Docket: 2012-2895(IT)G

BETWEEN:

JAMES SPENCE STEWART,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018
and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard
	Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2917(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-2980(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-2917(IT)G

BETWEEN:

JAMES SHAW,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018
and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard
	Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-2980(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-2918(IT)G

BETWEEN:

STANLEY HARVEY,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018 and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012-2917(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-2980(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-2919(IT)G

BETWEEN:

SANDRA INGLIS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018
and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard
	Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012-2917(IT)G; 2012-2918(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-2980(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-2920(IT)G

BETWEEN:

MURRAY J. MCPHAIL,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018
and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard
	Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012-2917(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-2980(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-2921(IT)G

BETWEEN:

JEFF GILLAN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018
and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard
	Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012-2917(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-2980(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-2922(IT)G

BETWEEN:

ROBERT BORG OLIVIER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018
and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard
	Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012-2917(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-2980(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-2925(IT)G

BETWEEN:

ANTHONY TEDESCO,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018
and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard
	Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012-2917(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-2980(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-2926(IT)G

BETWEEN:

AHMAD YAQEEN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018
and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard
	Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012-2917(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-2980(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-2927(IT)G

BETWEEN:

ROSA MILITANO,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018 and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard
	Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012 2917(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-2980(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-2928(IT)G

BETWEEN:

MAURIZIO MARCHIONI,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018 and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012-2917(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-2980(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-2929(IT)G

BETWEEN:

PAUL WATT,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018
and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard
	Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012-2917(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2979(IT)I; 2012-2980(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-2979(IT)I

BETWEEN:

GERALD JAMES,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018
and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard
	Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notices of Appeal in appeals;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012-2917(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2980(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-2980(IT)I

BETWEEN:

LYNN JAMES,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018 and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012-2917(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-3102(IT)G is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Docket: 2012-3102(IT)G

BETWEEN:

SARAH BORG OLIVIER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on October 2, 2017 at Toronto, Ontario.

Written representations submitted by the respondent on March 22, 2018
and by the appellants on March 27, 2018.

Before: The Honourable Justice Johanne D'Auray

Appearances:

Counsel for the Appellant:	Mauro Marchioni
Counsel for the Respondent:	Natalie Goulard
	Valerie Messore

ORDER

UPON Motion made by the respondent for an Order pursuant to section 53 of the *Tax Court of Canada Rules (General Procedure)* to strike the Notice of Appeal;

AND UPON reading the materials and hearing submissions from the parties;

The Motion of the respondent to strike the Notice of Appeal of the appellant and the Notices of Appeal in court file numbers 2012-2895(IT)G; 2012-2917(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-2980(IT)I is allowed. The Notice of Appeal of the appellant is struck;

With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

Citation: 2018 TCC 75
Date: 20180423
Docket: 2012-2895(IT)G

BETWEEN:

JAMES SPENCE STEWART,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2012-2917(IT)G

AND BETWEEN:

JAMES SHAW,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2012-2918(IT)G

AND BETWEEN:

STANLEY HARVEY,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2012-2919(IT)G

AND BETWEEN:

SANDRA INGLIS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2012-2920(IT)G

AND BETWEEN:

MURRAY J. MCPHAIL,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2012-2921(IT)G

AND BETWEEN:

JEFF GILLAN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2012-2922(IT)G

AND BETWEEN:

ROBERT BORG OLIVIER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent

Docket: 2012-2925(IT)G

AND BETWEEN:

ANTHONY TEDESCO,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2012-2926(IT)G

AND BETWEEN:

AHMAD YAQEEN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent

Docket: 2012-2927(IT)G

AND BETWEEN:

ROSA MILITANO,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent

Docket: 2012-2928(IT)G

AND BETWEEN:

MAURIZIO MARCHIONI,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2012-2929(IT)G

AND BETWEEN:

PAUL WATT,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2012-2979(IT)I

AND BETWEEN:

GERALD JAMES,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2012-2980(IT)I

AND BETWEEN:

LYNN JAMES,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2012-3102(IT)G

AND BETWEEN:

SARAH BORG OLIVIER,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR ORDER

D'Auray J.

[1] The respondent has filed a Motion to strike the Notices of Appeal of the appellants without leave to amend, pursuant to paragraph 53(1)(c) of the *Tax Court of Canada Rules (General Procedure)* (the "*Rules*"). The respondent's position is that it would be an abuse of the Court's process to allow the appellants to continue with their appeals.

