Docket: 2006-2572(IT)G

BETWEEN:

CANADA TRUSTCO MORTGAGE COMPANY,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on April 7 and 8, 2008, at Toronto, Ontario

Before: The Honourable Justice L.M. Little

Appearances:

Counsel for the Appellant:	Thomas Sutton and Heather Meredith
Counsel for the Respondent:	Joanna Hill

JUDGMENT

The appeal from the assessments made under subsection 224(4) of the *Income Tax Act*, notices of which are dated August 16, 2005 bearing number 37492 and June 21, 2006 bearing number 37688, is dismissed, with costs, in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 29th day of August 2008.

"L.M. Little"

Little J.

Citation: 2008 TCC 482
Date: 20080829
Docket: 2006-2572(IT)G

BETWEEN:

CANADA TRUSTCO MORTGAGE COMPANY,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Little J.

A. Facts

[1] This is an appeal from assessments issued by the Minister of National Revenue (the "Minister") under subsection 224(4) of the *Income Tax Act* (the "*Act*") for failure to comply with three Requirements to Pay ("Requirements") served on the Appellant under subsection 224(1) of the *Act*. The Requirements were dated May 28, 2004, May 4, 2005 and April 24, 2006.

[2] Two Notices of Assessment were issued, one dated August 16, 2005 in the amount of $50,808.38 and one dated June 21, 2006 in the amount of $126,345.93.

[3] The parties filed an Agreed Statement of Facts. The Statement reads as follows:

> 1. During the period at issue, the Canada Trustco Mortgage Company ("CT") was a corporation doing business under the laws of Canada as a financial institution. It was

amalgamated into and continued under the name the Canada Trust Company, which is a company incorporated and doing business under the laws of Canada.

2. The first Notice of Assessment (the "First Assessment") under appeal is dated August 16, 2005, bears number 37492, and is in the amount of $50,808.30.

3. The second Notice of Assessment (the "Second Assessment") under appeal is dated June 21, 2006, bears number 37688, and is in the amount of $126,345.93.

4. During the period at issue, Cameron C. McLeod (sometimes known as Cameron Clyde McLeod) ("McLeod") was practicing law as a member of the Law Society of British Columbia.

5. On May 28, 2004, McLeod had a tax liability of approximately $305,613.76 relating to his personal tax debts for the 1997 to 2002 taxation years.

6. McLeod had signing authority in relation to a lawyer's trust account #6845002745 (previously #510756) (the "Trust Account") at its King George Highway Branch in Surrey, British Columbia (the "King George Highway Branch").

7. The contractual terms governing the Trust Account are set out in the Business Account Agreement.

8. McLeod and Herbert Maier held a joint account #684508594 (the "Joint Account") with CT at the King George Highway Branch.

9. The contractual terms governing the Joint Account are set out in the Personal Account Agreement.

10. The Minister of National Revenue (the "Minister") had knowledge that cheques were being drawn on the Trust Account identifying McLeod as the payee, which were being deposited into the Joint Account.

11. On May 28, 2004, the Minister issued a Requirement to Pay to CT in the amount of $305,613.76 with respect to the tax liability of McLeod, pursuant to subsection 224(1) of the *Income Tax Act* (the "Act").

12. CT received the Requirement to Pay on or about May 28, 2004 at its King George Highway Branch.

13. On or about June 4, 2004, CT responded by completing the Requirement to Pay form.

14. The Minister issued the First Assessment, dated August 16, 2005, in the amount of $50,808.30, with respect to the Requirement to Pay of May 28, 2004.

15. The First Assessment relates to transactions which occurred between June 3, 2004 and October 19, 2004.

16. Specifically, between June 3, 2004 and October 19, 2004, 28 cheques totalling $50,808.38 were drawn on the Trust Account, with C.C. McLeod identified as the payee.

17. Each cheque referred to in paragraph 16 was presented to CT for deposit into the Joint Account.

18. In each instance, the cheque was accepted by CT for deposit to the Joint Account. A credit was made to the Joint Account, and a debit was made to the Trust Account.

19. After receiving the First Assessment, CT filed a Notice of Objection dated November 15, 2005.

20. CT's Notice of Objection was rejected by CRA by letters dated May 30, 2006 and June 7, 2006, which attached a Notification of Confirmation dated June 7, 2006.

