

[OFFICIAL ENGLISH TRANSLATION]

2001-2179(IT)I

BETWEEN:

DANIEL ST-PIERRE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *François Messier 2001-2182(IT)I*, *Hédard Paulin 2001-2241(IT)I*, *Benoît Turcotte 2001-2243(IT)I*, *Normand Beaulieu 2001-2244(IT)I*, *Georges Renald Chouinard 2001-2247(IT)I*, *Daniel Théberge 2001-2248(IT)I*, *Sylvain Chouinard 2001-2249(IT)I*, *Jean-Paul Dufresne 2001-2250(IT)I*, *Jean-Pierre Bergeron 2001-2262(IT)I*, *Sylvain Mayer 2001-2264(IT)I*, *Régent Lafond 2001-2265(IT)I* and *Donat Goyette 2001-4082(IT)I* on November 4 and 5, 2002, at Montréal, Quebec, by

the Honourable Judge Lucie Lamarre

Appearances

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon-Nicolas Crépin
Marie-Aimée Cantin

JUDGMENT

The appeals from the assessments made under the *Income Tax Act* ("Act") after the normal reassessment period for the 1992 and 1993 taxation years are allowed

without costs, and the said assessments are therefore vacated since the respondent has not shown that the appellant made any misrepresentation attributable to neglect, carelessness or wilful default or committed any fraud in filing his tax return for those taxation years in accordance with subsection 152(4) of the *Act*.

The appeal from the assessment made under the *Act* for the 1994 taxation year is allowed without costs and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the penalty assessed under subsection 163(2) of the *Act* must be cancelled. The assessment made for the 1994 taxation year remains unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor

[OFFICIAL ENGLISH TRANSLATION]

2001-2182(IT)I

BETWEEN:

FRANÇOIS MESSIER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *Daniel St-Pierre 2001-2179(IT)I*, *Hédard Paulin 2001-2241(IT)I*, *Benoît Turcotte 2001-2243(IT)I*, *Normand Beaulieu 2001-2244(IT)I*, *Georges Renald Chouinard 2001-2247(IT)I*, *Daniel Théberge 2001-2248(IT)I*, *Sylvain Chouinard 2001-2249(IT)I*, *Jean-Paul Dufresne 2001-2250(IT)I*, *Jean-Pierre Bergeron 2001-2262(IT)I*, *Sylvain Mayer 2001-2264(IT)I*, *Régent Lafond 2001-2265(IT)I* and *Donat Goyette 2001-4082(IT)I* on November 4 and 5, 2002, at Montréal, Quebec, by

the Honourable Judge Lucie Lamarre

Appearances

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon-Nicolas Crépin
Marie-Aimée Cantin

JUDGMENT

The appeal from the assessment made under the Income Tax Act ("*Act*") after the normal reassessment period for the 1993 taxation year is allowed without costs, and the said assessment is vacated since the respondent has not shown that the

appellant made any misrepresentation attributable to neglect, carelessness or wilful default or committed any fraud in filing his tax return for that taxation year in accordance with subsection 152(4) of the *Act*.

The appeal from the assessment made under the *Act* for the 1994 taxation year is allowed without costs and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the penalty assessed under subsection 163(2) of the *Act* must be cancelled. The assessment made for the 1994 taxation year remains unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor

[OFFICIAL ENGLISH TRANSLATION]

2001-2241(IT)I

BETWEEN:

HÉDARD PAULIN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *Daniel St-Pierre 2001-2179(IT)I*, *François Messier 2001-2182(IT)I*, *Benoît Turcotte 2001-2243(IT)I*, *Normand Beaulieu 2001-2244(IT)I*, *Georges Renald Chouinard 2001-2247(IT)I*, *Daniel Théberge 2001-2248(IT)I*, *Sylvain Chouinard 2001-2249(IT)I*, *Jean-Paul Dufresne 2001-2250(IT)I*, *Jean-Pierre Bergeron 2001-2262(IT)I*, *Sylvain Mayer 2001-2264(IT)I*, *Régent Lafond 2001-2265(IT)I* and *Donat Goyette 2001-4082(IT)I* on November 4 and 5, 2002, at Montréal, Quebec, by

the Honourable Judge Lucie Lamarre

Appearances

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon-Nicolas Crépin
Marie-Aimée Cantin