[2] The appellants are partners of the TSI I Limited Partnership ("TSI"). In these reasons, I will refer to the appellants as either the "appellants" or the "partners". At the hearing of the Motion, all the appellants were represented by the same counsel, Mr. Marchioni, who is also a partner of TSI.

I. Facts

[3] TSI states that it filed its information returns in 2002 for its 2000 and 2001 taxation years. However, the respondent maintains that TSI filed its return for the 2000 taxation year on February 15, 2005 and sometime after February 15, 2005, for the 2001 taxation year.

[4] On March 29, 2006, the Minister issued Notices of Determination for TSI pursuant to 152(1.4) of the *Income Tax Act* ("*ITA*"). The Minister's determinations disallowed the losses claimed by TSI in the amounts of $941,840 and $2,193,463 for the 2000 and 2001 taxation years, respectively.

[5] The appellants were also assessed by the Minister. The Notices of Assessments for the appellants cover the period from March 29, 2007 to May 3, 2007. The Minister denied the share of TSI's losses claimed by each partner. The partners filed Notices of Objection against the assessments within the time limit prescribed by the *ITA.*

[6] The Minister confirmed the determinations and the assessments by issuing Notices of Confirmation dated April 18, 2012 to TSI and the appellants.

[7] On July 17, 2012, TSI filed an appeal before this Court. Mr. Marchioni was counsel of record. As I have already stated, Mr. Marchioni is also a partner of TSI.

[8] Between July 16 and 18, 2012, each partner filed a Notice of Appeal with this Court. With the exception of Mr. James Stewart, Mr. Gerald James and Ms. Lynn James, the partners were all represented by Mr. Marchioni.

[9] In their Notices of Appeal, TSI and the appellants, except for James Stewart, raised the same two issues, namely whether the amounts determined by the Minister were correct and whether the determinations made by the Minister were outside the time limit prescribed by subsection 152(4.1) of the *ITA.* In his Notice of

Appeal, Mr. Stewart did not raise the issue of whether the determinations were statute-barred.

[10] For the purposes of this Motion, Mr. Marchioni acted as counsel for all the appellants.

[11] The appeals of TSI and the appellants were case managed by this Court. On November 1, 2013, the case management judge ordered that the TSI appeal proceed first, and that the appeals of the partners be held in abeyance pending the outcome of the TSI appeal.

[12] The appeal of TSI was scheduled to be heard on Monday May 2, 2016. The Friday before the hearing, Mr. Marchioni informed the respondent that TSI would be filing a Notice of Discontinuance. The Notice of Discontinuance was filed with this Court on May 2, 2016 and the appeal was deemed to be dismissed on June 24, 2016 pursuant to subsection 16.2(2) of the *Tax Court of Canada Act* (the "*TCC Act"*).

[13] On June 13, 2016, the case management judge ordered the appellants and the respondent to attend a Settlement Conference on October 7, 2016.

[14] On April 20, 2017, Mr. Marchioni, on behalf of the appellants, sent a letter to this Court stating that he was not able to obtain instructions from all the appellants. As a result, he was not able to advise whether the matter would settle.

[15] During the hearing of the Motion, Mr. Marchioni stated that no partner had been designated by the partnership in the TSI appeal pursuant to subsections 165(1.15) and 169(1) of the *ITA* for the purpose of filing an objection or an appeal in respect of the determinations made by the Minister.

II. Respondent's position

[16] The respondent's position is that pursuant to subsection 152(1.7) of the *ITA*, the determinations made by the Minister under subsection 152(1.4) of the *ITA* are binding on the Minister and the partners. Therefore, it would be an abuse of process to allow the appellants to proceed with their appeals.

[17] In addition, the respondent argues that the TSI appeal is deemed to be dismissed pursuant to subsection 16.2(2) of the *TCC Act*. Therefore, the determinations made by the Minister are valid and the partners are bound by the determinations.

[18] The respondent noted the concession made by the appellants in their Response to the Motion of the respondent and during the hearing**,** namely that the filing by TSI of a Notice of Discontinuance prevents the partners from challenging the loss determinations made by the Minister since the partners are bound by such determinations pursuant to subsection 152(1.7) of the *ITA*. That said, she argues that the appellants are also precluded by subsection 152(1.7) of the *ITA* from arguing that the loss determinations were statute-barred, for being outside the three-year time limit prescribed by subsection 152(1.4) of the *ITA*.

