Docket: 2014-2006(IT)G

BETWEEN:

M. KATHLEEN GRIMES AND M. ERSIN OZERDINC,
TRUSTEES OF THE OZERDINC FAMILY TRUST NO. 2,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

The Honourable Justice Dominique Lafleur

ORDER

Upon reading the written submissions of the parties on the subject of costs in this matter;

In accordance with the attached Reasons for Order, it is ordered that the Appellant be awarded a lump sum amount of $52,000 together with applicable HST on this amount and 100% of the disbursements which are:

a) an amount of $62,570.46 for expert fees together with applicable HST on this amount; and

b) an amount of $1,468.32 (inclusive of HST) for disbursement incurred by the Appellant's counsel.

Signed at Toronto, Ontario, this 15th day of June 2017.

"Dominique Lafleur"

Lafleur J.

Citation: 2017 TCC 113
Date: 20170615
Docket: 2014-2006(IT)G

BETWEEN:

M. KATHLEEN GRIMES AND M. ERSIN OZERDINC,
TRUSTEES OF THE OZERDINC FAMILY TRUST NO. 2,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR ORDER

Lafleur J.

[1] In my reasons for judgment in this case, the issue of costs is reserved. As the parties have not been able to reach an agreement on costs within the time period allocated, they have set out their respective positions in their written submissions.

A. THE APPEAL.

[2] The appeal itself arised out of the reassessment of the Ozerdinc Family Trust No. 2 (the "Trust") with respect to its 2011 taxation year. On October 17, 2013, the Minister of National Revenue (the "Minister") reassessed the Trust, in accordance with the provisions of the *Income Tax Act*, R.S.C., 1985, c. 1 (5th supp.), as amended (the "Act"), pursuant to the deemed disposition provisions found in subsections 104(4) and 104(5.8) of the Act and increased the Trust's taxable income by the amount of $4,035,242 and therefore included a corresponding tax liability of $1,870,045.22 and accrued interest of $151,483.35. On January 15, 2014, Ms. Marion Kathleen Grimes and Mr. Ersin Ozerdinc, as trustees of the Trust (the "Appellant"), filed a notice of objection in respect of the notice of reassessment. On May 5, 2014, the Appellant filed a notice of appeal pursuant to paragraph 169(1)(*b*) of the Act.

[3] In issue was the determination of the fair market value on the deemed disposition day of February 1, 2011, (the "Valuation date") of some of the capital property held by the Trust, namely 1 Class A Common Share and 2,699,900 First Preferred Shares of the share capital of 1634158 Ontario Inc. ("Holdco"). Holdco, in turn, held all the issued and outstanding shares of a corporation called Site Preparation Limited ("SPL").

[4] The Minister concluded that the fair market value of the shares of Holdco owned by the Trust (collectively, the "Shares") was $7,993,655, allocated as follows: $2,699,900 for the 2,699,900 First Preferred Shares and $5,293,655 for the 1 Class A Common Share.

[5] The Appellant hired the firm MNP LLP to complete a valuation and that firm determined that the fair market value of the Shares was $2,965,925, allocated as follows: $2,030,925 for the 2,699,900 First Preferred Shares and $935,000 for the 1 Class A Common Share of Holdco (the "MNP Report and the Addendum"). Mr. Gerald S. Blackman from that firm testified at the hearing.

[6] The Respondent called two expert witnesses at the hearing, namely Mr. Timothy Spencer from the Canada Revenue Agency and Mr. Neil de Gray from the firm Campbell Valuation Partners Limited ("CVPL"). Mr. Spencer determined that the fair market value of the Shares was $9,056,863, allocated as follows: $2,699,900 for the 2,699,900 First Preferred Shares and $6,356,963 for the 1 Class A Common Share of Holdco (the "Spencer Report"). Mr. de Gray was hired to review and critique the MNP Report and the Addendum, and expressed the view that the fair market value of the Shares was $7,415,900, allocated as follows: $2,699,900 for the 2,699,900 First Preferred Shares and $4,716,000 for the 1 Class A Common Share of Holdco (the "CVPL Report").