JUDGMENT

The appeals from the assessments made under the Income Tax Act ("*Act*") after the normal reassessment period for the 1992 and 1993 taxation years are allowed without costs, and the said assessments are therefore vacated since the respondent has not

shown that the appellant made any misrepresentation attributable to neglect, carelessness or wilful default or committed any fraud in filing his tax return for those taxation years in accordance with subsection 152(4) of the *Act*.

The appeal from the assessment made under the *Act* for the 1994 taxation year is allowed without costs and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the penalty assessed under subsection 163(2) of the *Act* must be cancelled. The assessment made for the 1994 taxation year remains unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor

[OFFICIAL ENGLISH TRANSLATION]

2001-2243(IT)I

BETWEEN:

BENOÎT TURCOTTE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *Daniel St-Pierre 2001-2179(IT)I*, *François Messier 2001-2182(IT)I*, *Hédard Paulin 2001-2241(IT)I*, *Normand Beaulieu 2001-2244(IT)I*, *Georges Renald Chouinard 2001-2247(IT)I*, *Daniel Théberge 2001-2248(IT)I*, *Sylvain Chouinard 2001-2249(IT)I*, *Jean-Paul Dufresne 2001-2250(IT)I*, *Jean-Pierre Bergeron 2001-2262(IT)I*, *Sylvain Mayer 2001-2264(IT)I*, *Régent Lafond 2001-2265(IT)I* and *Donat Goyette 2001-4082(IT)I* on November 4 and 5, 2002, at Montréal, Quebec, by

the Honourable Judge Lucie Lamarre

Appearances

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon-Nicolas Crépin
Marie-Aimée Cantin

JUDGMENT

The appeals from the assessments made under the Income Tax Act ("Act") after the normal reassessment period for the 1992 and 1993 taxation years are allowed without costs, and the said assessments are therefore vacated since the

respondent has not shown that the appellant made any misrepresentation attributable to neglect, carelessness or wilful default or committed any fraud in filing his tax return for those taxation years in accordance with subsection 152(4) of the *Act*.

The appeal from the assessment made under the *Act* for the 1994 taxation year is allowed without costs and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the penalty assessed under subsection 163(2) of the *Act* must be cancelled. The assessment made for the 1994 taxation year remains unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor

[OFFICIAL ENGLISH TRANSLATION]

2001-2244(IT)I

BETWEEN:

NORMAND BEAULIEU,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *Daniel St-Pierre, 2001-2179(IT)I, François Messier 2001-2182(IT)I, Hédard Paulin 2001-2241(IT)I, Benoît Turcotte 2001-2243(IT)I, Georges Renald Chouinard 2001-2247(IT)I, Daniel Théberge 2001-2248(IT)I, Sylvain Chouinard 2001-2249(IT)I, Jean-Paul Dufresne 2001-2250(IT)I, Jean-Pierre Bergeron 2001-2262(IT)I, Sylvain Mayer 2001-2264(IT)I, Régent Lafond 2001-2265(IT)I* and *Donat Goyette 2001-4082(IT)I* on November 4 and 5, 2002, at Montréal, Quebec, by

the Honourable Judge Lucie Lamarre

Appearances

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon-Nicolas Crépin
Marie-Aimée Cantin

JUDGMENT

The appeals from the assessments made under the Income Tax Act ("*Act*") after the normal reassessment period for the 1992 and 1993 taxation years are allowed without costs, and the said assessments are therefore vacated since the

respondent has not shown that the appellant made any misrepresentation attributable to neglect, carelessness or wilful default or committed any fraud in filing his tax return for those taxation years in accordance with subsection 152(4) of the *Act*.