[19] The respondent argues that if I were to deny her Motion to strike the Notices of Appeal and allow the appellants to argue that the determinations of losses made by the Minister were statute-barred, it would lead to a situation where the appellants would be entitled to deduct losses that do not exist at the partnership level. For the respondent, this situation would be contrary to the provisions of the *ITA* dealing with partnerships, which are designed to provide consistency between the determination at the partnership level and what the partners are entitled to claim as losses. Under these provisions, if no losses are available at the partnership level, then the partners are not entitled to deduct any losses.

[20] The respondent also argues that allowing the appellants' appeals to proceed would be an abuse of the Court's process. The respondent states that on May 2, 2017, the respondent was ready to argue the TSI's appeal, namely to advance the position that the determinations of losses made by Minister were correct in law and were not statute-barred. Instead, TSI chose to file a Notice of Discontinuance. Accordingly, by law the appeal of TSI is deemed to be dismissed. Therefore, the determinations are valid and binding on all the partners and they are no longer able to raise the issue that the determinations are not valid because they were statute-barred. To allow the litigation to proceed would be an abuse of process as it would amount to re-litigating the same issue.

III. Position of the appellants

[21] The appellants concede that because TSI discontinued its appeal, subsection 152(1.7) of the *ITA* results in the loss determinations being binding on the Minister and on each partner with respect to the correctness of the amount**s**. However, they argue that subsection 152(1.7) of the *ITA* does not bind the partners with respect to challenging the validity of the Minister's determinations namely**,** whether the determinations were made in compliance with the procedural provisions of the *ITA.*

[22] The appellant's position is that these procedural provisions were not complied with as TSI filed its information returns in 2002. Under subsection 152(4.1) of the *ITA*, the Minister had until 2005, namely three years from the filing of the information returns to issue the determinations. As the determinations were not issued until 2006, they were outside the prescribed time limit.

[23] The appellants also submit that continuing the appeals is not an abuse of process as nothing has been litigated − the Notice of Discontinuance was filed by TSI before the matter had been heard.

[24] The appellants also argue that the dismissal of the appeal of TSI pursuant to section 16.2 of the *TCC Act* is not an admission by the appellants that the TSI's 2000 and 2001 information returns were filed in 2005, as alleged by the respondent.

IV. Analysis

[25] The provisions applicable in this Motion are subsections 152(4.1), 152(1.7) 165(1.15) of the *ITA*, section 16.2 of the *TCC Act* and paragraph 53(1)(c) of the *Rules.* They state as follows:

A. ITA Provisions

> **152 (1.4)** The Minister may, within 3 years after the day that is the later of
>
> > **(a)** the day on or before which a member of a partnership is, or but for subsection 220(2.1) would be, required under section 229 of the *Income*

Tax Regulations to make an information return for a fiscal period of the partnership, and

(b) the day the return is filed,

determine any income or loss of the partnership for the fiscal period and any deduction or other amount, or any other matter, in respect of the partnership for the fiscal period that is relevant in determining the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or any amount refundable to or deemed to have been paid or to have been an overpayment by, any member of the partnership for any taxation year under this Part.

152 (1.7) Where the Minister makes a determination under subsection 152(1.4) or a redetermination in respect of a partnership,

(a) subject to the rights of objection and appeal of the member of the partnership referred to in subsection 165(1.15) in respect of the determination or redetermination, the determination or redetermination is binding on the Minister and each member of the partnership for the purposes of calculating the income, taxable income or taxable income earned in Canada of, tax or other amount payable by, or any amount refundable to or deemed to have been paid or to have been an overpayment by, the members for any taxation year under this Part; and

(b) notwithstanding subsections 152(4), 152(4.01), 152(4.1) and 152(5), the Minister may, before the end of the day that is one year after the day on which all rights of objection and appeal expire or are determined in respect of the determination or redetermination, assess the tax, interest, penalties or other amounts payable and determine an amount deemed to have been paid or to have been an overpayment under this Part in respect of any member of the partnership and any other taxpayer for any taxation year as may be necessary to give effect to the determination or redetermination or a decision of the Tax Court of Canada, the Federal Court of Appeal or the Supreme Court of Canada.

