides a reasonable return on the borrowing, which would require consideration of both a monetary correction factor and a higher rate of interest. Failure to discount, in our view, would result in an overstatement of the R&D expense and the related liability.
>
> Similarly, the notes receivable by the Partnership from individual investors should be discounted, as their terms in aggregate are identical to the terms of the notes payable.
>
> We believe every effort should be made to determine a reasonable discount rate as this would be the most meaningful disclosure. If a reasonable estimate of the fair value of the transaction cannot be made because a reasonable discount rate cannot be determined, then a denial of opinion on the financial statements would be the necessary alternative.

[48] Further to this opinion, the firm Clarkson Gordon withdrew the financial statements for 1985 that it had prepared for CMRA.

[49] I am aware of the fact that this part of the evidence that I have just summarized does not do justice to the detailed analysis made by the judge, but it supports and warrants the judge's finding that the value of the long-term payments had to be discounted in view of the unreasonable interest rates: see paragraph 121 of his reasons for judgment.

Costs

[50] Even if the appeal is allowed in part to give effect to the respondent's consent to judgment, one fact remains. The appellants did not discontinue their appeals. They attempted, but without success, to have SR&ED expenditures of more than 143 million Canadian dollars acknowledged. They are liable for the costs they incurred on appeal in the pursuit of this objective that goes far beyond the consent to judgment.

[51] As far as the costs of the three experts who testified for the respondent before the Tax Court of Canada are concerned, I am of the opinion that it is not appropriate to grant the appellants' request to be exempted from their payment. The appellants had experts testify on matters concerning research undertaken by CMRA and CMRA 2. In these circumstances, expert evidence by the respondent became necessary for all intents and purposes. In addition, this evidence was useful for the determination of the issue.

Conclusion

[52] For these reasons, I would allow the appeal only to give effect to the respondent's consent. Pursuant to this consent, I would acknowledge the appellants’ entitlement to their respective share of the non-capital losses generated by the cash payments of C$1,750,020 in the CMRA partnership and C$14,654,404 in the CMRA 2 partnership.

[53] On all other points, I would dismiss the appeals with costs, which are limited to one set for the joint hearing.

[54] Copies of these reasons will be filed in Dockets A-87-08 and A-86-08 in support of the judgments to be made therein.

[55] I would like to thank counsel for each of the parties for the quality of their memoranda of fact and law as well as for the effectiveness of their oral submissions at the hearing.

"Gilles Létourneau"
J.A.

"I concur.
Pierre Blais, J.A."

"I concur.
Johanne Trudel, J.A."

Certified true translation
Susan Deichert, Reviser

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

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APPEARANCES:

Dominic C. Belley	FOR THE APPELLANT
Guy Laperrière Janie Payette	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Ogilvy Renault Montréal, Quebec	FOR THE APPELLANT
John H. Sims, Q.C. Deputy Attorney General of Canada	FOR THE RESPONDENT

FEDERAL COURT OF APPEAL

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