

Docket: 2002-4824(IT)G

BETWEEN:

JEFFREY SACKMAN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motions heard on May 10, 2007, at Toronto, Ontario

Before: The Honourable D.G.H. Bowman, Chief Justice

Appearances:

Counsel for the Appellant: Martin Teplitsky, Q.C.

Counsel for the Respondent: Perry Derksen
Jenna Clark

Counsel for Artistic Ideas Inc.: Irving Marks

AMENDED ORDER

This Amended Order is in substitution of the previous Order and Reasons for Order dated August 17, 2007.

UPON MOTIONS made by counsel, as follows:

- (a) a motion by the respondent to compel the appellant to reattend and answer questions that were refused on discovery;
- (b) a motion by the appellant to compel the representative of the Crown to reattend and answer questions that were refused on discovery;

- (c) a motion by the appellant to permit an amendment to his notice of appeal;
- (d) a motion by the respondent to permit it to examine for discovery a representative of a third party, Artistic Ideas Inc.

Upon reading the Affidavits filed on behalf of the parties;

Upon hearing what was alleged by counsel for the appellant, counsel for the respondent and counsel for Artistic Ideas Inc.;

IT IS ORDERED THAT the appellant's motion to amend the notice of appeal is allowed to the extent permitted in the Reasons for Order;

The appellant's motion to compel the respondent to answer outstanding undertakings, refusals and questions on discovery and to compel the Crown's representative, Salvatore Tringali, to attend for a further examination is **dismissed except with respect to question 18 which the Respondent has agreed to answer**;

The respondent's motion to compel the appellant to reattend and answer the questions that were refused is dismissed.

The respondent's motion to examine a nominee of Artistic Ideas Inc. as a third party under section 99 of the *Tax Court of Canada Rules (General Procedure)* is dismissed.

Artistic Ideas Inc. is entitled to its costs of the motion under section 99 of the *Rules*. Otherwise, no costs are awarded to either party.

Signed at Ottawa, Canada, this 27th day of August 2007.

“D.G.H. Bowman”

Bowman C.J.

Citation: 2007TCC455
Date: 20070827
Docket: 2002-4824(IT)G

BETWEEN:

JEFFREY SACKMAN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

AMENDED REASONS FOR ORDER

Bowman, C.J.

[1] We have in these motions a number of types of relief sought by both parties, as follows:

- (a) a motion by the Crown to compel the appellant to reattend and answer questions that were refused on discovery;
- (b) a motion by the appellant to compel the representative of the Crown to reattend and answer questions that were refused on discovery;
- (c) a motion by the appellant to permit an amendment to his notice of appeal;
- (d) a motion by the Crown to permit it to examine for discovery a representative of a third party, Artistic Ideas Inc. (“Artistic”).

[2] The case has been moving in this court in a sedate and leisurely way. It was commenced in December 2002 by the firm of solicitors Fraser Milner Casgrain. A reply was filed on March 24, 2003 and an answer was filed by the appellant’s solicitor on March 31, 2003.

[3] On June 17, 2003, a new firm of solicitors for the appellant, Osler, Hoskin & Harcourt, was appointed. On April 29, 2004, a status hearing was held by way of conference call and a timetable for discoveries and filing of documents was set and the hearing was set for September 13, 2004 for a duration of two weeks.

[4] Then cracks began to appear in the rather tight schedule agreed to by the parties. Requests were made for an extension of time for discoveries and undertakings and for an adjournment of the trial date *sine die*.

[5] The requests were granted. On September 15, 2004, a further change of solicitors was made and Teplitsky, Colson replaced Osler, Hoskin & Harcourt. On November 12, 2004, the case was further delayed by the request that it be held in abeyance pending the disposition of the appeals in *Attorney General of Canada v. Nash*, A-572-04, *Attorney General of Canada v. Tolley*, A-569-04, *Attorney General of Canada v. Quinn*, A-511-04, and the appeal and cross-appeal in *Klotz v. The Queen*. 2004 TCC 147. The Crown was successful in the Federal Court of Appeal in *Klotz*, on May 2, 2005 and in the *Nash*, *Tolley* and *Quinn* appeals on November 21, 2005.

[6] In January 2006, the Court granted a request to hold this appeal in abeyance pending the application for leave to appeal to the Supreme Court of Canada in *Klotz*, *Tolley*, *Quinn* and *Nash*. In April 2006, the Supreme Court of Canada denied leave. In August 2006, the Court was advised that the parties had agreed on a timetable.

[7] Finally, the several motions came on before me on May 10, 2007. I shall deal first with the appellant's motion to amend the notice of appeal. The essential issue in the original pleadings is the same as in *Klotz*, *Nash*, *Tolley* and *Quinn*: the fair market value ("fmv") of prints donated by the appellant to registered charities. A subsidiary question is whether the prints were personal use property. A third issue was the imposition of penalties. The penalty issue has now been conceded by the respondent. All of these issues were dealt with at length in the art donation cases referred to above. Counsel for the appellant now seeks to raise, if not exactly a new issue, at least a somewhat different approach to an old issue, that is to say the appellant's reliance on valuation practices and procedures which he alleges were historically accepted by the Canada Revenue Agency. The new points that he wishes to raise are set out in the following new paragraphs 6(a) to 6(h), 12 and 16(a).

- 6(a). At material times the Canada Revenue Agency (“CRA”) published administrative policy and bulletins about the procedure to be followed with respect to donations and charitable gifts (the “CRA Publications”).
- 6(b). The appellant followed precisely and relied upon the CRA Publications.
- 6(c). The CRA has a long history of accepting valuations from certified professional appraisers in allowing such deductions.
- 6(d). The CRA Publications contained a complete code for donations and charitable gifts, such that the appellant had the legitimate and reasonable expectation that the deductions would be allowed and that he would not be reassessed.
- 6(e). In 1999 the CRA warned taxpayers about potential pitfalls in charitable donations in one of its CRA Publications. The CRA set out a protocol to be followed, to avoid problems. The appellant fully complied.
- 6(f). The appellant had a reasonable expectation that the CRA would administer the Act in accordance with its own publications. Instead, the CRA reassessed the appellant, notwithstanding his compliance with their publications and without any appraisal evidence of its own to suggest that the fair market value was less than claimed.
- 6(g). The appellant alleges that the CRA should have amended the Act (which it ultimately did) if it wanted to stop charitable art donations. Instead it administered the “Act” to accomplish this result ignoring its own publications upon which the appellant had relied.
- 6(h). The appellant alleges that the fair market value has always been accepted by the CRA as the retail value, where a retail market exists for the art donated. The appellant alleges that there was a retail market for the art he donated and the value in such market was at least equal to, and often greater than, the value in the receipts provided by the charities.