165 (1.15) Notwithstanding subsection 165(1), where the Minister makes a determination under subsection 152(1.4) in respect of a fiscal period of a partnership, an objection in respect of the determination may be made only by one member of the partnership, and that member must be either

(a) designated for that purpose in the information return made under section 229 of the *Income Tax Regulations* for the fiscal period; or

(b) otherwise expressly authorized by the partnership to so act.

B. *TCC Act*

16.2 (1) A party who instituted a proceeding in the Court may, at any time, discontinue that proceeding by written notice.

(2) Where a proceeding is discontinued under subsection (1), it is deemed to be dismissed as of the day on which the Court receives the written notice.

C. *Rules*

53 (1) The Court may, on its own initiative or on application by a party, strike out or expunge all or part of a pleading or other document with or without leave to amend, on the ground that the pleading or other document

(a) may prejudice or delay the fair hearing of the appeal;

(b) is scandalous, frivolous or vexatious;

(c) is an abuse of the process of the Court; or

(d) discloses no reasonable grounds for appeal or opposing the appeal.

(2) No evidence is admissible on an application under paragraph (1)(d).

(3) On application by the respondent, the Court may quash an appeal if

(a) the Court has no jurisdiction over the subject matter of the appeal;

(b) a condition precedent to instituting an appeal has not been met; or

(c) the appellant is without legal capacity to commence or continue the proceeding.

[Underlining added.]

[26] I note that the style of cause in the partnership's appeal was *TSI I Limited Partnership v. Her Majesty the Queen.* It is not clear to me why the appeal was filed by the partnership instead of a partner on behalf of the partnership as

prescribed by subsections 165(1.15) and 169(1) of the *ITA*.[1] I asked the parties to provide me with written submissions on whether this way of proceeding would have an impact on the Motion.

[27] I also asked the parties to provide comments on whether the doctrine of abuse of process by re-litigation applies to an appeal dismissed pursuant to 16.2 of the *TCC Act*, since the appeal was not adjudicated but deemed to be dismissed under that provision.

[28] I will deal first with the issue of the style of cause in the TSI appeal and its impact, if any, on the Motion.

[29] The respondent argues that it is now too late to raise the issue, since at all times the parties treated the objection and the appeal filed by the TSI as valid. She submits that the fact that the style of cause does not refer to a designated partner does not render the appeal of the partnership's determination invalid. She notes that Mr. Marchioni, a partner of the TSI, represented TSI as counsel in its appeal. She also submits that the fact that an express authorization of designated partner does not form part of the record does not render the partnership's appeal invalid and moreover is irrelevant to the issues in this Motion.

[30] The appellants argue at paragraph 4 of their written submissions that:

> 4. TSI I partnership is not a general partner of TSI I Limited Partnership. As a result, section 165(1.15) applies and the appeal launched by TSI was improperly constituted and in effect a nullity. The fact that the Crown never raised this is, and cannot be seen, to be a belief held by them that the TSI appeal was in fact an appeal brought by Maurizio Marchioni, as designate for the Limited Partnership. The Notice of Appeal and all other documents delivered, including Lists of Documents that were exchanged and discoveries held, were all on the belief and understanding and fact that TSI was the Appellant. There was no designation filed, as per 165(1.15), nor was one sought by the Crown. If the Crown truly believed that Maurizio Machioni was not simply the lawyer for TSI Partnership, but the partner authorized to act on behalf of TSI, they would have requested or required such evidence.

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[1] Example of a style of cause dealing with a partnership: *Sentinel Hill Productions IV Corporation, in its capacity as designated member of Sentinel Hill No. 207 Limited Partnership* v *HMQ*, 2013 TCC 267.

[31] After considering the parties' submissions, I agree with the respondent that I have to treat TSI's appeal as have filed on behalf of all the partners of TSI and as having been validly dismissed. No one challenged the validity of the TSI proceeding while the appeal was ongoing or its outcome**.**

[32] The TSI appeal was also recognized as being valid by the appellants. In response to the respondent's motion, Mr. Marchioni admits that the dismissal of the TSI's appeal has the effect of preventing the partners from raising the issue that the loss determinations made by the Minister were incorrect. Having adopted this position**,** which assumes the validity of TSI's appeal, it seems inconsistent for the appellants to argue that the appeal was nevertheless invalid:

> Para. 3 There was never a determination made in respect of the issue of whether the Notice of Assessment and Confirmation by the Minister in response to a Partnership return filed in 2002 was stature barred. As a result the Minister cannot take advantage of the provisions of 152(1.7)(b), as that issue has not been determined. The only determination made by the operation of the withdrawal of the Appeal was that of the appropriateness or applicability of the losses claimed by the Limited Partnership.