[7] I ultimately determined that the fair market value of the Shares was $5,341,334, allocated as follows: $2,699,900 for the 2,699,900 First Preferred Shares and $2,641,434 for the 1 Class A Common Share of Holdco.

B. THE SUBMISSIONS OF THE PARTIES.

1. The Appellant.

[8] The Appellant claims "partial indemnity costs" representing between 50% and 75% of the actual costs that were incurred by the Appellant from the beginning of the proceedings before the Court. The Appellant considers that this degree of

compensation should be awarded in addition to a full compensation for disbursements in recognition of its relative success in this appeal, the extensive work that was done throughout this process and the effort provided to make the trial as efficient as possible. More specifically, the Appellant is claiming an amount of $155,856.83 representing 75% of the costs incurred on a solicitor-client basis (75% of $207,809.10) plus an amount of $20,261.39 representing HST on the amount claimed (13% of 155,856.83).

[9] In addition, the Appellant is claiming an amount of $1,468.32 in respect of disbursements incurred by counsel and an amount of $70,704.62 as disbursement incurred by the Appellant for the retainer of the firm MNP LLP as experts (including the preparation of the expert reports and attendance at the hearing) ($62,570.46) and HST in respect of said services ($8,134.16).

[10] The following table outlines the total amount of costs claimed by the Appellant:

Type of Costs Claimed	**Amount of Costs**
75% of the solicitor-client costs (75% of $207,809.10)	$155,856.83
13% of HST paid on the amount allowed on the solicitor-client costs basis (13% of $155,856.83)	$20,261.39
Disbursements incurred by Appellant's counsel	$1,468.32
Disbursements and HST incurred by the Appellant for the experts (preparation of expert reports and attendance at hearing)	$70,704.62
Total	**248,291.16**

2. The Respondent.

[11] The Respondent is of the view that no costs should be awarded to the Appellant mainly due to the mixed success of the appeal.

C. DISCUSSION.

[12] Section 147 of the *Tax Court of Canada Rules (General Procedure)* (the "Rules") gives the Court a very broad discretion in awarding costs. However, the discretion of the Court must be exercised on a principled basis and should not be exercised in an arbitrary manner (*The Queen v. Lau*, 2004 FCA 10, [2004] GSTC 5 at para. 5, and *The Queen v. Landry*, 2010 FCA 135, 2010 DTC 5106 at paras. 22 and 54).

[13] The relevant portion of section 147 of the Rules reads as follows:

147(1) General Principles — The Court may determine the amount of the costs of all parties involved in any proceeding, the allocation of those costs and the persons required to pay them.

(2) Costs may be awarded to or against the Crown.

(3) In exercising its discretionary power pursuant to subsection (1) the Court may consider,

(*a*) the result of the proceeding,

(*b*) the amounts in issue,

(*c*) the importance of the issues,

(*d*) any offer of settlement made in writing,

(*e*) the volume of work,

(*f*) the complexity of the issues,

(*g*) the conduct of any party that tended to shorten or to lengthen unnecessarily the duration of the proceeding,

(*h*) the denial or the neglect or refusal of any party to admit anything that should have been admitted,

(*i*) whether any stage in the proceedings was,

147(1) Règles générales — La Cour peut fixer les frais et dépens, les répartir et désigner les personnes qui doivent les supporter.

(2) Des dépens peuvent être adjugés à la Couronne ou contre elle.