.....

12. Although the reassessment denied the donations claimed, it included in the appellant’s income the amount of \$180,631.19 in respect of taxable capital gains on the works of art donated by the appellant. Having accepted the amount of \$180,631.19 in respect of taxable capital gains on the works of art donated by the appellant, the Minister is now estopped from challenging the fair market value of the donations.

.....

16(a). The appellant acted reasonably in relying upon the CRA Publications and had the reasonable and legitimate expectation that the deductions would be allowed and that he would not be reassessed.

[8] In addition to the above proposed amendments, the appellant proposes to delete a claim for a donation carry-forward of \$25,272.35. The Crown consents to this deletion as well as the substitution in paragraph 13(c) of the amended notice of appeal of 2000 for 2002. Also, in paragraph 5, the appellant wishes to substitute \$771,262.60 for \$731,262.60.

[9] The respondent argues that the appellant is not entitled, as of right, to file an amended notice of appeal just because the respondent has filed an amended reply to the notice of appeal. The proposition is probably right, as far as it goes. The appropriate way to deal with a reply or an amended reply is in an Answer. However, any party has a right to seek the Court's permission to amend its pleadings and it is on this basis that I am approaching the appellant's motion. The principle which I believe is applicable is found in *The Queen v. Canderel Limited*, 93 DTC 5357 at 5361 (F.C.A.):

As regards interests of justice, it may be said that the courts and the parties have a legitimate expectation in the litigation coming to an end and delays and consequent strain and anxiety imposed on all concerned by a late amendment raising a new issue may well be seen as frustrating the course of justice [FOOTNOTE 16: See *Johnston v. Law Society of Prince Edward Island* (1988), 69 Nfld. & P.E.I.R. 168 (P.E.I.C.A.); *Glisic v. Canada*, *supra* note 10.]. The principles were in our view best summarized by Lord Griffiths, speaking for the majority, in *Ketteman v. Hansel Properties Ltd*: [FOOTNOTE 17: *Supra* note 12 at 62.]

...

This was not a case in which an application had been made to amend during the final speeches and the court was not considering the special nature of a limitation defence. *Furthermore, whatever may have been the rule of conduct a hundred years ago, today it is not the practice invariably to allow a defence which is wholly different from that pleaded to be raised by amendment at the end of the trial even on terms that an adjournment is granted and that the defendant pays all the costs thrown away. There is a clear difference between allowing amendments to clarify the issues in dispute and those that permit a distinct defence to be raised for the first time.*

Whether an amendment should be granted is a matter for the discretion of the trial judge and he should be guided in the exercise of the discretion by his assessment of where justice lies. Many and diverse factors will bear on the exercise of this discretion. I do not think it possible to enumerate them all or wise to attempt to do so. But justice cannot always be measured in terms of money and in my view a judge is entitled to

weigh in the balance the strain the litigation imposes on litigants, particularly if they are personal litigants rather than business corporations, the anxieties occasioned by facing new issues, the raising of false hopes, and the legitimate expectation that the trial will determine the issues one way or the other. Furthermore, to allow an amendment before a trial begins is quite different from allowing it at the end of the trial to give an apparently unsuccessful defendant an opportunity to renew the fight on an entirely different defence.

Another factor that a judge must weigh in the balance is the pressure on the courts caused by the great increase in litigation and the consequent necessity that, in the interests of the whole community, legal business should be conducted efficiently. We can no longer afford to show the same indulgence towards the negligent conduct of litigation as was perhaps possible in a more leisured age. There will be cases in which justice will be better served by allowing the consequences of the negligence of the lawyers to fall on their own heads rather than by allowing an amendment at a very late stage of the proceedings.

[emphasis added]

and by Bowman, T.C.C.J. in *Continental Bank Leasing Corporation et al. v. The Queen* [FOOTNOTE 18: [93 DTC 298](#) at 302 (T.C.C.)]:

... I prefer to put the matter on a broader basis: whether it is more consonant with the interests of justice that the withdrawal or amendment be permitted or that it be denied. The tests mentioned in cases in other courts are of course helpful, but other factors should also be emphasized, including the timeliness of the motion to amend or withdraw, the extent to which the proposed amendments would delay the expeditious trial of the matter, the extent to which a position taken originally by one party has led another party to follow a course of action in the litigation which it would be difficult or impossible to alter and whether the amendments sought will facilitate the court's consideration of the true substance of the dispute on its merits. No single factor predominates nor is its presence or absence necessarily determinative. All must be assigned their proper weight in the context of the particular case. Ultimately it boils down to a consideration of simple fairness, common sense and the interest that the courts have that justice be done.

[10] In argument, counsel for the appellant also agreed to delete certain portions of the new paragraphs in the amended notice of appeal, as follows. In paragraph 6(d) the following words will be deleted

“...such that the appellant had the legitimate and reasonable expectation that the deductions would be allowed and that he would not be reassessed”.

The appellant agrees to delete the following words from paragraph 6(f):

“The Appellant had a reasonable expectation that the CRA would administer the Act in accordance with its own publications. Instead”

The appellant agrees to delete from paragraph 6(g) the words “upon which the appellant had relied”.

[11] The appellant agrees to delete from paragraph 16(a) everything following the word “Publications”.

[12] With the exception of paragraph 12, with which I shall deal below, what remains is relatively innocuous. I can see nothing wrong with pleading that the appellant in determining the fmv relied upon practices and procedures published by the Canada Revenue Agency (“CRA”). I personally would give departmental bulletins and practices very little weight but it is material that a trial judge may consider informative in the context of all of the evidence. It is not the place of a motions judge to usurp the functions of the trial judge with respect to matters of relevancy or with respect to what arguments may be advanced. If the matters raised in the proposed amendments (or what is left of them after the appellant’s deletions) are as irrelevant as counsel for the appellant says, they can be disposed of in a good deal less time than it has taken to argue and dispose of these motions.

[13] The one exception that I will make is with respect to the words which the appellant proposes to add to paragraph 12.

Having accepted the amount of \$180,631.19 in respect of taxable capital gains on the works of art donated by the appellant, the Minister is now estopped from challenging the fair market value of the donations.

The obvious inconsistency in the Minister’s position requires an explanation and I question how the two positions can stand together. This is not however a matter of estoppel. Estoppel can apply against the Crown under some circumstances (*Goldstein v. The Queen*, 96 DTC 1029) but this is not such a case. The inconsistency is a matter for argument and it may well be that the appellant will be able to ask the trial judge for some adjustment to the assessment. I am therefore denying the amendment to paragraph 12. Otherwise the appellant is entitled to make the amendments that he seeks.