[33] It is only after I asked why the TSI appeal was filed by the partnership and not a member of the partnership, that Mr. Marchioni raised in his written submissions that the TSI appeal was invalid. As I stated, after reflecting, I do not agree with Mr. Marchioni's position.

[34] The second question before me is whether it would be an abuse of process if the partners were allowed to challenge the determinations made by the Minister for the 2000 and 2001 taxation years as being statute-barred.

[35] The appellants argue that the wording of subsection 152(1.7) of the *ITA* only binds the partners with respect to the correctness of the amounts determined by the Minister. However, it does not prevent them from arguing that the procedural provisions of the *ITA* were not met, namely that the determinations were made beyond the time limits prescribed by subsection 152(1.4) of the *ITA*.

[36] The appellants rely upon the decision of the Federal Court of Appeal in *Ereiser* v *HMQ*.[2] In that decision, Justice Sharlow stated that there are two components to an assessment or, for that matter, a determination, namely the correctness of the amount assessed and the validity of the assessment. At paragraphs 21 and 22 of her reasons, Justice Sharlow states as follows:

> [21] Mr. Ereiser is seeking from the Tax Court of Canada an order vacating the reassessments under appeal. That is the appropriate remedy in an income tax appeal for an assessment (including a reassessment) that is found not to be valid, or that is found not to be correct. I use the term valid to describe an assessment made in compliance with the procedural provisions of the *Income Tax Act*, and correct to describe an assessment in which the amount of tax assessed is based on the applicable provisions of the *Income Tax Act*, correctly interpreted and applied to the relevant facts.
>
> [22] The procedural provisions of the *Income Tax Act* include those relating to statutory limitation periods. Generally, those provisions deprive the Minister of the legal authority to assess tax after the expiry of a certain period of time – the period defined in the *Income Tax Act* as the "normal reassessment period" – unless a statutory exception applies.

[37] Therefore, the appellants argue that it could not be an abuse of process to allow them to argue in their own appeals that the determinations were statute-barred.

[38] I agree with the appellants that taking into account the wording of subsection 152(1.7) of the *ITA*, it is not clear that this provision binds the appellants with respect to the procedural provisions of the *ITA*, namely the stature-barred issue. That said, this is not the only question that I have to address in this Motion.

[39] The respondent points out that TSI could have argued that the determinations were statute-barred if it had proceeded with its appeal. Instead, TSI chose to file a Notice of Discontinuance. The respondent submits that pursuant to subsection 16.2(2) of the *TCC Act*, the appeal was dismissed, with the result that the determinations made by the Minister were valid in all respects. Therefore, the partners are prevented from re-litigating the issue dealing with the statute-barred issue, as this would constitute an abuse of the Court's process.

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2 *Ereiser v Canada*, 2013 FCA 20.

[40] The seminal decision on abuse of process by re-litigation is the decision of the Supreme Court of Canada in *Toronto (City)* v *C.U.P.E., Local 79*[3] ("*C.U.P.E.*").

[41] In *C.U.P.E,* Mr. Oliver worked for the City of Toronto as a recreation instructor. He was found guilty of sexually assaulting a boy under his supervision. A few days after his conviction, the City fired him. Before an arbitrator, Mr. Oliver argued that he had never sexually assaulted the boy. The arbitrator found that the criminal conviction was admissible as *prima facie* but not conclusive evidence that Mr. Oliver had sexually assaulted the boy. The question before the Supreme Court was whether Mr. Oliver was precluded from being re-litigating the facts upon which the conviction rested.

[42] Justice Arbour, writing for the majority, decided that it would be an abuse of process if Mr. Oliver was able to re-litigate before the arbitrator the issue of whether he had committed the sexual assault. To allow him to re-litigate this issue would cast doubt on the validity of a criminal conviction and thereby bring the administration of the judicial process into disrepute.

