

Date: 20070823

**Dockets: A-435-02
A-437-02**

Citation: 2007 FCA 271

Docket: A-435-02

BETWEEN:

JAMES P. TURNER

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

Docket A-437-02

BETWEEN:

JAGROOP S. GILL

Applicant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

ASSESSMENT OF COSTS - REASONS

**Charles E. Stinson
Assessment Officer**

[1] The Court ordered that the respective applications (A-435-02 and A-437-02) for judicial review of decisions of the Tax Court of Canada concerning deduction of a business loss in respect of a partnership be consolidated and that court file A-435-02 be the lead application with the above

style of cause. A copy of these reasons is filed today in court file A-437-02 and applies there accordingly. The Court dismissed both applications with a single set of costs. I issued a timetable for written disposition of the assessment of the bill of costs of the Respondent.

[2] The Applicants' materials took the form of allegations of false submissions and fraudulent conduct by the Respondent. They include a statement of opposition to the payment of costs. Effectively, the absence of any relevant representations by the Applicants, which could assist me in identifying issues and making a decision, leaves the bill of costs unopposed. My view, often expressed in comparable circumstances, is that the *Federal Courts Rules* do not contemplate a litigant benefiting by having an assessment officer step away from a neutral position to act as the litigant's advocate in challenging given items in a bill of costs. However, the assessment officer cannot certify unlawful items, i.e. those outside the authority of the judgment and the tariff. I examined each item claimed in the bill of costs and the supporting materials within those parameters. Certain items warrant my intervention further to my expressed parameters above and given what I perceive as general opposition to the bill of costs.

[3] The disbursements include \$208.50 for an agent's fee associated with preparation and service of written submissions in response to the Applicants' motion to add additional evidence to the record for the hearing of the judicial review. A subsequent order (dated April 27, 2004) dismissed the motion, but was silent on costs. I disallow the \$208.50 further to my conclusions in *Balisky v. Canada (Minister of Natural Resources)*, [2004] F.C.J. No. 536 (A.O.) at para. 6, and *Aird v. Country Park Village Properties (Mainland) Ltd.*, [2005] F.C.J. No. 1426 (A.O.) at

para. 10. There were other items which might have attracted disagreement, but their total amount is generally arguable as reasonable within the limits of the award of costs.

[4] The Respondent claimed 3 units at \$120.00 per unit under item 26 (assessment of costs/available range = 2 to 6 units), but argued in rebuttal that the Applicants' irresponsible and outrageous accusations of criminal conduct by opposing counsel warrant increased costs. I agree with the Respondent. I cannot exercise the authority reserved to the Court under Rule 404(1) to increase costs beyond the default level of Column III in Rule 407. However, further to Rules 405 and 408(3), I have considerable authority concerning the costs for the assessment process. I increase item 26 to the maximum 6 units. The Respondent's bill of costs, presented at \$2,701.67, is assessed and allowed at \$2,853.17.

"Charles E. Stinson"
Assessment Officer

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKETS: A-435-02
A-437-02

STYLE OF CAUSE: JAMES P. TURNER v. AGC
JAGROOP S. GILL v. AGC

ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF THE PARTIES

REASONS FOR ASSESSMENT OF COSTS: CHARLES E. STINSON

DATED: August 23, 2007

WRITTEN REPRESENTATIONS:

Mr. James P. Turner FOR THE APPLICANT
(self-represented)

Mr. Jagroop S. Gill FOR THE APPLICANT
(self-represented)

Mr. Gavin Laird FOR THE RESPONDENT

SOLICITORS OF RECORD:

n/a FOR THE APPLICANTS

John H. Sims, Q.C. FOR THE RESPONDENT
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