[14] I turn now to the motion to compel the respondent to answer outstanding undertakings, refusals and questions on discovery and to compel the Crown’s representative, Salvatore Tringali, to attend for a further examination. In the appellant’s motion record is a chart setting out the questions that he wants answered. They are the following:

| Question No. | Page No. | Specific Question |
|--------------|----------|---|
| 18 | 4 | Under advisement to provide the complete Sackman file as the proceeding did not move as a “full |

| | | |
|-----|----|---|
| | | disclosure case”. |
| 41 | 12 | Refusal to answer questions on the Minister’s policy 20 years ago, and whether there was a change in the policy regarding art donations. |
| 118 | 31 | Refused to answer if the CRA engaged its own appraisers in other art cases. |
| 125 | 32 | Refused to answer if there was any case where the CRA engaged an appraiser. |
| 131 | 35 | Refused to answer if Mr. McCarney, or someone else at headquarters, have input on whether the Crown should engage its own art appraisers. |
| 156 | 40 | Refused to answer if anyone had seen invoices that Mr. Teplitsky sent to Mr. Derskin’s office. |
| 163 | 43 | Refused to answer questions based upon a document dated January 26, 1998 by John Oulten (Marked as Exhibit 1) |
| 164 | 44 | Refused to determine what Exhibit 1 purports to be. |
| 185 | 51 | Refused to answer if Mr. Sackman did anything inconsistent with the advice the CCRA gave about ‘gifts in kind’ appraisals. |
| 194 | 54 | Refused to answer if Ms. Yeoman’s is an appraiser that the CCRA has used in the past. |
| 195 | 55 | Refused to indicate if the Crown will determine if Ms. Yeoman or Mr. Rosoff are accredited appraisers. |
| 233 | 66 | Refusal to answer what the CRA policy was, pre the multiple art |

donation cases, to allow retail value if there was a retail market.

[15] Counsel for the respondent has agreed to answer question 18 and to provide the assessor's file.

[16] As will be seen below, counsel for the appellant refused to permit his client to answer numerous questions on the grounds of relevancy. Both counsel seem to take a very expansive view of relevancy when it comes to questions that they want answered and a very narrow and technical view of relevancy when it comes to questions they do not want to answer.

[17] The questions that the Crown wants answered are set out in Schedule E to the affidavit of Salvatore Tringali, an employee of the Canada Revenue Agency, sworn on March 15, 2007. The questions are as follows. (The schedule also contains the relevant portions of the transcript of the examination for discovery of the appellant). I have not reproduced the portions of the transcript or any of the questions which counsel informed me are no longer in issue:

| Page No. | Question No. | Description |
|---|--------------|---|
| <u>Refusals relating to 1998</u> | | |
| 10 & 11 | 35 | To answer questions with respect to the documents at Exhibit 1, Tab 1, promotional material provided by Artistic Ideas and dated 1998. |
| 11 | 36 | To answer any questions with respect to the 1998 taxation year. |
| 11 to 12 | 37 | To answer questions about the Appellant's understanding of how the program worked when he first became involved with Artistic Ideas. |
| 12 to 13 | 38 | To answer questions with respect to Appellant's involvement in the purchase and donation of art through Artistic Ideas in the 1998 taxation year. |
| 36 | 115 & 118 | Whether the documents at Exhibit 1, Tab 2A concerned the catalogue of prints that were available in 1998? |

- 43 156 Whether there was a schedule attached at the time the Appellant executed agreement at Exhibit 1, Tab 66, in 1998?
- 45 & 46 169 To make inquiries of Mr. Richmond to determine what his knowledge was with respect to the location of the prints [at the time the Appellant entered into his purchase agreements].
- 51 183 To answer questions relating to an order form in 1998 and the deeds of gift executed in 1998.
- 52 184 To answer questions with respect to correspondence sent by Artistic Ideas to one of the charities on the Appellant's behalf in 1998.
- 52 185 To confirm the details of the specific prints that the Appellant acquired and donated in 1998.
- 52 186 To answer questions with respect to the donation receipts and purchase cost in 1998.
- 74 260 Re Tab 3, Exhibit 2, to confirm whether these are the specific titles that Appellant donated to the League for Human Rights B'nai B'rith in 1998.

Refusals relating to 1999

- 52 187 Whether the Appellant recalls, in 1999, donating ten prints acquired in 1998 to one of the charities?
- 62 212 Whether the Appellant ever took possession of the ten prints from 1998 and which the Crown says were donated in 1999?
- 63 214 How did the donation of the ten prints that you acquired in 1998, how did the donation of those prints in 1999 come about? Did someone approach the Appellant about it?

- 64 215 How did you go about selecting which charities you would donate the prints to in 1999?
- 75 261 Re Exhibit 2, Tab 3, to confirm whether these are the ten eleventh prints that Appellant acquired in 1998, and donated in 1999, to Ballet Creole.
- 91 298 & 299 To answer a series of questions with respect to the 1999 taxation year.

Refusals relating to 2000

- 94 & 95 306 to 308 What the Appellant's expectations were of the effect of clause 7 of the document appearing at Tab 68, Exhibit 1, and whether they were that each group of ten prints would have an appraised value of \$10,000.
- 118 370 To confirm that it was the Appellant's expectation that the prints that he acquired as part of this purchase agreement in 2000 would have appraisals accompanying them in an amount not less than \$21,000 per group.

Refusals relating to Donation Tax Credit Claims in 1998 & 1999:

- 125 & 395 to 399 To answer questions with respect to Appellant's donation tax credit claims, with reference to his income tax returns for 1998 and 1999.
- 126

Refusals relating to Appraisals:

- 129 & 409 To answer question with respect to the appraisals that Appellant relied on and that were obtained for the donations in 1998 and 1999.
- 130
- 140 to 445 & 446 To produce working papers for the pre-litigation appraisals provided by Leslie Fink, Edith Yeomans, and Charles Rosoff for 1998,
- 145

1999, and 2000, including the letter or terms of engagement, retainers of the expert appraiser, all notes, working papers, and related documents, invoices or any other information received with respect to what were viewed as comparable sales, and copies of any draft reports that were issued by the appraisers or prepared by the appraisers, and copies of invoices and confirmation of the number of hours with respect to their billing of Artistic Ideas.

Refusal relating to 2001:

181 558 to 661 Whether the Appellant participated in Artistic's art donation program in 2001.