The appeal from the assessment made under the *Act* for the 1994 taxation year is allowed without costs and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the penalty assessed under subsection 163(2) of the *Act* must be cancelled. The assessment made for the 1994 taxation year remains unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor

[OFFICIAL ENGLISH TRANSLATION]

2001-2247(IT)I

BETWEEN:

GEORGES RENALD CHOUINARD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *Daniel St-Pierre 2001-2179(IT)I*, *François Messier 2001-2182(IT)I*, *Hédard Paulin 2001-2241(IT)I*, *Benoît Turcotte 2001-2243(IT)I*, *Normand Beaulieu 2001-2244(IT)I*, *Daniel Théberge 2001-2248(IT)I*, *Sylvain Chouinard 2001-2249(IT)I*, *Jean-Paul Dufresne 2001-2250(IT)I*, *Jean-Pierre Bergeron 2001-2262(IT)I*, *Sylvain Mayer 2001-2264(IT)I*, *Régent Lafond 2001-2265(IT)I* and *Donat Goyette 2001-4082(IT)I* on November 4 and 5, 2002, at Montréal, Quebec, by

the Honourable Judge Lucie Lamarre

Appearances

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon-Nicolas Crépin
Marie-Aimée Cantin

JUDGMENT

The appeal from the assessment made under the Income Tax Act ("*Act*") after the normal reassessment period for the 1992 taxation year is allowed without costs, and the said assessment is vacated since the respondent has not shown that the

appellant made any misrepresentation attributable to neglect, carelessness or wilful default or committed any fraud in filing his tax return for that taxation year in accordance with subsection 152(4) of the *Act*.

The appeal from the assessment made under the *Act* for the 1994 taxation year is allowed without costs and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the penalty assessed under subsection 163(2) of the *Act* must be cancelled. The assessment made for the 1994 taxation year remains unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor

[OFFICIAL ENGLISH TRANSLATION]

2001-2248(IT)I

BETWEEN:

DANIEL THÉBERGE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *Daniel St-Pierre 2001-2179(IT)I*, *François Messier 2001-2182(IT)I*, *Hédard Paulin 2001-2241(IT)I*, *Benoît Turcotte 2001-2243(IT)I*, *Normand Beaulieu 2001-2244(IT)I*, *Georges Renald Chouinard 2001-2247(IT)I*, *Sylvain Chouinard 2001-2249(IT)I*, *Jean-Paul Dufresne 2001-2250(IT)I*, *Jean-Pierre Bergeron 2001-2262(IT)I*, *Sylvain Mayer 2001-2264(IT)I*, *Régent Lafond 2001-2265(IT)I* and *Donat Goyette 2001-4082(IT)I* on November 4 and 5, 2002, at Montréal, Quebec, by

the Honourable Judge Lucie Lamarre

Appearances

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon-Nicolas Crépin
Marie-Aimée Cantin

JUDGMENT

The appeals from the assessments made under the *Income Tax Act* ("Act") after the normal reassessment period for the 1992 and 1993 taxation years are allowed without costs, and the said assessments are therefore vacated since the respondent has

not shown that the appellant made any misrepresentation attributable to neglect, carelessness or wilful default or committed any fraud in filing his tax return for those taxation years in accordance with subsection 152(4) of the *Act*.