(3) En exerçant sa discrétion conformément au paragraphe (1), la Cour peut tenir compte :

a) du résultat de l'instance;

b) des sommes en cause;

c) de l'importance des questions en litige;

d) de toute offre de règlement présentée par écrit;

e) de la charge de travail;

f) de la complexité des questions en litige;

g) de la conduite d'une partie qui aurait abrégé ou prolongé inutilement la durée de l'instance;

h) de la dénégation d'un fait par une partie ou de sa négligence ou de son refus de l'admettre, lorsque ce fait aurait dû être admis;

i) de la question de savoir si une étape de l'instance,

(i) était inappropriée, vexatoire ou

(i) improper, vexatious, or unnecessary, or

(ii) taken through negligence, mistake or excessive caution,

(*i.1*) whether the expense required to have an expert witness give evidence was justified given

(i) the nature of the proceeding, its public significance and any need to clarify the law,

(ii) the number, complexity or technical nature of the issues in dispute, or

(iii) the amount in dispute; and

(*j*) any other matter relevant to the question of costs.

. . .

(4) The Court may fix all or part of the costs with or without reference to Schedule II, Tariff B and, further, it may award a lump sum in lieu of or in addition to any taxed costs.

(5) Notwithstanding any other provision in these rules, the Court has the discretionary power,

(*a*) to award or refuse costs in respect of a particular issue or part of a proceeding,

(*b*) to award a percentage of taxed costs or award taxed costs up to and for a particular stage of a proceeding, or

(*c*) to award all or part of the costs on a solicitor and client basis.

. . .

inutile,

(ii) a été accomplie de manière négligente, par erreur ou avec trop de circonspection;

i.1) de la question de savoir si les dépenses engagées pour la déposition d'un témoin expert étaient justifiées compte tenu de l'un ou l'autre des facteurs suivants :

(i) la nature du litige, son importance pour le public et la nécessité de clarifier le droit,

(ii) le nombre, la complexité ou la nature des questions en litige,

(iii) la somme en litige;

j) de toute autre question pouvant influer sur la détermination des dépens.

[…]

(4) La Cour peut fixer la totalité ou partie des dépens en tenant compte ou non du tarif B de l'annexe II et peut adjuger une somme globale au lieu ou en sus des dépens taxés.

(5) Nonobstant toute autre disposition des présentes règles, la Cour peut, à sa discrétion :

a) adjuger ou refuser d'adjuger les dépens à l'égard d'une question ou d'une partie de l'instance particulière;

b) adjuger l'ensemble ou un pourcentage des dépens taxés jusqu'à et y compris une certaine étape de l'instance;

c) adjuger la totalité ou partie des dépens sur une base procureur-client.

[…]

[14] An award of costs is generally not intended to fully compensate the actual costs incurred by a party (*Velcro Canada Inc. v. The Queen*, 2012 TCC 273, [2012] 6 CTC 2049 at para. 29). The objectives of an award of costs are compensation and contribution, and not punishment (*Mariano et al. v. The Queen*, 2016 TCC 161, 2016 DTC 1146 at paras. 23 and 27 [*Mariano*]). As explained by Justice Boyle in *Martin v. The Queen*, 2014 TCC 50, 2014 DTC 1072 (para. 14):

> 14 . . . The proper question is: What should be the losing party's appropriate contribution to the successful party's costs of pursuing the appeal in which his or her position prevailed?
>
> . . .
>
> [Emphasis added.]

[15] The comments of Justice Campbell in *Invesco Canada Ltd. v. The Queen*, 2015 TCC 92, [2015] GSTC 52 (para. 5) are also enlightening:

> 5 . . . The decision of Justice Boyle in *Spruce Credit Union v The Queen*, 2014 TCC 42, 2014 DTC 1063, provides a comprehensive review of the law to date in relation to awards of costs. The main principles that were highlighted in those reasons include the following:
>
> (a) a lump sum may be awarded after consideration of the amounts at issue together with the complexity and the importance of those issues, the work generated and a party's success (*Scavuzzo v The Queen*, 2006 TCC 90, 2006 DTC 2311, *Dickie v The Queen*, 2012 TCC 327, 2012 DTC 1276, and *Blackburn Radio Inc. v The Queen*, 2013 TCC 98, 2013 DTC 1098);
>
> (b) the court must consider the Rule 147(3) factors although the amounts and complexity of the issues alone may not be a reason for departing from the costs set out in the Tariff (*Jolly Farmer Products Inc. v The Queen*, 2008 TCC 693, 2009 DTC 1040);
>
> (c) there must be egregious circumstances for a court to consider an award of solicitor-client costs (*Sommerer v The Queen*, 2012 TCC 212, Transcript of Oral Reasons delivered by conference call on July 14, 2011);
>
> (d) increased costs generally vary between 50 to 75 percent of solicitor-client costs (*Zeller Estate v The Queen*, 2009 TCC 135, 2009 DTC 1106);