21. On May 4, 2005, the Minister issued a second Requirement to Pay to CT in the amount of $382,079.40 with respect to the tax liability of McLeod. CT received the second Requirement at the King George Highway Branch on or about the same day.

22. On or about May 5, 2005, CT responded to the CRA by completing the second Requirement to Pay form.

23. On April 24, 2006, the Minister issued a third Requirement to Pay to CT in the amount of $460,102.17 with respect to the tax liability of McLeod. CT received the third Requirement at the King George Highway Branch on or about the same day.

24. On or about April 25, 2006, CT responded by completing the third Requirement to Pay form.

25. The Minister issued the Second Assessment, dated June 21, 2006, in the amount of $126,345.93, with respect to the Requirements to Pay of May 28, 2004 and May 4, 2005.

26. The Second Assessment relates to transactions which occurred between October 26, 2004 and August 19, 2005.

27. Specifically, between October 26, 2004 and August 19, 2005, 53 cheques totalling $126,345.93 were drawn on the Trust Account with C.C. McLeod identified as the payee.

> 28. Each cheque referred to in paragraph 27 was presented to CT for deposit into the Joint Account.
>
> 29. In each instance, the cheque was accepted by CT for deposit to the Joint Account. A credit was made to the Joint Account, and a debit was made to the Trust Account.
>
> 30. After receiving the Second Assessment, CT filed a Notice of Objection dated October 4, 2006.
>
> 31. CT's Notice of Objection was rejected by CRA by letter dated June 7, 2007, which attached a Notification of Confirmation dated June 7, 2007.

[4] Counsel for the Appellant also submitted that "[t]here is no evidence in the record identifying the identity of the person who presented the cheques to CT for deposit".[1]

[5] Counsel for the Respondent also submitted in its Reply to the Amended Amended Notice of Appeal that:

> On or about December 14, 2004, Mr. Michael Kader, ("Kader") legal counsel for CT, contacted the CRA and informed the CRA that CT's position was that contravention of the Law Society Rules was irrelevant to the issue. Under the Bank Act, CT has no legal obligation to police trust accounts to ensure lawyers comply with Law Society Rules.[2]

[6] The nature of the relationship between Mr. McLeod and Mr. Maier is unknown.[3] In other words, we do not know whether Mr. Maier was a full legal partner of the Appellant. However, it was established that the Joint Bank Account was a bank account in which the Appellant and Mr. Maier were joint tenants.

B. Issues

[7] The Appellant's Amended Amended Notice of Appeal contained the following comments:

[8] Was the Appellant liable to make a payment to Cameron McLeod at any time during the period of effectiveness of the three Requirements in question?

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[1] See para. 10 of the factum and pages 242 and 243 of the Transcript.
[2] Para. 1. of the Reply to the Amended Amended Notice of Appeal.
[3] Page 35 of the Transcript.

[9] If the Appellant was not liable to make a payment to Cameron McLeod during that period, can the Appellant be said to have failed to comply with the three Requirements?

[10] The Appellant's Factum contained the following comment:

> The principal issue in the appeal is whether the Appellant is liable to pay the Respondent an amount equal to the proceeds from 81 cheques drawn from a lawyer's trust account because the Appellant failed to pay those proceeds to the Receiver General in accordance with two requirements issued pursuant to subsection 224(1) of the *Act*.

[11] The Respondent's Reply to the Amended Notice of Appeal contained the following comment:

> The issue is whether the Appellant was a person liable to make a payment to the tax debtor within the meaning of subsection 224(1) of the *Act* and therefore, whether it was required to comply with the subsection 224(1) requirement.

C. Admissions by the Respondent's Counsel

(a) the funds on deposit in the Trust Account were not caught by the Requirements and, accordingly, the Appellant had no obligation to remit funds on deposit in the Trust Account;[4] and

(b) the funds on deposit in the Joint Account were not caught by the Requirements and, accordingly, the Appellant had no obligation to remit funds on deposit in the Joint Account.[5]

[12] Those two admissions are in accordance with the fact that the issue regarding the liability to pay is not while the money is on deposit in either of these accounts, but whether there is a liability to pay attached to the 81 cheques.[6] Subsection 224(1) does not allow going after funds on deposit. It is the payments that are attachable. In this situation, we are focusing on the repayment of the funds that were on deposit in the Trust Account.