[18] Counsel for both parties have repeatedly stated that the sole issue is the fmv of the prints that were donated. Whether the art donation program constituted a tax avoidance scheme, what the appellant might have expected or understood in engaging in the art donation arrangements, or whether his motivation might have been charitable or tax-driven strikes me as entirely irrelevant to that issue. Moreover, the fact that the appellant might have engaged in similar art donation arrangements in previous years might be relevant to his intent and expectations in the year 2000 but that in itself is not relevant. It is not like a real estate trading case where the fact that a taxpayer engaged in similar transactions in other years is relevant to the question of intent. Here, intent is not a pertinent consideration. As was said in *Klotz v. The Queen*, 2004 DTC 2236, affd FCA 2005 DTC 5279:

[22] One thing is clear, albeit probably irrelevant to what has to be decided here, and it is that Mr. Klotz's motivation in participating in this program was purely the anticipated tax benefit. The broadening of the cultural or intellectual horizons of the students at FSU was not a factor. He never asked what FSU was going to do with the prints. In 1999, FSU received 1,450 prints from various donors and presumably issued receipts for at least \$1,450,000.

[23] He received substantial promotional materials from the AFE program. They contain a page or two of idealistic and somewhat hifalutin verbiage about the social benefit of giving art to educational institutions but the bulk of the material has to do with the tax advantages. Two opinions from well-known law firms were received. The opinions are carefully drafted but like most legal opinions that I have seen in respect of transactions in which the reduction of tax is a significant factor, they are more in the nature of a dissertation on the various provisions of the *Act* in the government's arsenal that might be used to attack the intended tax

result. Such opinions are stated to be subject to so many qualifications, provisos and assumptions that it is difficult to see how a client could derive much comfort from them.

[24] Mr. Klotz did not receive Ms. Laverty's appraisal until after he had donated the art works.

[25] It is unnecessary for me to deal at any greater length with the donor. Mr. Klotz made a mass donation of limited edition prints to FSU. He did not see them or have them in his possession. He was indifferent as to what they were or who they went to or what the donor did with them. His sole concern was that he receive a charitable receipt. None of this is relevant to the issue. A charitable frame of mind is not a prerequisite to getting a charitable gift tax credit. People make charitable gifts for many reasons: tax, business, vanity, religion, social pressure. No motive vitiates the tax consequences of a charitable gift.

[19] Similarly, the questions asked by counsel for the appellant to which the respondent objected strike me as equally irrelevant. The policies of the CRA, its past and current practices do not advance the appellant's case. The question might be asked "Suppose the deponent answered all of the questions on the CRA's policies in the manner most favourable to the appellant, could those answers, if read into evidence help the appellant one iota?" The answer I think would be no. It was said by Viscount Simon in *Gold Coast Selection Trust Limited v. Humphrey (Inspector of Taxes)*, [1948] A.C. 459, that valuation is an art, not an exact science. Nonetheless, the fmv of an object is a matter of objective fact, not of policies formulated by the CRA. The identity, experience and qualifications of appraisers used by the CRA in making the assessment are of no significance in the determination of value in this Court.

[20] I have, with some hesitation, allowed the appellant to amend his notice of appeal to plead in effect that he relied upon published policies of the CRA with respect to donations of art. I think in fairness to the appellant he should be entitled to make such an argument even though I personally have serious doubts about how it advances his case. Since the appellant argues that he relied upon policies of the CRA I do not think it helps him to find out about policies and practices that he did not rely upon or know about. I think however that both parties in their examinations for discovery are, at least in respect of the questions that are refused, engaging in fruitless and time-wasting fishing expeditions.

[21] It occurred to me that, in terms of sheer irrelevancy of questions asked on discovery, counsel for both parties were in more or less a dead heat and that if I was going to require the appellant's questions to be answered I would have to do

the same with respect to the respondent's questions. This case, however, has gone on long enough with endless and pointless procedural skirmishing. I trust that the parties will get on with this litigation and consider whether the answers that they are hoping to get to the disputed questions would, in the overall picture, make a jot of difference to their chances of success. I am aware that the threshold test of relevancy on discovery is relatively low but there are limits. The traditional reasons for examinations for discovery — to obtain admissions, to facilitate proof, to determine what evidence will be used at trial, to facilitate settlement — have been lost sight of, submerged in a morass of purposeless interrogation.

[22] With the exception of the question about the assessor's file, which I am allowing, the motions by both parties to compel reattendance to answer the questions that were refused are dismissed.

[23] Finally I come to the question of the Crown's motion to examine a nominee of Artistic (the promoter) as a third party under section 99 of the *Tax Court of Canada Rules (General Procedure)*, (the "Rules") which reads:

Discovery of Non-Parties with Leave

99. (1) The court may grant leave, on such terms respecting costs and other matters as are just, to examine for discovery any person who there is reason to believe has information relevant to a material issue in the appeal, other than an expert engaged by or on behalf of a party in preparation for contemplated or pending litigation.

(2) Leave under subsection (1) shall not be granted unless the Court is satisfied that,

(a) the moving party has been unable to obtain the information from other persons whom the moving party is entitled to examine for discovery, or from the person sought to be examine,

(b) it would be unfair to require the moving party to proceed to hearing without having the opportunity of examining the person, and

(c) the examination will not,

(i) unduly delay the commencement of the hearing of the proceeding,

(ii) entail unreasonable expense for other parties, or

(iii) result in unfairness to the person the moving party seeks to examine.

(3) A party who examines a person orally under this section shall, if requested, serve any party who attended or was represented on the examination with the transcript free of charge, unless the Court directs otherwise.

(4) The examining party is not entitled to recover the costs of the examination from another party unless the Court expressly directs otherwise.

(5) The evidence of a person examined under this section may not be read into evidence at the hearing under subsection 100(1).

Section 99 is quite restrictive and an order permitting discovery of a third party requires strict compliance with the provisions of section 99.

[24] On February 3, 2007, counsel for the respondent wrote to the solicitors for the appellant asking that Artistic provide answers to 86 questions which are attached as Schedule A to the letter. That schedule is attached as Appendix A. These are the questions that the Crown wants to put to the representative of Artistic. That representative (Mark Pearlman) has already been examined and cross-examined in Artistic's own appeal to the Tax Court of Canada. The transcript of a third party's examination cannot be used at trial in the same way as the discovery of a party is used. The questions have to do with the promotional activity of Artistic in selling the program. It may be that the Crown wants to have the transcript of the representative of Artistic on the off chance that he is called as a witness. The transcript might be useful as a means of impeaching him. This is not a proper use of section 99. There is absolutely nothing in the questions in Appendix A that can assist in determining fmv. I regard the 86 questions in Schedule A as a case of overkill.