(e) increased costs are not meant to be punitive (*General Electric Capital Canada Inc. v The Queen*, 2010 TCC 490, 2010 DTC 1353) but an award is not limited to instances of misconduct (*Teelucksingh v The Queen*, 2011 TCC 253, [2011] TCJ No. 476); and

(f) exceptional circumstances need not exist for an award of costs to move beyond the Tariff (*Velcro Canada Inc. v The Queen*, 2012 TCC 273, [2012] TCJ No. 219).

[16] The test for awarding solicitor-client costs has been propounded by the Supreme Court of Canada in *Young v. Young*, [1993] 4 SCR 3 at 134, 1993 CanLII 34 (SCC): ". . . Solicitor-client costs are generally awarded only where there has been reprehensible, scandalous or outrageous conduct on the part of one of the parties". In this appeal, I am of the view that there has been no such conduct by either party and the Appellant is not seeking such an award. Accordingly, I will now turn to the factors set out in subsection 147(3) of the Rules to determine whether costs should be awarded to the Appellant.

1. The result of the proceeding.

[17] In its submissions, the Appellant stated that it was "substantially successful in the matter before the Court, both with regards to quantum and with regards to points in dispute".

[18] However, the Respondent submits that: "The Judgment allowed the appeal in part such that success was mixed for either side. The parties had divided success in respect of the fair market value, representing a reduction of approximately 50% of the respondent's position at the hearing and an increase of over 282% or 2.8 times the value proposed by the appellant". The Respondent claims that due to the mixed success of the appeal, no costs should be awarded.

[19] I do not agree with the Respondent's submission. My determination of the fair market value of the Shares at $5,341,334 in the aggregate, was certainly much more favourable to the Appellant. On the one hand, Mr. Spencer had determined the fair market value of the Shares at $9,056,863, which was almost double my final figure. On the other hand, the Appellant's expert had established the fair market value at $2,966,000, which is closer to my final determination. Even more instructive is the final determination of the fair market value of the 1 Class A Common Share of Holdco. I have determined that fair market value to be $2,641,434; the Appellant's expert had determined that value at $935,000 and the Respondent's expert at $6,356,963.

[20] In *SWS Communication Inc. v. The Queen*, 2012 TCC 377 at para. 34, Justice Hogan provided specific guidelines as to which party should be awarded costs: the appeal should be viewed as a whole; a judge is not to focus separately on the outcome of each argument pleaded by the parties.

[21] In *Donato v. The Queen*, 2010 TCC 16, 2010 DTC 1049 at paras. 2-4, Justice Woods placed emphasis on the quantum at issue for all the taxation years under appeal instead of addressing each one of them in an isolated manner or as separate issues. The Federal Court of Appeal upheld her approach on appeal (2010 FCA 312, 2010 DTC 5195).

[22] Finally, *Zeller Estate v. The Queen*, 2009 TCC 135, 2009 DTC 1106, (see para. 20) was a very similar case: in issue was the determination of the fair market value of shares. When examining that factor, Justice Campbell compared her decision as to the fair market value of the shares to the value submitted by the parties.

[23] Consequently, even if the appeal was allowed in part only, it cannot be said that it resulted in a divided, or mixed, success for both parties. Clearly, the Appellant was overall more successful in view of the quantum of the appeal, and thus there is no basis for depriving the Appellant from an award of costs.