The appeal from the assessment made under the *Act* for the 1994 taxation year is allowed without costs and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the penalty assessed under subsection 163(2) of the *Act* must be cancelled. The assessment made for the 1994 taxation year remains unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor

[OFFICIAL ENGLISH TRANSLATION]

2001-2249(IT)I

BETWEEN:

SYLVAIN CHOUINARD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *Daniel St-Pierre 2001-2179(IT)I*, *François Messier 2001-2182(IT)I*, *Hédard Paulin 2001-2241(IT)I*, *Benoît Turcotte 2001-2243(IT)I*, *Normand Beaulieu 2001-2244(IT)I*, *Georges Renald Chouinard 2001-2247(IT)I*, *Daniel Théberge 2001-2248(IT)I*, *Jean-Paul Dufresne 2001-2250(IT)I*, *Jean-Pierre Bergeron 2001-2262(IT)I*, *Sylvain Mayer 2001-2264(IT)I*, *Régent Lafond 2001-2265(IT)I* and *Donat Goyette 2001-4082(IT)I* on November 4 and 5, 2002, at Montréal, Quebec, by

the Honourable Judge Lucie Lamarre

Appearances

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon-Nicolas Crépin
Marie-Aimée Cantin

JUDGMENT

The appeals from the assessments made under the *Income Tax Act* ("Act") after the normal reassessment period for the 1992 and 1993 taxation years are allowed without costs, and the said assessments are therefore vacated since the respondent has

not shown that the appellant made any misrepresentation attributable to neglect, carelessness or wilful default or committed any fraud in filing his tax return for those taxation years in accordance with subsection 152(4) of the *Act*.

The appeal from the assessment made under the *Act* for the 1994 taxation year is allowed without costs and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the penalty assessed under subsection 163(2) of the *Act* must be cancelled. The assessment made for the 1994 taxation year remains unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor

[OFFICIAL ENGLISH TRANSLATION]

2001-2250(IT)I

BETWEEN:

JEAN-PAUL DUFRESNE,
and
HER MAJESTY THE QUEEN,

Appellant,
Respondent.

Appeals heard on common evidence with the appeals of *Daniel St-Pierre 2001-2179(IT)I, François Messier 2001-2182(IT)I, Hédard Paulin 2001-2241(IT)I, Benoît Turcotte 2001-2243(IT)I, Normand Beaulieu 2001-2244(IT)I, Georges Renald Chouinard 2001-2247(IT)I, Daniel Théberge 2001-2248(IT)I, Sylvain Chouinard 2001-2249(IT)I, Jean-Pierre Bergeron 2001-2262(IT)I, Sylvain Mayer 2001-2264(IT)I, Régent Lafond 2001-2265(IT)I* and *Donat Goyette 2001-4082(IT)I* on November 4 and 5, 2002, at Montréal, Quebec, by

the Honourable Judge Lucie Lamarre

Appearances

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon-Nicolas Crépin
Marie-Aimée Cantin

JUDGMENT

The appeals from the assessments made under the *Income Tax Act* ("Act") after the normal reassessment period for the 1992 and 1993 taxation years are allowed without costs, and the said assessments are therefore vacated since the respondent has not shown that the appellant made any misrepresentation attributable to neglect,

carelessness or wilful default or committed any fraud in filing his tax return for those taxation years in accordance with subsection 152(4) of the *Act*.

The appeal from the assessment made under the *Act* for the 1994 taxation year is allowed without costs and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the penalty assessed under subsection 163(2) of the *Act* must be cancelled. The assessment made for the 1994 taxation year remains unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor

[OFFICIAL ENGLISH TRANSLATION]

2001-2262(IT)I

BETWEEN:

JEAN-PIERRE BERGERON,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *Daniel St-Pierre 2001-2179(IT)I*, *François Messier 2001-2182(IT)I*, *Hédard Paulin 2001-2241(IT)I*, *Benoît Turcotte 2001-2243(IT)I*, *Normand Beaulieu 2001-2244(IT)I*, *Georges Renald Chouinard 2001-2247(IT)I*, *Daniel Théberge 2001-2248(IT)I*, *Sylvain Chouinard 2001-2249(IT)I*, *Jean-Paul Dufresne 2001-2250(IT)I*, *Sylvain Mayer 2001-2264(IT)I*, *Régent Lafond 2001-2265(IT)I* and *Donat Goyette 2001-4082(IT)I* on November 4 and 5, 2002, at Montréal, Quebec, by

the Honourable Judge Lucie Lamarre

Appearances

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon-Nicolas Crépin
Marie-Aimée Cantin