[25] These motions are a prime example of the sort of thing that justifies the criticisms that are being made about the exorbitant cost of litigation. Thorough preparation is one thing. Oppressive and excessive examination of irrelevant minutiae is quite another. It is high time that the parties to tax litigation realized that procedural wrangling and unnecessarily lengthy examinations for discovery are putting the cost of litigation in the Tax Court of Canada out of the reach of ordinary people. The material filed on the motions comprised affidavits, transcripts of the discoveries and cross-examinations of the deponents, numerous books of documents and authorities and written argument. This avalanche of material with which counsel inundated me and which towered upwards of two feet in the air was of absolutely no assistance in deciding these motions. All it did, apart from cluttering up the court's file, was to add to the length and expense of the proceedings. Cases are won by focussing on the issue and by an adroit and lethal assault on the jugular, not a proliferation of diversionary tactics.

[26] The motion to examine a representative of Artistic is dismissed. Artistic was represented on the motion by counsel. It is entitled to its costs. Otherwise, I am awarding no costs to either party.

Signed at Ottawa, Canada, this 27th day of August 2007.

“D.G.H. Bowman”

Bowman C.J.

APPENDIX A

b. Question

Commencement & Location

When was Artistic Ideas Inc. ("Artistic Ideas") incorporated?

When did Artistic Ideas Inc. commence operating its art donation program?

What matters were Mr. Pearman and Mr. Turner considering regarding the fax dated July 8, 1998 at Exhibit 3, Tab 57

Did Artistic Ideas operate anything in the nature of an art gallery, selling art to the public? If not, what was the nature of and location of its business premises?

Nature of Art Donation Program

How did Artistic Ideas' art donation program work?

Was the art donation program open to anyone who wanted to participate? If not, why not and what were the restrictions?

How were potential customers or donors solicited for the program?

Did Artistic Ideas use financial planners as commissioned agents to market their art donation program?

If commissioned agents were used to market the art donation program, how were they paid?

- 3) Did the art donation program operate in every province? If not, what was the geographic scope of the program and why was it limited?

Promotional Documents

- 1) Was the document at Exhibit 1, Tab 1 circulated to interested donors by Artistic Ideas as part of the art donation program in 1998?
- 2) Were the documents at Exhibit 2, Tabs 40 and 41 circulated to interested donors by Artistic Ideas as part of the art donation program in 1999?
- 3) Were any promotional materials circulated to interested donors by Artistic Ideas as part of the art donation program in 2000? If so, will you provide a copy of the documents?

Opinion Letters

- 4) We are aware of a legal opinion dated October 7, 1998 which was provided to Artistic Ideas by Fraser & Beatty, Barristers and Solicitors, and concerns the art donation program. Was the legal opinion letter circulated by Artistic Ideas to interested donors?
- 5) We are also aware of legal opinions dated May 25, 1999, June 14, 2000 and October 24, 2000 which were provided to Artistic Ideas by Fraser Milner, Barristers and Solicitors, and concern the art donation program. Were the legal opinion letters circulated by Artistic Ideas to interested donors?

Charities

- 6) What charities were participating in Artistic Ideas' art donation program in 1998, 1999, and 2000?

-2-

- 17) How were the charities identified and selected?
- 18) What arrangements did Artistic Ideas enter into with charities that accepted art as part of the art donation program?
- 19) Regarding the agreements with charities:
- a) Is the letter dated September 7, 1999 from Artistic Ideas to Friends of Honduran Children within Exhibit 1, Tab 17 a copy of the agreement between Artistic Ideas and the charity for the 1999 year? Is the original available?
 - b) Is the letter dated November 17, 1999 from Artistic Ideas to Regesh Family & Child Services within Exhibit 1, Tab 26 a copy of the agreement between Artistic Ideas and the charity for the 1999 year? Is the original available?
 - c) Is the letter dated July 19, 2000 from Artistic Ideas to Don Mills Foundation for Senior Citizens Inc. at Exhibit 2, Tab 12 a copy of the agreement between Artistic Ideas and the charity for the 2000 year? Is the original available?
 - d) Will Artistic Ideas provide copies of the other agreements pertaining to charities that Mr. Sackman donated to in 1999 and 2000, and in particular with respect to: Regesh Family & Child Services for 2000; Ballet Creole for 1999; Tel Aide for 1999 & 2000; Aladdin Children's Charity for 2000; UMWIRUS Research of Canada for 2000; Me Association of Ontario for 2000; Ontario Foundation for Visually Impaired for 2000; LoveCry - The Street Kids Organization for 2000; National Children's Burn Society for 2000; Azamra Institute for 2000; and Don Mills Foundation for Senior Citizens for 2000?

Catalogues

- 20) Is the document at Exhibit 1, Tab 2a Artistic Ideas' catalogue of available art? If so, for which year?
- 21) Were catalogues of prints available and circulated for 1999 and 2000? If so, will Artistic Ideas provide copies?
- 22) Who prepared the catalogues?

Transaction Documents

- 23) Will Artistic Ideas provide copies of its ordering instructions for 1998 and 1999?
- 24) Were there standard ordering instructions for the 2000 taxation year? If so, will Artistic Ideas provide copies of the ordering instructions for 2000?
- 25) Are the documents at Exhibit 1, Tabs 70, 71, 72, and 73 copies of standard agency agreements used by Artistic Ideas in 1998, 1999 and 2000?
- 26) Are the documents at Exhibit 1, Tabs 66, 67, 68, and 69 copies of standard purchase agreements that were used in 1998, 1999 and 2000?
- 27) We understand that prior to February 28, 2000 the prints were sold in groups of 11 and donated in groups of 10. The purchase agreement between Silver Fine Arts and Mr. Sackman dated November 17, 2000 (Exhibit 1, Tab 69) contemplates two appraisals valuing each group of prints at not less than \$21,000. Did the program change after February 27, 2000? If so, what changed and why?
- 28) What knowledge or information does Artistic Ideas have about whether Coleman Fine Arts or Silver Fine Arts had acquired the prints as at the date the purchase

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agreements were executed with donors?

- 29) Where were the prints located as at the date of the purchase agreements which were entered into donors?
- 30) Are the documents at Exhibit 1, Tabs 74, 75, and 79 copies of standard deeds of gift that were used in 1998, 1999 and 2000?
- 31) The deeds of gift contain a direction that the works shall be held by the charity for a period of not less than ten years. Was one of the reasons for the direction to avoid having the prints go on the market?