2. The amounts in issue.

[24] The amount in issue in this appeal was quite significant, namely $2,021,528.57, which represents the sum of $1,870,045.22 of tax liability and accrued interest on that amount of $151,483.35. I am of the view that this factor should be viewed in favour of the Appellant.

[25] By way of comparison, in *Guibord et al. v. The Queen*, 2011 TCC 53, 2011 DTC 1076 at para. 16 (confirmed by the FCA in *Guibord v. The Queen*, 2011 FCA 346, 2012 DTC 5030), Justice V.A. Miller stated that the amounts in issue, including taxes and penalties, of $499,960.02 under the Act and of $114,034.83 under the *Excise Tax Act* were "significant". In the present appeal, it is evident that the amounts in issue are much more significant.

[26] Furthermore, in *Scavuzzo v. The Queen*, 2006 TCC 90, [2006] 2 CTC 2457 at para. 9, Chief Justice Bowman (as he then was), determined that "[t]he amount of money involved was substantial - over $2,000,000". It follows that the amount in issue in the present appeal is significant, as both amounts are in the same value range.

3. The importance of the issues.

[27] The Respondent submitted that this appeal has no significant precedential value, as it is mainly fact oriented. The Appellant submitted that the deemed disposition of the assets of the Trust is an issue of fundamental importance to the Appellant and noted also the pending civil litigation.

[28] However, even though an issue can be of fundamental importance to a party, that does not mean that its case has precedential value as aptly explained by Justice Hogan in *Klemen v. The Queen*, 2014 TCC 369, [2015] 3 CTC 2114 at para. 18:

> 18 The Appellant argues that, because the issues in the appeals were of significant financial importance to him, this factor supports an increased costs award in his favour. However, the jurisprudence suggests that the question is not how important the issues are to the individual taxpayer (one might expect that any taxpayer bringing an appeal to the Tax Court of Canada would consider his case to be of significant personal importance), but rather whether the decision on the issues will have significant precedential and jurisprudential value. For example, see *Henco* (2014 TCC 278 at paras. 7-11) and *General Electric Capital Canada Inc. v. The Queen* (2010 TCC 490, 2010 DTC 1353 at paras. 32-33).
>
> [Emphasis added.]

[29] Justice Campbell in *ACSIS EHR (Electronic Health Record) Inc. v. The Queen*, 2016 TCC 50, 2016 DTC 1047 at para. 13, stated as follows: ". . . My conclusion was based primarily on findings of fact and therefore this factor alone either does not support an increased award or is of neutral significance".

[30] Thus, as my conclusion on the fair market value of the Shares was essentially a finding of fact, that factor does not support an increased award of costs in favour of the Appellant.

4. Offers of settlement made in writing.

[31] As the Appellant was involved in a civil litigation and had advised the Respondent at the outset that the Appellant would not be in a position to make a settlement offer, I am of the view that this factor is of neutral significance in this appeal.

5. The volume of work and the complexity of the issues.

[32] The Respondent argues that the volume of work was "medium", since "[o]nly two days of hearing were necessary and the matter was a question of facts".

[33] The Appellant submits that the case raised complex valuation issues and required the assistance of experts. Also, the Appellant submits that experts were retained very early in the process, and a lot of preparatory work was done prior to the filing of the notice of appeal to this Court.

[34] The determination of the fair market value of shares of private corporations is clearly a complex and technical task that requires a considerable amount of work. It is to be noted that no less than three experts have been retained by the parties to assist this Court in this appeal.

[35] The expert reports filed at the hearing were voluminous: The MNP Report and the Addendum have a total of 78 pages, the Spencer Report has 36 pages and the CVPL Report has a total of 42 pages. All three of the experts were heard by the Court. My Reasons for Judgment filled over 55 pages and 189 paragraphs and included appendices containing lengthy and detailed calculations. The whole case raised very complex concepts.