D. Legislation

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[4] Factum para. 14. and Amended Amended Notice of Appeal para. 15. Denied in para. 2 of the Reply to the Amended Amended Notice of Appeal. Questions 55, 56 & 97, Gill EFD and pages 12 to 16 of the Transcript.
[5] Factum para. 14. Questions 55 to 57, Gill EFD and pages 12 to 16 of the Transcript.
[6] Page 17 of the Transcript.

[13] The following described legislation is relevant:

***Income Tax Act*:** 224(1), (1.1), (4) and (4.1);
***Bills of Exchange Act*:** s. 1, 2, 22, 165 and 166;
***Bank Act*:** s. 409 to 413, 437, 461 and 462; and
***Law Society Rules* of BC:** 3-48, 3-51 and 3-53 to 3-57.

E. Analysis and Discussion

[14] The Court must determine if the Appellant is liable under subsection 224(4) of the *Act* for not complying with a Requirement issued under subsection 224(1) of the *Act*. The Court must verify if the Appellant was liable to make a payment to the tax debtor, and if money was payable to him. It is a question of law based on the facts presented by the parties.

[15] Under subsection 224(1) of the *Act*, the Minister has the discretion to issue a Requirement if certain conditions are met. In *National Trust Co. v. Canada*[7], the Federal Court of Appeal highlighted those conditions:

> **34** In subsection 224(1) Parliament has invested the Minister with a discretion to issue a requirement in writing pursuant to the subsection if the following conditions precedent are satisfied:
>
> (a) the Minister has knowledge or a suspicion,
>
> (b) a person is or will be within 90 days liable to make a payment to a tax debtor, and
>
> (c) the amount must be payable immediately or in the future.
>
> **35** If those conditions are satisfied, the Minister may, in writing, require the person liable to make the payment to pay to the Receiver General on account of the tax debtor's liability under the Act, forthwith, if the moneys are payable immediately, or in any other case, as and when the moneys otherwise become payable to the tax debtor.[8]

[7] [1998] F.C.J. No. 968, [1998] A.C.F. no 968, 162 D.L.R. (4th) 704, 229 N.R. 3, 19 C.C.P.B. 204, [1998] 4 C.T.C. 26, 98 D.T.C. 6409, 81 A.C.W.S. (3d) 384 ["*National Trust*"].
[8] *Ibid.*

[16] In this case, it is not argued that the first condition to issue the Requirement was not met.[9]

[17] In *National Trust (supra)*, the Court also applied a two step analysis to verify if the conditions of subsection 224(1) were fulfilled so as to justify an assessment under subsection 224(4):

> **39** In these circumstances, is the respondent "a person liable to make a payment" to the tax debtor within the meaning of subsection 224(1)? Secondly, were the proceeds of the GIC "payable" to the tax debtor either immediately or within 90 days? [10]

[18] We must then look first if the Appellant was liable to make a payment to Mr. McLeod, and secondly if money was payable to Mr. McLeod in the relevant period.

[19] As counsel for the Respondent has submitted, the *National Trust (supra)* decision indicates that there is no magic to the words, "liable to pay", and to the word "payable": [11]

> **46** The ordinary meaning of the word "liable" in a legal context is to denote the fact that a person is responsible at law. Hence, I am in respectful agreement with McLachlin J. (as she then was) when she stated in Discovery Trust Company v. Abbott et al, a case in which a section 224(1) requirement was served upon a trustee, that:
>
> > ... the demand on third parties [a subsection 224(1) requirement] by which the Crown's claim is made in this case is not confined to a debtor-creditor relationship, as is a garnishee order; it is stated to extend to any case where the trustee is "liable to make a payment to the taxpayer."
> >
> > [Emphasis added.]
>
> **47** It is my respectful view, therefore, that the Tax Court Judge was wrong in law to limit the phrase "liable to make a payment" only to situations where a debtor-creditor relationship exists. In so doing, he precluded himself from asking the only relevant question when one is confronted with construction of the subsection. It is this: did the respondent have a responsibility at law to make a payment to the tax debtor on 1 February 1994?

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[9] See page 245 of the Transcript.
[10] The Act was changed in 1994 and now specifies a delay of one year.
[11] Page 232 of the Transcript.

...