Communication with Charities

- 32) Regarding the letter dated December 31, 1998 from Artistic Ideas to The League for Human Rights at Exhibit 1, Tab 96:
- a) Is the letter a true copy of an original letter sent to the charity on Mr. Sackman's behalf with respect to his 1998 donation?
 - b) Were the titles of the art known at the time the letter was sent? If not, why not?
 - c) Had Artistic Ideas received written appraisals valuing the art at \$100,000 as at the time of sending the letter? If not, what was the basis of the stated value?
 - d) Did Artistic Ideas send similar correspondence on behalf of other donors who participated in the art donation program in 1998?
- 33) Regarding the letter dated December 29, 1999 from Artistic Ideas to Friends of Honduran Children within Exhibit 1, Tab 17:
- a) Is the letter a true copy of an original letter sent to the charity on Mr. Sackman's behalf with respect to the donation he made in 1999?
 - b) Were the titles of the art known at the time the letter was sent? If not, why not?
 - c) Had Artistic Ideas received written appraisals valuing the art at \$100,000 as at the time of sending the letter? If not, what was the basis of the stated value?
 - d) Did Artistic Ideas send similar correspondence on behalf of donors who participated in the art donation program in 1999?
- 34) Regarding the letter dated February 22, 2000 from Artistic Ideas to The Ontario Foundation for Visually Impaired Children within Exhibit 3, Tab 11 concerning Mr. Sackman's donation:
- a) Did Artistic Ideas send this letter on behalf of Mr. Sackman?
 - b) Did Artistic Ideas send similar correspondence with respect to donations by other donors who participated in the art donation program?
 - c) Will Artistic Ideas provide copies of all other correspondence sent to the charities regarding Mr. Sackman's donations?

Volume of Transactions

- 35) Does Artistic Ideas agree that part of its strategy with Coleman Fine Arts and Silver Fine Arts was to build a market for the prints that were transacted in the art donation program?
- 36) Were there any instances where individuals bought a group or groups of prints but

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only donated single prints rather than as a group or groups? If so, provide details.

- 37) Did Artistic Ideas sell single prints as opposed to a group or groups?
- 38) Were Artistic Ideas, Coleman Fine Arts or Silver Fine Arts under any compulsion to sell the prints transacted in the art donation program?
- 39) How many groups were (i) available for sale and (ii) sold in the art donation program in 1998, 1999, 2000, and 2001?
- 40) How many prints were sold and donated through the art donation program in 1998, 1999, 2000, and 2001?
- 41) Can Artistic Ideas provide a detailed listing of the composition of the groups and the number of each particular group sold in 1998, 1999, 2000, and 2001? If yes, will Artistic Ideas provide same?
- 42) Can Artistic Ideas provide a detailed listing by name of donor for 1998, 1999, 2000, and 2001 showing the following: date of the purchase agreement, the number of groups purchased, the price paid per group, and date(s) of deed(s) of gift? If yes, will Artistic Ideas provide same?
- 43) Can Artistic Ideas provide a detailed report, similar to the reports appearing at Exhibit 2, Tabs 3 and 4 with respect to each donor, showing donor's name, charities selected, titles of the prints donated to each charity for 1998, 1999, 2000, and 2001? If yes, will Artistic Ideas provide same?
- 44) Can Artistic Ideas provide a detailed report by title of print showing the names of donors who purchased each title and the total number of titles purchased by each donor for 1998, 1999, 2000, and 2001? If yes, will Artistic Ideas provide same? An example of a similar report can be seen at Exhibit 5, Tab 1.
- 45) Can Artistic Ideas provide a detailed report by charity, showing the name of each donor and titles donated in 1998, 1999, 2000 and 2001? If yes, will Artistic Ideas provide same? An example of such a report is at Exhibit 2, Tab 27.
- 46) Can Artistic Ideas provide a detailed report by charity, showing the titles and number of titles going to each charity for 1998, 1999, 2000, and 2001? If yes, will Artistic Ideas provide same? An example of such a report can be seen within Exhibit 1, Tab 28 entitled "Prints Going to Charities" re Regesh Family and Child Services.
- 47) Can Artistic Ideas provide a detailed report by charity showing the gallery or source of the prints and the title and quantity of each print for 1998, 1999, 2000, and 2001? Examples of such reports are within Exhibit 3, Tab 38 entitled "Gallery (Detailed) Bragg CL" and "Gallery (Detailed) Bragg".
- 48) Please confirm that Artistic Ideas maintained an electronic database relating to the art donation program, which would include data concerning the donors involved and the titles of prints sold to donors? If so, will Artistic Ideas provide a copy of the electronic data?
- 49) If Artistic Ideas cannot provide the above reports, what reports can be generated?
Navigant Report
- 50) We have had a detailed report prepared by Navigant Consulting. Exhibit 5, Tab 1 of the report is a listing of titles we understand were purchased and donated by Mr. Sackman in 2000. For each title, the report identifies the names of other donors who purchased the same title and the number of those titles, together with the purchase

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agreement date. We would be pleased to make suitable arrangements for you to view the source documents, if necessary.

Is the report accurate to the extent that it identifies the other donors who purchased the same titles as Mr. Sackman in 2000, the number of titles purchased and the agreement dates? If the report is not accurate, is it only because it may not identify all of the other donors who purchased the same titles?

Appraisals

- 51) When did the Appraisers view the prints that Mr. Sackman donated in 1998, 1999, and 2000? Please provide details.
- 52) Regarding the appraisals provided by Leslie Fink, Edith Yeomans and Charles Rosoff for 1998, 1999, and 2000, as the case may be, will Artistic Ideas provide copies of their working papers, including the following: retainer letters and terms of engagement, notes, sales invoices and other information reviewed in search of comparable sales, invoices to Artistic Ideas for services rendered, and all draft reports?
- 53) What information did Artistic Ideas provide the appraisers regarding the art donation program?
- 54) Does Artistic Ideas know whether the appraisers were aware that the art donation program was premised on the prints being appraised with a fair market value of at least \$1,000?
- 55) Did Artistic Ideas provide the appraisers with information about the extent of the sales to donors participating in the program?
- 56) Did Artistic Ideas advise the appraisers of the prices being paid by the donors?
- 57) Did the appraisers ask Artistic Ideas for information about sales to donors?
- 58) Did Artistic Ideas provide copies of the appraisals to the charities prior to their issuing donation receipts?