[36] Furthermore, the Appellant disbursed a total amount of $207,809.10 for legal services. The Appellant clearly detailed the major tasks executed by counsel. The Appellant also highlighted the contribution of the experts, for a total cost of $70,704.62 (including HST), based on the list of tasks performed and on an estimated total of 120 hours allocated to the drafting of the expert reports and the preparation of the hearing. It does not appear that these costs have been increased due to a lack of communication between the parties or their respective counsel. Ms. Grimes appeared to me at the hearing as a very organized and practical person.

[37] This factor is generally given more importance in the award of costs. As explained by Justice Woods in *Blackburn Radio Inc. v. The Queen*, 2013 TCC 98, 2013 DTC 1098 at para. 14:

> 14 The work involved in tax litigation has increasingly become a factor in awarding costs. It has also been considered in intellectual property litigation: *Consorzio Del Prosciutto Di Parma v Maple Leaf Meats Inc.*, 2002 FCA 417 (*Maple Leaf Meats*).

[38] Undoubtedly, the complexity of the issues raised in this appeal required a substantial volume of work in order for each party to be properly prepared for trial. Thus, the Respondent's position is not sound.

6. The conduct of the parties.

[39] The Appellant submits that it has adopted a proactive role to "accelerate the pace of the proceedings". Also, the Appellant stated that "[t]he parties agreed to the preparation of an agreed statement of facts". In addition, the Appellant suggested that it "dedicated significant time and resources to presenting a comprehensive documentary record and submissions at all stages of the audit and appeal" and that even though "costs relating to a period prior to the notice of appeal are not typically relevant to cost [*sic*] submissions" that this contribution was quite important and continued to impact the arguments presented at trial.

[40] Indeed, that is the approach firmly encouraged and appreciated by the Court. However, in this appeal, in itself, it does not specifically call in favour of an award of costs.

[41] As confirmed by the Federal Court of Appeal in *The Queen v. Martin*, 2015 FCA 95, [2015] 4 CTC 73 at paras. 18-21 (application for leave to appeal dismissed with costs by the Supreme Court of Canada ([2015] SCCA No. 233)), the conduct of the parties prior to the litigation process is generally not a factor that will be considered by the Court in order to assess costs:

> 18 It is well-settled law that in exceptional circumstances conduct that occurs prior to a proceeding may be taken into account if that conduct unduly and unnecessarily prolongs the proceeding. See, for example: *Merchant v. Canada*, 2001 FCA 19, 267 N.R. 186, at paragraph 7; *Canada v. Landry*, 2010 FCA 135, 404 N.R. 255, at paragraph 25.
>
> 19 Thus, in *Merchant* conduct at the audit and objection stages was relevant to the assessment of costs in the Tax Court because it impacted on the manner in which the trial proceeded. In the trial Judge's view, a trial that should have lasted no more than one day took seven days: *Merchant v. Canada*, [1998] T.C.J No. 278, 98 DTC 1734, at paragraph 59.
>
> 20 This discretion to consider pre-proceeding conduct must, however, be exercised within the context of the Rules of the Tax Court. Here, the governing rule is Rule 147 of the *Tax Court of Canada Rules (General Procedure)*, SOR/90-688a.
>
> 21 Rule 147 is set out in the appendix to these reasons. Briefly, Rule 147 allows the Tax Court to determine the amount of the costs of all parties to a "proceeding" (Rule 147(1)). "Proceeding" is a defined term. In Rule 2 it is defined to mean "an appeal or reference". In exercising its discretion on costs the Tax Court may consider a number of factors, including the conduct of any party

> that tended to shorten or to lengthen unnecessarily the duration of the "proceeding" (Rule 147(3)(*g*)) and whether any stage in the "proceeding" was improper, vexatious or unnecessary (Rule 147(3)(*i*)(i)). The Tax Court has discretion to award or refuse costs in respect of a "part of a proceeding" (Rule 147(5)(*a*)).
>
> [Emphasis added.]

[42] In this appeal, there were no "exceptional circumstances" that justified the taking into account of the conduct of the parties before the commencement of the proceedings before the Court, as it did not affect the trial in any significant manner. Thus, the argument of the Appellant in that regard cannot be accepted.