JUDGMENT

The appeals from the assessments made under the *Income Tax Act* ("Act") after the normal reassessment period for the 1992 and 1993 taxation years are allowed without costs, and the said assessments are therefore vacated since the respondent has

not shown that the appellant made any misrepresentation attributable to neglect, carelessness or wilful default or committed any fraud in filing his tax return for those taxation years in accordance with subsection 152(4) of the *Act*.

The appeal from the assessment made under the *Act* for the 1994 taxation year is allowed without costs and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the penalty assessed under subsection 163(2) of the *Act* must be cancelled. The assessment made for the 1994 taxation year remains unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor

[OFFICIAL ENGLISH TRANSLATION]

2001-2264(IT)I

BETWEEN:

SYLVAIN MAYER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *Daniel St-Pierre 2001-2179(IT)I*, *François Messier 2001-2182(IT)I*, *Hédard Paulin 2001-2241(IT)I*, *Benoît Turcotte 2001-2243(IT)I*, *Normand Beaulieu 2001-2244(IT)I*, *Georges Renald Chouinard 2001-2247(IT)I*, *Daniel Théberge 2001-2248(IT)I*, *Sylvain Chouinard 2001-2249(IT)I*, *Jean-Paul Dufresne 2001-2250(IT)I*, *Jean-Pierre Bergeron 2001-2262(IT)I*, *Régent Lafond 2001-2265(IT)I* and *Donat Goyette 2001-4082(IT)I* on November 4 and 5, 2002, at Montréal, Quebec, by

the Honourable Judge Lucie Lamarre

Appearances

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon-Nicolas Crépin
Marie-Aimée Cantin

JUDGMENT

The appeals from the assessments made under the *Income Tax Act* ("Act") after the normal reassessment period for the 1992 and 1993 taxation years are allowed

without costs, and the said assessments are therefore vacated since the respondent has not shown that the appellant made any misrepresentation attributable to neglect, carelessness or wilful default or committed any fraud in filing his tax return for those taxation years in accordance with subsection 152(4) of the *Act*.

The appeal from the assessment made under the *Act* for the 1994 taxation year is allowed without costs and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the penalty assessed under subsection 163(2) of the *Act* must be cancelled. The assessment made for the 1994 taxation year remains unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor

[OFFICIAL ENGLISH TRANSLATION]

2001-2265(IT)I

BETWEEN:

RÉGENT LAFOND,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *Daniel St-Pierre 2001-2179(IT)I*, *François Messier 2001-2182(IT)I*, *Hédard Paulin 2001-2241(IT)I*, *Benoît Turcotte 2001-2243(IT)I*, *Normand Beaulieu 2001-2244(IT)I*, *Georges Renald Chouinard 2001-2247(IT)I*, *Daniel Théberge 2001-2248(IT)I*, *Sylvain Chouinard 2001-2249(IT)I*, *Jean-Paul Dufresne 2001-2250(IT)I*, *Jean-Pierre Bergeron 2001-2262(IT)I*, *Sylvain Mayer 2001-2264(IT)I* and *Donat Goyette 2001-4082(IT)I* on November 4 and 5, 2002, at Montréal, Quebec, by

the Honourable Judge Lucie Lamarre

Appearances

For the Appellant: The Appellant himself

Counsel for the Respondent: Simon-Nicolas Crépin
Marie-Aimée Cantin

JUDGMENT

The appeal from the assessment made under the *Income Tax Act* ("Act") after the normal reassessment period for the 1993 taxation year is allowed without costs, and the said assessment is vacated since the respondent has not shown that the

appellant made any misrepresentation attributable to neglect, carelessness or wilful default or committed any fraud in filing his tax return for that taxation year in accordance with subsection 152(4) of the *Act*.