> **61** I turn now to consider the issue whether the proceeds were "payable" within the meaning of subsection 224(1). In my view this issue is governed by DeConinck, supra, and the decision of this Court in Canada v. Yannelis where Stone J.A., for the Court, said at 636:
>
> > The word "payable" is not a term of art. Nor is it defined in the regulations. I do not see that it was used in any special sense. In my view, therefore, it should be interpreted in the light of ordinary dictionary definitions.
>
> **62** and 638:
>
> > I have come to the conclusion that the word "payable" in s. 58(8)(b)(i) [of the Unemployment Insurance Act] refers to the point in time when vacation pay is due to a claimant in the sense that he is entitled by his contract of employment or by the general law to have it paid to him and his employer is under an obligation to pay it. In other words, it is payable when a claimant is in a position at law to enforce payment.

[20] I believe that even if cheques were used in our case, it does not mean that those words should be analysed differently in the context of the *Bills of Exchange Act*, because as we will see the analysis should stop before considering that it was cheques that were presented to the bank. The fact that the Federal Court of Appeal in *National Trust (supra)* referred to a case regarding Unemployment Insurance for the word “payable” does not change anything, as they used that term in a general context, not in the context of Unemployment Insurance.

[21] In analyzing the issues before the Court, I believe that in this case the analysis should start by looking at the second test and then consider the first test.

[22] Regarding the payable test, because there was money deposited in the Trust Account, the obligation associated with a deposit makes the money payable on demand to the tax debtor.

[23] The principle of debtor-creditor relationship between the bank and its customer has been enunciated by the House of Lords in *Foley v. Hill*.[12] This relationship makes the bank responsible to repay the funds on deposit when asked for it. This principle satisfies the common law in that regard, and therefore does not need to have to be in the *Bank Act* to be applicable.

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[12] (1848), 9 E.R. 1002.

> Money, when paid into a bank, ceases altogether to be the money of the principal …; it is then the money of the banker who is bound to return an equivalent by paying a similar sum to that deposited with him when he is asked for it. … … he is not bound to keep it or deal with it as the property of his principal, but he is of course answerable for the amount because he has contracted, having received that money, to repay to the principal, when demanded a sum equivalent to that paid into his hands.…. That being established to be the relative situations of banker and customer, the banker is not an agent or factor, but he is a debtor. …[13]

[24] Furthermore, I note that counsel for the Appellant admits that if a person deposits money in a bank, the bank is bound to return the equivalent if the person makes a demand for repayment.[14] Counsel for the Appellant nevertheless submitted that no demand for repayment was made in this case, but that it was rather a payment of legal fees. There is nothing in the evidence to support that argument.

[25] In *3087-8847 Québec Inc. v. Canada*[15], Justice Lamarre of the Tax Court of Canada decided that in a case of a debtor-creditor relationship there is no need to request payment to fulfill a subsection 224(1) request:

> **40** … It is therefore to be inferred that in the case of a debtor-creditor relationship, there is no need for such express language in order for subsection 224(1) to apply. To the extent that the tax debtor is also the creditor in respect of a demand shareholder loan, it is not necessary that the tax debtor formally demand payment of that loan for the debtor in respect thereof to be required to make a payment under subsection 224(1).

[26] It therefore follows that the liability for payment does not arise because of the *Bills of Exchange Act*, but because of the debtor-creditor relationship that exists between the bank and the account holder.

[27] *Vis-à-vis* the Appellant, it is Mr. McLeod who owned the funds in the Trust Account, regardless of the fact that he had completed his work for his clients, as the bank is not required to monitor the trust.

[28] The only other requirement that was necessary in this situation was for the bank to be liable to make a payment to Mr. McLeod, and that happened when someone, who can be assumed to be Mr. McLeod, presented the bank with the cheques.

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[13] *Ibid* pages 35 to 37.
[14] See page 312 of the Transcript.
[15] [2007] T.C.J. No. 203, 2007 DTC 1064.

[29] Counsel for the Respondent made the assumption that the cheques in issue were for payment of legal fees, and nothing has been submitted by the Appellant to the opposite.[16] There is also no evidence showing that the money went for something other than to Mr. McLeod. Mr. McLeod was not called by the Appellant as a witness. Nothing shows that the money has been used for client disbursement. To the contrary, all expenses made from the Joint Account seem more in the nature of personal expenses. At the same time, nothing has been put in evidence to show if that was Mr. McLeod or Mr. Maier's expenses.

