

Docket: 2003-3982(CPP)

BETWEEN:

REID SCHMIDT,

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent,

and

SEAL IT PRODUCTS INTERNATIONAL INC.,

Intervenor.

Appeal heard together on common evidence with the appeal of *Seal It Products International Inc. (2003-3980(CPP))* on November 2, 2005,
at Saskatoon, Saskatchewan

Before: The Honourable Justice D.W. Beaubier

Appearances:

For the Appellant: The Appellant himself

Counsel for the Respondent: Brooke Sittler

Agent for the Intervenor: Reid D. Schmidt

JUDGMENT

The appeal is dismissed and the decision of the Minister is confirmed in

accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 9th day of November 2005.

"D.W. Beaubier"

Beaubier, J.

Docket: 2003-3980(CPP)

BETWEEN:

SEAL IT PRODUCTS INTERNATIONAL INC.

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent,

and

REID SCHMIDT,

Intervenor,

and

DOUGLAS L. SCHOCK,

Intervenor.

Appeal heard together on common evidence with the appeal of *Reid Schmidt* (2003-3982(CPP) on November 2, 2005,
at Saskatoon, Saskatchewan

Before: The Honourable Justice D.W. Beaubier

Appearances:

Agent for the Appellant: Reid Schmidt

Counsel for the Respondent: Brooke Sittler

Counsel for the Intervenor: Reid Schmidt

JUDGMENT

The appeal is dismissed and the decision of the Minister is confirmed in

accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 9th day of November 2005.

"D.W. Beaubier"

Beaubier, J.

Citation: 2005TCC737
Date: 20051109
Docket: 2003-3982(CPP)

BETWEEN:

REID SCHMIDT,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

and

SEAL IT PRODUCTS INTERNATIONAL INC.,

Intervenor.

Docket: 2003-3980(CPP)

AND BETWEEN:

SEAL IT PRODUCTS INTERNATIONAL INC.,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

and

REID SCHMIDT,

Intervenor,

and

DOUGLAS L. SCHOCK

Intervenor.

REASONS FOR JUDGMENT

Beaubier, J.

[1] These appeals were heard together on common evidence at Saskatoon, Saskatchewan on November 2, 2005. Reid Schmidt was the only witness.

[2] The particulars in dispute are set out fully in the Reply to the Notice of Appeal (2003-3980(CPP)). Paragraphs 3 to 7 inclusive of that Reply read:

3. By Notice of Assessment dated December 3, 2002 the Appellant was assessed for, among other things, Canada Pension Plan contributions in the amount of \$2,187.22 for the 201 year, in respect of Schock and Reid Schmidt (hereinafter "Schmidt"). This amount was reduced by a credit carry forward of \$500.82.
4. By letter dated February 6, 2003 the Appellant appealed to the Minister for a reconsideration of the 2000 and 2001 year assessments.
5. In response to the Appellant's appeal, the Minister confirmed the assessments for the 2000 and 2001 years as the amounts paid by the Appellant to Schock and Schmidt (collectively hereinafter "the Workers") were director's fees.
6. In so deciding as the Minister did with respect to the Workers, the Minister relied on the following assumptions of fact:
 - (a) the Appellant's business involved the manufacturing and marketing of building material preservatives.
 - (b) the share structure of the Appellant was as follows:

| | |
|---------|-----|
| Schock | 50% |
| Schmidt | 50% |
 - (c) the Workers were the corporate directors of the Appellant;
 - (d) the Appellant paid director's fees to the Workers;
 - (e) director's fees paid by the Appellant to the Workers for the 2000 and 2001 years were as follows:

| | | |
|---------|-------------|-------------|
| | <u>2000</u> | <u>2001</u> |
| Schock | \$10,550.08 | \$16,216.40 |
| Schmidt | | \$16,216.39 |

- (f) Schock received royalty payments from the Appellants;
- (g) the Appellant filed federal corporate income tax returns (“T2s”) as follows:

| | | |
|-----------------|-----------------|--------------------|
| <u>Year-end</u> | <u>T2 Filed</u> | <u>T2 Assessed</u> |
| 31/12/2000 | 11/6/2001 | 10/10/2001 |
| 31/12/2001 | 4/7/2002 | 7/8/2002 |

- (h) the Appellant had not filed amended T2s as of the date of the Minister’s decision;
- (i) on the T2s, the Appellant claimed director’s fees paid to the Workers;
- (j) the Appellant’s shareholder loan amounts were as follows:

| | |
|------------------------|-----------------|
| <u>31/12/1999</u> | |
| Loan from Schock | \$13,335 |
| Loan from Schmidt | <u>\$16,041</u> |
| Total Shareholder loan | \$29,376 |

| | |
|------------------------|-----------------|
| <u>31/12/2000</u> | |
| Loan from Schock | \$23,329 |
| Loan from Schmidt | <u>\$17,382</u> |
| Total Shareholder loan | \$40,711 |

| | |
|------------------------|-----------------|
| <u>31/12/2001</u> | |
| Loan from Schock | \$39,512 |
| Loan from Schmidt | <u>\$34,519</u> |
| Total Shareholder loan | \$74,031 |

B. ISSUES TO BE DECIDED

7. The issue to be decided is whether the amounts paid by the Appellant to the Workers for the 2000 and 2001 years was director's fees.

[3] None of the assumptions were refuted by the evidence.

[4] Mr. Schmidt kept the books of the corporation for the years in question on a computer program. He testified at great length. It is clear that he does not understand the program, accounting or corporate concepts. The changes described in assumption 6(j) were done by Mr. Schmidt as an arithmetic exercise to balance each side of the books. His testimony did not provide any substance to support the changes from the original numbers.

[5] This case is clear evidence that a corporation requires a qualified accountant to operate and to file its various statements and reports in Canada's highly regulated economy.

[6] The Appellants failed to refute either set of assumptions and failed to provide any credible evidence to support the appeals.

[7] The appeals are dismissed.

Signed at Ottawa, Canada, this 9th day of November 2005.

"D.W. Beaubier"

Beaubier, J.

CITATION: 2005TCC737

COURT FILE NOs.: 2003-3982(CPP) and 2003-3980(CPP)

STYLE OF CAUSE: Reid Schmidt, et al. v. The Minister of National Revenue

PLACE OF HEARING: Saskatoon, Saskatchewan

DATE OF HEARING: November 2, 2005

REASONS FOR JUDGEMENT BY: The Honourable Justice D.W. Beaubier

DATE OF JUDGMENT: November 9, 2005

APPEARANCES:

For the Appellants: Reid Schmidt

Counsel for the Respondent: Brooke Sittler

For the Intervenors: Reid Schmidt

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

For the Respondent: John H. Sims, Q.C.
Deputy Attorney General of Canada
Ottawa, Ontario