Coleman Fine Arts / Silver Fine Arts & Suppliers

- 59) Does Artistic Ideas have any knowledge about whether Coleman Fine Arts Ltd., Silver Fine Arts Ltd. or their principal, Paul Sloan, had an affiliation or connection with any of the charities that participated in the art donation program? If yes, please provide details.
- 60) Regarding the copy of an invoice dated May 24, 2001 at Exhibit 3, Tab 39:
 - a) Is Artistic Ideas able to confirm that Coleman Fine Arts paid \$40 each for 3,738 prints from Charles Lynn Bragg?
 - b) Is Artistic Ideas able to confirm that the invoice concerns the Charles Lynn Bragg prints that were sold to donors in 2000, including to Mr. Sackman? If not, is Artistic Ideas able to confirm what year the prints were sold as part of the art donation program?
 - c) If the Charles Lynn Bragg prints that Mr. Sackman donated in 2000 did not cost Coleman Fine Arts or Silver Fine Arts \$40 each, how much did the prints cost?
 - d) Did Artistic Ideas receive a copy of the invoice? If so, what did Artistic Ideas understand the document to represent?

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- e) Did Charles Lynn Bragg ship the prints referenced in the invoice directly to Artistic Ideas?
 - f) Does Artistic Ideas have copies of the agreements dated September 21, 2000 and May 24, 2001, which are referred to in the invoice? If so, please provide copies.
 - g) Will Artistic Ideas make inquiries of Paul Sloan if it is unable to answer the above questions or to obtain the documents requested?
- 61) Regarding the copy of an invoice dated July 28, 2001 at Exhibit 3, Tab 40:
- a) Is Artistic Ideas able to confirm that Silver Fine Arts or Coleman Fine Arts paid \$40 each for 5,000 prints for a total of \$200,000 from Charles Bragg?
 - b) Is Artistic Ideas able to confirm that the invoice concerns the Charles Bragg prints that were sold to donors in 2000, including to Mr. Sackman? If not, is Artistic Ideas able to confirm what year the prints were sold as part of the art donation program?
 - c) If the Charles Bragg prints that Mr. Sackman donated in 2000 did not cost Coleman Fine Arts and Silver Fine Arts \$40 each, how much did they cost?
 - d) Did Artistic Ideas receive a copy of the invoice?
 - e) Did Charles Bragg ship the prints referenced in the invoice directly to Artistic Ideas?
 - f) Will Artistic Ideas make inquiries of Paul Sloan if it is unable to answer the above questions?
 - g) Will Artistic Ideas ask Paul Sloan for copies of any agreements made between Coleman Fine Arts or Silver Fine Arts and Charles Bragg, and provide same if available?
- 62) Regarding the fax letter from Charles Bragg to Paul Sloan dated August 14, 2001 at Exhibit 3, Tab 41:
- a) Is Artistic Ideas able to confirm that this is a copy of a letter sent by Charles Bragg to Paul Sloan?
 - b) What if any knowledge or information does Artistic Ideas have about the matters referred to in the letter?
 - c) Does the letter concern any of the Charles Bragg prints that were sold in the art donation program in 1998, 1999, or 2000?
 - d) Was Edith Yeomans working with Charles Bragg to get the appraisal averages up?
 - e) Does Artistic Ideas have any knowledge or information about whether Charles Bragg was pulling prints that were sold in the art donation program? If so, provide details.
 - f) Is Artistic Ideas able to confirm whether the summary on page 2 of the letter is accurate?
 - g) Will Artistic Ideas make inquiries of Paul Sloan if it is unable to answer the above questions?

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- 63) Regarding the series of invoices in the name of Charles Bragg at Exhibit 3, Tabs 33, 34, and 35:
- a) Did Artistic Ideas receive copies of these documents from Charles Bragg?
 - b) Do the invoices accurately identify the quantity of Charles Bragg prints sold to donors and shipped to the charities through the art donation program in 2000? If not in 2000, then what year?
 - c) Did Charles Bragg ship these prints to Artistic Ideas? If so, when?
 - d) Why was Charles Bragg invoicing the charities?
 - e) What was the basis for the unit price for each print? Who provided Charles Bragg with this information?
- 64) Regarding the documents at Exhibit 3, Tabs 37, 38, 42, and 43:
- a) Did Artistic Ideas receive copies of these documents?
 - b) Do the documents relate to the Charles Bragg and Charles Lynn Bragg prints that were sold as part of the art donation program for 2000? If not in 2000, then what year?
 - c) Do the documents accurately reflect the number of prints that were sold in the art donation program and donated to the charities specified?
 - d) What knowledge or information does Artistic Ideas have about the documents?
 - e) Who provided the appraisal value information to Charles Bragg and Charles Lynn Bragg?
- 65) Regarding the copies of invoices at Exhibit 3, Tabs 59, 62, 63, 64, 78, and 79:
- a) What knowledge or information does Artistic Ideas have concerning prints that were sold by RoGallery to Paul Sloan, of Coleman Fine Arts?
 - b) Were any of the titles described in the invoices sold as part of art donation program in 2000? If yes, which prints? If not in 2000, then what year?
 - c) Several of the prints have an alpha-numeric ID instead of a title stated. Can Artistic Ideas identify the titles to these prints?
 - d) Did Coleman Fine Arts or Silver Fine Arts acquire the Picasso Estate prints for \$80 each?
 - e) Did Coleman Fine Arts or Silver Fine Arts acquire the prints by the other artists for the amounts stated in the invoices?
 - f) Do the 165 prints by M. Krigin titled "Boldest Native" at Tab 78 include the five prints that Mr. Sackman bought by the same title in 2000?
 - g) Do the 98 prints by M. Krigin titled "Woman Playing a Poppin" at Tab 78 include the three prints that Mr. Sackman bought by the same title in 2000?
 - h) Will Artistic Ideas make inquiries of Paul Sloan if it is unable to answer the above questions?
- 66) Regarding the copies of invoices at Exhibit 3, Tabs 97 and 98:
- a) What knowledge does Artistic Ideas have about these invoices and the prints referenced in the invoices?