[43] Justice Arbour stated that the primary focus of the doctrine of abuse of process is maintaining the integrity of the adjudicative process. At paragraph 37 of her reasons, she described the purpose of the doctrine in the following terms:

> 37. In the context that interests us here, the doctrine of abuse of process engages "the inherent power of the court to prevent the misuse of its procedure, in a way that would bring the administration of justice into disrepute" (*Canam Enterprises Inc. v. Coles* (2000), 51 O.R. (3d) 481 (C.A.), at para. 55, *per* Goudge J.A., dissenting (approved [2002] 3 S.C.R. 307, 2002 SCC 63)). Goudge J.A. expanded on that concept in the following terms at paras. 55-56:
>
> > The doctrine of abuse of process engages the inherent power of the court to prevent the misuse of its procedure, in a way that would be manifestly unfair to a party to the litigation before it or would in some other way bring the administration of justice into disrepute. <u>It is a flexible doctrine unencumbered by the specific requirements of concepts such as issue estoppel</u>. See *House of Spring Gardens Ltd. v. Waite*, [1990] 3 W.L.R. 347 at p. 358, [1990] 2 All E.R. 990 (C.A.).

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3 *Toronto (City) v C.U.P.E., Local 79,* 2003 SCC 63.

> One circumstance in which abuse of process has been applied is where the litigation before the court is found to be in essence an attempt to relitigate a claim which the court has already determined. [Emphasis added.]

[44] The doctrine of abuse of process by re-litigation has been applied in the context of a tax appeal. In *Morel* v *Canada,*[4] each of the appellants, Mr. Morel, Mrs. Morel and Mr. Belchetz, purchased one unit in a limited partnership. This limited partnership was comprised of numerous individual partnerships which were all under the control of the general partner, Overseas Credit Guarantee Corporation ("OCGC") which had registered 79 partnerships over two years. Each of the appellants claimed deductions from their income arising from their participation in their respective limited partnership.

[45] The Minister denied the deductions on the basis that Mr. Bellfield, the president and sole shareholder of OCGC and one of his associates**,** Mr. Minchella, had been convicted of two counts of fraud and two counts of issuing forged documents under the *Criminal Code*. Their convictions and sentences were affirmed by the Ontario Court of Appeal and applications for leave to the Supreme Court of Canada were dismissed.

[46] The questions in the tax appeals were whether Mr. Morel and the other partners could claim some deductions from their income arising from their participation in their respective limited partnership. The respondent argued that in light of the convictions of Mr. Bellfield and Mr. Minchella, it would be an abuse of process by re-litigation if Mr. Morel and the other partners were permitted to argue that they were entitled to claim such deductions.

[47] The Federal Court of Appeal, confirming the decision of Justice Bowie of this Court, held that fairness dictated that the original result should not be binding in the new context. It was therefore not an abuse of process for the appellants to litigate their assessments given that the assessments had never before been litigated**,** as well as because Mr. Morel and the other partners did not participate in the criminal trial. Writing for the Federal Court of Appeal, Justice Sexton reiterated Justice Bowie's comments that "*it would not be fair to deny the*

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4 *Morel v Canada,* 2008 FCA 53.

taxpayers the opportunity to be heard with respect to whether the partnerships qualified as sources of legitimate business income".

[48] In so concluding, the Federal Court of Appeal relied on the principles enunciated by Justice Arbour of the Supreme Court of Canada in *C.U.P.E.*, Justice Sexton reiterated that the focus of the doctrine of the abuse of process by re-litigation is to preserve the integrity of the legal system in order to avoid inconsistent results, which could bring the administration of justice into disrepute.

[49] In light of the above decisions, the appellants' position is that since the appeal of TSI was dismissed without having been adjudicated, it could not prevent the partners in their individual appeals from arguing that the determinations made by the Minister were statute-barred. Since the issue had never been argued, it could not be an abuse of the Court's process by re-litigating. At paragraph 5 of their written submissions, the appellants state:

> That at no point was an Order made providing that any finding in the TSI appeal would bind the individual Appellants. As a result, of the aforesaid, all of the individual Appeals are in fact live and still proper. As well, there was no evidence heard in respect of the TSI Limited appeal, before the appeal was withdrawn. In fact, as it is clear, the TSI appeal was not properly constituted, and for all intents a nullity. To allow the Crown to rely on the withdrawal of an appeal, by a party that did not have the right under the Act to file an appeal, as the basis for which to dismiss the appeal for a number of limited partners, would clearly be, in my submission, an abuse of process.
>
> …

[50] However, in the decisions referenced above, section 16.2 of the *TCC Act* did not play a role.