The appeal from the assessment made under the *Act* for the 1994 taxation year is allowed without costs and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the penalty assessed under subsection 163(2) of the *Act* must be cancelled. The assessment made for the 1994 taxation year remains unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor

[OFFICIAL ENGLISH TRANSLATION]

2001-4082(IT)I

BETWEEN:

DONAT GOYETTE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence with the appeals of *Daniel St-Pierre 2001-2179(IT)I*, *François Messier 2001-2182(IT)I*, *Hédard Paulin 2001-2241(IT)I*, *Benoît Turcotte 2001-2243(IT)I*, *Normand Beaulieu 2001-2244(IT)I*, *Georges Renald Chouinard 2001-2247(IT)I*, *Daniel Théberge 2001-2248(IT)I*, *Sylvain Chouinard 2001-2249(IT)I*, *Jean-Paul Dufresne 2001-2250(IT)I*, *Jean-Pierre Bergeron 2001-2262(IT)I*, *Sylvain Mayer 2001-2264(IT)I* and *Régent Lafond 2001-2265(IT)I* on November 4 and 5, 2002, at Montréal, Quebec by

the Honourable Judge Lucie Lamarre

Appearances

Counsel for the Appellant: Serge Fournier

Counsel for the Respondent: Simon-Nicolas Crépin
Marie-Aimée Cantin

JUDGMENT

The appeals from the assessments made under the *Income Tax Act* ("Act") after the normal reassessment period for the 1992 and 1993 taxation years are allowed without costs, and the said assessments are therefore vacated since the respondent has not shown that the appellant made any misrepresentation attributable to neglect,

carelessness or wilful default or committed any fraud in filing his tax return for those taxation years in accordance with subsection 152(4) of the *Act*.

The appeal from the assessment made under the *Act* for the 1994 taxation year is allowed without costs and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the penalty assessed under subsection 163(2) of the *Act* must be cancelled. The assessment made for the 1994 taxation year remains unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor

[OFFICIAL ENGLISH TRANSLATION]

Date: 20021120
Docket: 2001-2179(IT)I

BETWEEN:

DANIEL ST-PIERRE et al.,

Appellants,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

**(Delivered orally from the bench on November 5, 2002, at Montréal, Quebec,
and revised at Ottawa, Ontario, on November 20, 2002)**

Lamarre, J.T.C.C.

[1] The 13 appellants who appeared in court on November 4 and 5, 2002, are appealing under the informal procedure from assessments made by the Minister of National Revenue ("Minister") under the *Income Tax Act* ("*Act*") for the 1992, 1993 and 1994 taxation year, as the case may be. By those assessments, the Minister added to the income of the appellants income they did not report when they filed their tax returns, and he also assessed penalties under subsection 163(2) of the *Act*.

[2] From the outset, it must be noted that the assessments for the 1992 and 1993 taxation years were made after the normal reassessment period. The burden is therefore on the respondent to prove on a balance of probabilities that the appellants made any misrepresentation attributable to neglect, carelessness or wilful default in

filing their tax returns for those two years in accordance with subsection 152(4) of the *Act*.

[3] To establish the validity of the penalties assessed under subsection 163(2) of the *Act*, the respondent must also prove that the appellants knowingly, or under circumstances amounting to gross negligence, made a false statement or omission in their tax returns.