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- b) If the prints were sold in the art donation program, what years were they sold in?
 - c) Did Coleman acquire the prints for the amounts stated (i.e., \$60 each for the Picasso prints and \$40 each for the remainder)?
 - d) Will Artistic Ideas make inquiries of Paul Sloan if it is unable to answer the above questions?
- 67) Regarding the letter from Ro Gallery to Silver Fine Arts dated June 8, 2001 at Exhibit 3, Tab 80:
- a) The letter refers to 144 of Faulconer's "3 Pansies". Are these the same prints as the six Faulconer prints titled "Pansies" that Mr. Sackman bought and donated in 2000?
 - b) What knowledge or information does Artistic Ideas have with respect to this letter?
 - c) Will Artistic Ideas make inquiries of Paul Sloan if it is unable to answer the above questions?
- 68) Regarding what appear to be shipping documents from RoGallery at Exhibit 3, Tabs 65 to 77:
- a) Did Artistic Ideas receive copies of these documents?
 - b) What knowledge or information does Artistic Ideas have about the documents?
 - c) Do the documents relate to prints that RoGallery sold to Coleman Fine Arts or Silver Fine Arts and which formed part of the art donation program in 2000? If not for 2000, then what year?
 - d) Who provided the appraisal value information to RoGallery?
 - e) Will Artistic Ideas make inquiries of Paul Sloan if it is unable to answer the above questions?
- 69) Regarding the documents at Exhibit 3, Tabs 47, 48, 48, 50, 51 and 54 that concern Museum Masters International Ltd.:
- a) What knowledge or information does Artistic Ideas have about these documents?
 - b) Please confirm whether the prints referred to in the documents were sold in the art donation program and specify the year.
 - c) Did Coleman Fine Arts pay Museum Masters International \$80 each for the Picasso prints?
 - d) Did Mr. Sackman acquire any of the prints that came from Museum Masters International?
 - e) Did Museum Masters International ship the prints to Artistic Ideas?
 - f) Did Artistic Ideas receive the shipment documents at Tab 51?
 - g) Who provided Museum Masters International with the unit price information stated in the documents at Tab 51? When was the information provided?
 - h) Does the documents at Tab 54 accurately reflect the number and titles of prints that were sold to donors and donated to the charities specified? If yes, in

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which year?

- i) Will Artistic Ideas make inquiries of Paul Sloan if it is unable to answer the above questions?
- 70) What knowledge or information does Artistic Ideas have about how much Coleman Fine Arts and Silver Fine Arts paid for the other prints that were sold in the art donation program in 1998, 1999 and 2000 and that are not already addressed in the questions above? Will Artistic Ideas make inquiries of Paul Sloan if it does not have this information?
- 71) What knowledge or information does Artistic Ideas have about where and how Coleman Fine Arts and Silver Fine Arts obtained the prints transacted in the art donation program in 1998, 1999, and 2000 and that are not covered in the questions above? Will Artistic Ideas make inquiries of Paul Sloan
- 72) What knowledge or information does Artistic Ideas have any about whether Paul Sloan, Coleman Fine Arts or Silver Fine Arts engaged anyone to go out and acquire prints that were transacted in the art donation program? If so, was a finder's fee paid? Will Artistic Ideas make inquiries of Paul Sloan if it is unable to answer these questions?
- 73) What knowledge or information does Artistic Ideas have about whether the vendors or sources of the prints that were transacted in the art donation program were told anything about the 10-year condition placed on the donation? Will Artistic Ideas make inquiries of Paul Sloan if it is unable to answer this question?

Nature of the Prints

- 74) Were any of the prints created or pulled for the art donation program? In particular, and without limiting the generality of this question, were any of the Charles Bragg or Charles Lynn Bragg prints pulled because of the art donation program? Will Artistic Ideas make inquiries of Paul Sloan if it is unable to answer this question?
- 75) What knowledge or information does Artistic Ideas have about the provenance of the prints that Mr. Sackman purchased and donated as part of the art donation program in 1998, 1999, and 2000? Will Artistic Ideas make inquiries of Paul Sloan for this information?
- 76) Did Artistic Ideas keep any records of the specific edition numbers of the prints so that an edition number of a print can be associated with a sale to a donor? For example, does Artistic Ideas know the edition numbers of the prints that were sold to Mr. Sackman?

Payments to Charities

Regarding the documents Exhibit 3, Tabs 15 and 16:

- a) Is Tab 15 a copy of a letter that Artistic Ideas received from the Ontario Foundation for Visually Impaired Children? If so, when was the letter received?
- b) Does the letter concern the 2000 donation year?
- c) Is Tab 16 a copy of a cheque issued by Artistic Ideas to the Ontario Foundation for Visually Impaired Children in the amount of \$11,100?
- d) What does the payment for \$11,100 represent and how was it calculated?

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- e) Had the prints that were donated to the Ontario Foundation for Visually Impaired Children been delivered to the charity as at the date of payment? If not, when were the prints delivered to the charity?
- 77) Regarding the copy of an invoice dated February 19, 2001 from LoveCry to Artistic Ideas for \$12,680 within Exhibit 1, Tab 18:
- a) Who created and prepared the invoice?
 - b) Did Artistic Ideas pay \$12,680 to LoveCry? If so, was the amount in respect of donations in 2000?
 - c) If the amount was paid, where were the prints located at the time of payment?
 - d) What knowledge or information does Artistic Ideas have with respect to whether arrangements were made to store the prints that were donated to LoveCry at a location belonging to Cheder Chabad? Was the storage free of charge?
 - e) What knowledge or information does Artistic Ideas have about how other charities that accepted donations of prints arranged to store the art?
- 78) What other amounts were paid to charities that accepted donations of prints from Mr. Sackman in 1998, 1999, and 2000 as part of the art donation program?
- Disposition of Prints
- 79) What if anything did Artistic Ideas say to the charities that accepted donations of prints through the art donation program about selling or disposing of the prints?
- 80) Does Artistic Ideas have any knowledge or information about whether any charities that accepted prints through the art donation program have sold or otherwise disposed of any prints?
- Miscellaneous
- 81) Is the letter dated December 28, 2000 from Artistic Ideas to LoveCry, located within Exhibit 1, Tab 18, a copy of a letter that was sent by Artistic Ideas to LoveCry? Did Artistic Ideas send similar letters to other charities that accepted prints in the art donation program?
- 82) A copy of the receipt issued by LoveCry in respect of Mr. Sackman's donation in 2000 is at Exhibit 1, Tab 59. Did Artistic Ideas have any involvement in the printing and preparation of receipts for LoveCry concerning prints that were donated in the art donation program? If so, please provide details?
- 83) Was Artistic Ideas involved in the printing and preparation of receipts for any other charities?
- 84) What knowledge or information does Artistic Ideas have about how the charities stored the prints?
- 85) Regarding the letter from Artistic Ideas to Friends of the Honduran Children dated October 19, 2000, together with the attached schedule within Exhibit 1, Tab 17:
- a) Is this letter a copy of an original letter sent by Artistic Ideas to the charity on behalf of Mr. Sackman?
 - b) Does the matter concern Mr. Sackman's donation for 1999?
 - c) Was this the first time that Artistic Ideas provided a detailed listing of the titles

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donated by Mr. Sackman?

- d) Were the prints regarding 1999, not shipped until October of 2000? If so, what was the reason for the delay?

Financial Arrangements

- 86) Regarding Mr. Sackman's purchase of prints through the art donation program in 1998, 1999, and 2000, how was his payment split between Artistic Ideas and Coleman Fine Arts/Silver Fine Arts?

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Chief Justice

DATE OF ORDER AND
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APPEARANCES:

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