[51] In her written submissions**,** the respondent referred to the decision of the Federal Court of Appeal in *Scarola*.[5] In an unanimous decision, Justice Letourneau stated that section 16.2 of the *TCC Act* was enacted to preserve the integrity of the legal system and to ensure the finality of decisions. He added that a dismissal pursuant to section 16.2 of the *TCC Act* produces the same effect as a judgment of dismissal by this Court:

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5 *Canada v Scarola,* 2003 FCA 157.

> [21] An appeal discontinued is, pursuant to subsection 16.2(2), an appeal dismissed. An appeal dismissed is an appeal disposed of, and an appeal which has been disposed of no longer exists: see *Lehner* v. *M.N.R.*, 97 D.T.C. 5270, at page 5271 per Pratte J.A. (F.C.A.). Subsection 16.2(2) operates to turn the filing of a discontinuance into a constructive dismissal akin to an actual dismissal. In other words, the discontinuance of an appeal, as a result of that subsection, takes on all of the properties of a dismissal. It produces the same effect as a judgment of dismissal by the Court, albeit that effect is obtained by sheer operation of the legal fiction. In either case, the powers of the Court are spent: the decision maker is *functus officio*. A dismissal, deemed or actual, is a final determination which closes the matter, barring some vitiating circumstances such as fraud or some statutory authority allowing the decision maker to retain or recapture the lost authority.

[52] According to *Scarola*, barring some vitiating circumstances such as fraud or some statutory authority allowing the decision maker to retain or recapture the lost authority, a dismissal under section 16.2 of the *TCC Act* carries the same effect as a judgment of dismissal by the Court.[6] As a result, since in this motion, no vitiating circumstances were advanced by the appellants, they are effectively trying to re-argue an issue that is deemed to have been adjudicated and dismissed by the Court at the partnership level.

[53] As I have stated, the issue of whether the determinations are statute-barred could have been raised and argued by TSI in its appeal which was to be heard on May 2, 2017, as the statutory bar issue present in the TSI appeal is identical to the issue that the partners would now like to proceed with in their appeals. Instead, TSI chose to discontinue its appeal. It would be an abuse of process if the partners of TSI were now allowed to raise the same issue that TSI itself could have raised but chose not to.

[54] Therefore, taking into account the principles enunciated in *C.U.P.E.* and the consequences of a dismissal under section 16.2 of the *TCC Act* as explained in *Scarola,* I am of the view that it would be an abuse of process if the appellants were allowed to argue that the determinations made by the Minister were statute-barred.

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[6] In *R* v *Comeau,* 2018 SCC 15, the Supreme Court of Canada recently reiterated that lower Courts have to apply binding precedent from a higher Court. This is the rule of *stare decisis*.

[55] Therefore, the Motion of the respondent to strike the Notices of Appeal of the appellants is allowed and the Notices of Appeal of the appellants are struck.

[56] With only one set of costs in favour of the respondent.

Signed at Montreal (Quebec), this 23rd day of April 2018.

"Johanne D'Auray"

D'Auray J.

CITATION:	2018 TCC 75
COURT FILE NO.:	2012-2895(IT)G; 2012-2917(IT)G; 2012-2918(IT)G; 2012-2919(IT)G; 2012-2920(IT)G; 2012-2921(IT)G; 2012-2922(IT)G; 2012-2925(IT)G; 2012-2926(IT)G; 2012-2927(IT)G; 2012-2928(IT)G; 2012-2929(IT)G; 2012-2979(IT)I; 2012-2980(IT)I; 2012-3102(IT)G
STYLE OF CAUSE:	JAMES SPENCE STEWART v THE QUEEN JAMES SHAW v THE QUEEN STANLEY HARVEY v THE QUEEN SANDRA INGLIS v THE QUEEN MURRAY J. MCPHAIL v THE QUEEN JEFF GILLAN v THE QUEEN ROBERT BORG OLIVIER v THE QUEEN ANTHONY TEDESCO v THE QUEEN AHMAD YAQEEN v THE QUEEN ROSA MILITANO v THE QUEEN MAURIZIO MARCHIONI v THE QUEEN PAUL WATT v THE QUEEN GERALD JAMES v THE QUEEN LYNN JAMES v THE QUEEN SARAH BORG OLIVIER v THE QUEEN
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DATE OF HEARING:	October 2, 2017
REASONS FOR ORDER BY:	The Honourable Justice Johanne D’Auray
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