[30] However, I have concluded that the legal analysis does not need to go to the fact that monies were moved from the Trust Account to the Joint Account, but should end where there was demand for payment from the Trust Account to Mr. McLeod. The analysis should not concern itself where the money went after that. Moreover, the money was not supposed to go anywhere other than to the Receiver General pursuant to the Requirements. At that moment, the bank should have followed the Requirement.

[31] I believe that counsel for the Appellant is correct when he said that writing a cheque is not by itself a withdrawal, but just the creation of an instrument.[17] Nevertheless, a cheque is an instrument by which a drawer directs a drawee to pay on the instrument. As soon as the cheque is presented to the bank, it is different. We should not only look at Mr. McLeod as the payee of the cheque, but also as the drawer of the cheque. As the holder of the account, Mr. McLeod was in a position to enforce the payment because of the debtor-creditor relationship that existed; via the cheque he was demanding for the repayment of a portion of a previous deposit. I again emphasize that there was no evidence produced that Mr. McLeod was not the person who presented the cheques to the bank.

[32] It was suggested by counsel for the Appellant that there was some partnership arrangement associated with the Trust Account. However, I agree with counsel for the Respondent that there is not sufficient evidence in that regard.[18]

[33] I have also concluded that the fact that Mr. McLeod never personally received the money is irrelevant since we must determine if the Appellant was liable to make a payment to him. The fact that the Appellant never remitted the money to Mr. McLeod can only be important, if the other requirements are met, as showing that it

[16] Page 196 of the Transcript.
[17] See page 116 of the Transcript.
[18] Pages 35, 36, 79 and 99-105 of the Transcript.

did not comply with its requirement under subsection 224(1). When there is a Requirement, you are not supposed to pay, neither to the tax debtor nor to someone else, but only to the Receiver General, as soon as there is a "liability to pay" to the tax debtor. The fact that the money went in the Joint Account is only relevant to sustain the liability of the Appellant under subsection 224(4) as it shows that the Appellant did not remit the money to the Receiver General.

[34] In *Bank of Montreal v. Canada*[19], it was not the tax debtor who presented for payment, but his wife, whereas in this case, we have no evidence in that regard. In the *Bank of Montreal (supra)* case, the cheque was apparently endorsed by his wife who withdrew the money. In other words the money was payable to the wife of the tax debtor.

[35] Counsel for the Appellant spent some time arguing that the funds in the Trust Account were not the bank's funds or Mr. McLeod's funds but were Mr. McLeod's clients' funds.[20] If the funds were not considered as Mr. McLeod's money, why would the bank have contacted him and consulted him as to what he wanted to do with the balance of the account when they wanted to close it?[21]

[36] It should also be noted that the Requirement was served on the Appellant, not on Mr. McLeod's clients.

[37] The Law Society of British Columbia has produced *Law Society Rules* that govern the practice of law in British Columbia. Rule 3-56(1.3) of the *Law Society Rules* provides for the withdrawal by cheque of funds from a lawyer's trust account. Rules 3-56(3) provide expressively that withdrawal of trust funds for the payment of fees must be made by cheque payable to the lawyer's general account. A lawyer who does not follow those rules is responsible to the Law Society for his failure to follow the rules. Nevertheless, the Appellant is not concerned by those rules. Mr. McLeod could have closed the account and taken all the funds out or transferred them to another account and the Appellant would have had nothing to say. Before releasing money from the account, the Appellant did not have to call the clients to see if there was a problem. There was no limit to the access of the account, and the Appellant was not required to police or monitor the use of the trust account, as provided by the *Bank Act*, at subsection 437(3). If Mr. McLeod went to withdraw cash in violation of the *Law Society Rules*, the bank was not responsible to account for it. That principle has been highlighted in the *Bank of Montreal* (*supra)* case:

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[19] [1991] T.C.J. No. 930, [1991] A.C.I. no 930, 92 D.T.C. 1133 ["*Bank of Montreal*"].
[20] Pages 37 and 128 of the Transcript.
[21] Page 288 of the Transcript.