[43] Finally, according to the Appellant, the Respondent's conduct unnecessarily lengthened the proceedings in that it:

1) Disregarded factual submissions made by the Appellant;

2) Insisted on a second discovery of the Appellant's witness;

3) Did not agree to a pre-trial meeting of the parties' valuation experts;

4) Raised at the last minute certain points that could have been addressed ahead of time, thus "the Appellant was deprived of any meaningful ability to argue the points raised".

[44] I am not convinced that the Respondent's conduct was unreasonable (*Henco Industries Limited v. The Queen*, 2014 TCC 278, 2014 DTC 1205 at para. 20).

[45] In his submissions, counsel for the Respondent suggested that the Appellant unnecessarily extended the duration of the hearing due to what he calls a redundant cross-examination, an unjustified objection as for the qualification of the Respondent's expert from the Canada Revenue Agency and an excessively lengthy testimony from Ms. Grimes.

[46] I disagree. The cross-examination conducted by counsel for the Appellant was quite effective; furthermore, Ms. Grimes' testimony was not lengthy.

7. The justification of expert testimony.

[47] The Respondent did not provide the Court with any submission with respect to this factor.

[48] The Appellant stated that "[b]oth parties relied extensively on expert evidence. The usefulness of such expert evidence does not appear to have been in dispute".

[49] As mentioned previously, the assistance of the experts in this appeal was necessary and extremely useful due to the complex nature of the issues raised in this appeal and the large amount in issue. This factor also militates in favour of awarding costs to the Appellant.

[50] Furthermore, the number of experts who testified was not at all unreasonable, again, in view of the complexity of the issues and the large amount at stake.

D. CONCLUSION.

[51] In view of all the factors detailed hereinabove, and considering that the costs should not be awarded on a solicitor-client basis, I hold that the Appellant is entitled to costs above Tariff costs.

[52] I also find that the expert fees claimed by the Appellant are reasonable in respect to the preparation time required due to the complexity of the issues and the contribution of the experts to the results of this appeal (*General Electric Capital Canada Inc. v. The Queen*, 2010 TCC 490, 2010 DTC 1353 at paras. 41-43; *Mariano, supra* at para. 15).

[53] The Appellant was seeking 75% of the solicitor-client costs plus disbursements, as well as HST. An award equivalent to approximately 25% of solicitor-client costs plus disbursements seems reasonable, appropriate and fair in the circumstances. For these reasons, I conclude that the Appellant is entitled to a lump sum amount of $52,000 together with applicable HST on this amount, and 100% of the disbursements which are: an amount of $62,570.46 for expert fees together with applicable HST on this amount and an amount of $1,468.32 (inclusive of HST) for disbursement incurred by the Appellant's counsel.

Signed at Toronto, Ontario, this 15th day of June 2017.

"Dominique Lafleur"

Lafleur J.

CITATION:	2017 TCC 113
COURT FILE NO.:	2014-2006(IT)G
STYLE OF CAUSE:	M. KATHLEEN GRIMES AND M. ERSIN OZERDINC, TRUSTEES OF THE OZERDINC FAMILY TRUST NO. 2 V. HER MAJESTY THE QUEEN
PLACE OF HEARING:	Ottawa, Ontario
DATES OF HEARING:	June 8 and 9, 2016
REASONS FOR ORDER BY:	The Honourable Justice Dominique Lafleur
DATE OF ORDER:	June 15, 2017

APPEARANCES:

Counsel for the Appellant:	Paul C. LaBarge Estelle Duez
Counsel for the Respondent:	Pascal Tétrault Nicholas MacDonald (student-at-law)

COUNSEL OF RECORD:

For the Appellant:

Name:	Paul C. LaBarge Estelle Duez
Firm:	LaBarge Weinstein LLP Barristers and Solicitors Ottawa, Ontario

For the Respondent:	William F. Pentney Deputy Attorney General of Canada Ottawa, Canada