[4] The unreported income corresponds to the remuneration paid to each of the appellants by cheque from the personal account of William Patterson, the principal shareholder in the transportation companies that hired the appellants as either truck drivers or mechanics. Specifically, that remuneration was paid to the appellants for overtime work they performed for their employer. According to the explanation given by the appellants, their straight-time pay ranged from \$12 to \$14 an hour. If they worked more than 40 or 44 hours a week, as the case may be, they were normally entitled to be paid time and a half pursuant to the parity committee's decree. The employer had explained to them that, since it could not charge its customers time and a half, it could not itself pay its employees time and a half. However, by acting that way, the employer was not complying with the decree. That was why it established a system whereby, for their straight-time pay, the employees received one cheque per week from Service de personnel Oiram inc. or from Service de personnel Liebroc inc., both of which were also controlled by William Patterson. For overtime, Mr. Patterson or his spouse, Françoise Corbeil, drew cheques for the appellants against their personal account. The amount so received by each employee amounted to about \$8 or \$9 an hour, the equivalent of their net straight-time pay. The appellants accepted this way of proceeding without a word, assuming that Mr. Patterson was making the tax remittances to the government and giving them their remuneration net of taxes and other premiums and contributions deducted at source.

[5] When they completed their tax returns, the appellants wrote down the amounts shown on the T4 slips the employer had given them. Each of the appellants said that he had assumed that the amount shown on the T4 slip was accurate.

[6] In actual fact, the T4 slips did not include the remuneration paid out of the personal accounts of Mr. Patterson and his spouse. Moreover, in March 1998, Service de personnel Oiram inc. and Service de personnel Liebroc inc. were both convicted on criminal charges of having unlawfully made false or deceptive statements on the T4 slips filed with respect to the total remuneration paid to the employees (Exhibit I-14).

[7] The appellants said that they did not realize the T4 slips were wrong when they filed their tax returns. They learned of that fraud only as a result of the investigation the Canada Customs and Revenue Agency ("CCRA") conducted into Mr. Patterson's transportation companies. Martine Gaudette, an investigator for the CCRA, testified in a similar way. It was after discovering that Mr. Patterson's companies were deducting false expenses that the CCRA auditor on the file transferred everything to Special Investigations. That is how it was discovered that the T4 slips were not accurate. Ms. Gaudette explained that she had met each and every employee to ask whether they had really received the cheques drawn against the personal account of Mr. Patterson and his spouse and for what purpose. She then realized that the appellants were surprised to learn that the income corresponding to the overtime had not been included on their T4 slips. The appellants had been under the impression from the start that the tax payable had been deducted by Mr. Patterson and remitted to the Receiver General for Canada.

[8] According to what the appellants said, it would seem that Mr. Patterson gave them to understand that he would take care of resolving the problem from that point on and that they would not suffer any consequences. Ms. Gaudette also confirmed that the audit of each employee had extended over a one-year period and that, during that year, the employer had apparently given the employees concerned a notice stating that if they had any problems with the CCRA, the matter should be left to the employer.

[9] Some of the appellants who still work for Mr. Patterson asked him to come and explain the situation in court. However, he apparently remained very vague about whether he would come. Mr. Crépin, counsel for the respondent, tried unsuccessfully to serve a subpoena on Mr. Patterson and his spouse. A man by the name of Patterson apparently contacted Mr. Crépin a few days before the hearing and never came to the meeting scheduled by Mr. Crépin for the next day. Obviously, Mr. Patterson and his spouse did not appear in court on November 4 and 5, 2002.

[10] With regard to 1992 and 1993, the statute-barred years, the respondent must establish what misrepresentation the appellants are alleged to have made and then to what the misrepresentation is attributable. (See *Farm Business Consultants Inc. v. Canada*, [1994] T.C.J. No. 760; [1996] F.C.J. No. 82.)

[11] The evidence showed that the employees' income was understated on the T4 slips issued by the employer and was therefore not all reported by the appellants. However, the evidence also showed that the employer knew its employees' income was understated on the T4 slips but that the employees, that is, the appellants, did not.