> In my view, I am not called upon here to determine whether Mr. Henry D. Morgan contravened the Regulations of the Law Society by endorsing in blank the cheques drawn on his trust account and in transferring the said cheques to Mrs. Lynn Morgan. Nor am I called upon to pass judgment on the actions of the bank in negotiating these two cheques or on the propriety of such actions.

[38] The fact that the bank account was a Trust Account does not change anything with respect to the fact that the Appellant had a contractual relationship and a debtor-creditor relationship with Mr. McLeod. The bank still owed the money to the account holder, Mr. McLeod.[22] It was still a direct relationship.

[39] It appears to be established law that a bank has no obligations in regard to the payee of a cheque.[23] It is still a fact that a cheque is a bill drawn on a bank and payable on demand.[24] The cheque is the form, i.e. the instrument used to demand the payment of the debt. Paragraph 166(1)(*a*) of the *Bills of Exchange Act* foresees the possibility that the drawer of a cheque has the right to have a cheque paid.

[40] The rights of Mr. McLeod as drawer were defined in the Business Account Agreement. Counsel for the Respondent admits that this agreement has modified the common-law obligation in regard to the instrument, but has not modified the common-law obligation of the bank to repay deposits. By contract, the parties have only varied the common law with regard to a bank's duties to its customers with regards to cheques drawn on account by making it discretionary.[25]

[41] The *Bank of Montreal (supra)* case can be distinguished as in our case there is no evidence as to who presented the cheques to the bank, and they were not in this case endorsed by someone other than the taxpayer. As submitted by Counsel for the Respondent, Mr. McLeod was still the bearer of the cheques.[26]

[42] The question of which entity qualifies as the collecting bank should also not be a problem. If a cheque was first credited to an account at another bank (assuming that the cheque was not endorsed by someone other than the tax debtor), it should further be dishonoured because the other bank (the drawee bank) will have to refuse to remit

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[22] See pages 142 and 143 of the Transcript where the Appellant admits that it is the relationship that exists when the account is not a Trust Account.
[23] *Schroeder and another v. The Central Bank of London* (1876), 24 L.T. 734 (C.P. Div.), page 736, *Thomson v. Merchants Bank of Canada*, [1919] 58 S.C.R. 287, page 298, *Re: Schimnowski Estate*, [1996] 6 W.W.R. 194 (Man. C.A.), para. 17 to 19. Even the Respondent admits it, see page 284 of the Transcript.
[24] See para. 165(1) of the *Bills of Exchange Act.*
[25] Pages 193 and 263 of the Transcript.
[26] Page 283 of the Transcript.

the money because of the Requirements. The payee of the cheque will have no recourse against that other bank when it is later going to reverse the credit previously made. The fact that the cheque is presented to another bank does not alter the fact that the drawer's bank is still subject to a Requirement, and will have to remit the money to the Receiver General.

[43] It should be noted that the argument made in *Majoca Inc. v. R.*[27] regarding the alternative application of subsection 224(1.1) is not available in this case, as the box in that regard has not been "X-ed" or checked on any of the Requirement to Pay Forms.

[44] It is also worth noting that paragraph 437(2)(*a*) of the *Bank Act* says that a bank should not pay the principal of a deposit if the money deposited is claimed by some other person in a proceeding to which the bank is a party and in respect of which another process originating that proceeding has been made on the bank. It appears that a Requirement is such a proceeding.

[45] Section 461 of the *Bank Act* deals with "the branch of account". In subsection 461(2), it is expected that "the amount of any debt owing by a bank by reason of a deposit in a deposit account in the bank is payable to the person entitled thereto only at the branch of account". Such is not foreseen for money deposited at other places. This is likely because it is already considered payable by the common law.

[46] I have concluded that the appeal should be dismissed because the Appellant should have paid money to the Receiver General pursuant to the specific wording contained in the Requirements to Pay.

[47] The appeal is dismissed with costs.

Signed at Ottawa, Canada, this 29th day of August 2008.

"L.M. Little"

Little J.

[27] 1997 CarswellNat 2612, (*sub nom. Majoca Inc. v. R.*) 98 D.T.C. 1130 (Fr.), (*sub nom. Majoca Inc. v. R.*) [1998] 2 C.T.C. 3095, 1997 CarswellNat 1587.

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DATE OF JUDGMENT:	August 29, 2008

APPEARANCES:

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Counsel for the Respondent:	Joanna Hill

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