[12] Counsel for the respondent has not satisfied me that the misrepresentation was attributable to the appellants and that the appellants were guilty of neglect, carelessness or wilful default. All of the appellants said that the deceptiveness of the cheques (one for straight-time pay and one for overtime) was explained by the fact that the employer had wanted to avoid paying them time and a half as required by the decree. They explained that they had had no choice but to submit to this method for otherwise the employer would simply not have hired them and would have hired other workers. The employer was convicted on criminal charges of unlawfully making false or deceptive statements on the T4 slips with regard to the total remuneration paid to the employees. I am not at all satisfied from the evidence that the appellants were colluding with the employer. The fact that Mr. Patterson did not appear at the hearing cannot be interpreted so as to impeach the appellants' credibility as Mr. Crépin would like. The appellants innocently admitted that they had learned during the hearing—in addition to the question of the T4 slips, which they had learned about during the CCRA's investigation—of all the fraud committed by their employer in other respects.

[13] Each of the appellants testified candidly. They were all under the impression that all of their income was computed on the T4 slips at the time they filed their tax returns and that the tax amounts had been duly deducted by their employer. I have no reason to doubt the truthfulness of their testimony. I do not think that one can talk about neglect or carelessness when people acting in good faith do not double check that the amount shown on the T4 slip they have received actually corresponds to the total amount of the cheques they received during the year. In fact, the appellants were entitled to expect that the T4 slips their employer had given them were accurate. If they made a mistake, it was a reasonable mistake that cannot be considered to be neglect or carelessness on their part. Some of them said that they would never have agreed to work overtime for half of their straight-time pay (which becomes the case if the amount paid for overtime corresponds to gross earnings). Since they should normally have been paid time and a half, it is reasonable to believe their version that they thought the employer had made the tax deductions at source and that the T4 slips accurately showed all of their employment income.

[14] In my opinion, the fact that they so failed to report income that they thought was already included on their T4 slips cannot be held against them. It is my view that the employer's fraud cannot impugn the credibility of the appellants who, I believe, were actually victims of that fraud.

[15] Accordingly, the conditions enabling the Minister to assess the appellants after the normal reassessment period under subsection 152(4) of the *Act* have not been met, and the Minister could not reassess the appellants on the unreported income. I am therefore obliged to vacate the assessments made beyond the normal reassessment period for the 1992 and 1993 taxation years.¹

[16] As for the 1994 taxation year, the appellants now realize that the amount assessed was not reported in their income. I am therefore confirming the assessments made for 1994 aside from the penalties assessed under subsection 163(2) of the *Act*, which I am cancelling since it is my view that the appellants did not knowingly or, under circumstances amounting to gross negligence, make a false statement or omission in their tax returns.

[17] As regards the argument that tax has already been paid on that unreported income, this is a tax collection question that will have to be argued before the Federal Court of Canada under section 222 and subsection 227(9.4) of the *Act* (see *Neuhaus v. Canada*, 2002 FCA 391).

[18] Accordingly, the appeals are allowed and the assessments made after the normal reassessment period for each of the appellants concerned for 1992 and 1993 are vacated since the respondent has not shown that the appellants made any misrepresentation attributable to neglect, carelessness or wilful default or committed any fraud in filing their tax returns for those taxation years in accordance with subsection 152(4) of the *Act*.

[19] The assessments made under the *Act* for each of the appellants for the 1994 taxation year are referred back to the Minister for reconsideration and reassessment on the basis that the penalties assessed under subsection 163(2) of the *Act* must be cancelled. The assessments made for the 1994 taxation year remain unchanged in all other respects.

Signed at Ottawa, Canada, this 20th day of November 2002.

1 The question of the expenses allowed to some of the appellants by these reassessments for 1992 and 1993 was raised *in extremis* at the end of the trial and was not argued. Moreover, although the reassessments must, in my view, be vacated in full, with the result that the last assessment made before the normal reassessment period must be restored, I will not comment any further on the question of expenses.

"Lucie Lamarre"

J.T.C.C.

Translation certified true
on this 8th day of January 2004.

Sophie Debbané, Revisor