

Docket: 97-1894(IT)G

BETWEEN:

ANAT SOURANI,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on January 26, 2009, at Toronto, Ontario.

Before: The Honourable Justice Robert J. Hogan

Appearances:

Agent for the Appellant: Ron S. Sourani

Counsel for the Respondent: Annette Evans
Paolo Torchetti

ORDER

Upon motion filed by the Appellant on July 8, 2008 seeking an order (i) vacating the assessments issued by the Respondent for the Appellant's 1989, 1990, 1991, 1992 and 1994 taxation years; (ii) allowing further time for an out-of-court settlement to be reached; (iii) requiring the Canada Revenue Agency (the "CRA") to provide the Appellant with copies of all documents filed on her behalf by her former counsel; and (iv) calling upon the CRA to cooperate with the Appellant in settling her appeal out of court;

And upon hearing the submissions of the parties;

The motion is dismissed, in accordance with the attached Reasons for Order.

It is further ordered that

1. any examinations for discovery shall be completed no later than 90 days from the date of this Order;
2. undertakings given at any examinations for discovery shall be satisfied no later than 30 days following the expiration of the 90-day period referred to in paragraph 1;
3. the appeal be set down for hearing jointly with the appeals of Ron S. Sourani at the Tax Court of Canada, Federal Judicial Centre, 180 Queen Street West, 6th Floor, Toronto, Ontario, commencing at 9:30 a.m. on November 16, 2009 for an estimated duration of four days.

Signed at Ottawa, Canada, this 27th day of April 2009.

« Robert J. Hogan »

Hogan J.

Citation: 2009 TCC 213
Date: 20090427
Docket: 97-1894(IT)G

BETWEEN:

ANAT SOURANI,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR ORDER

Hogan J.

[1] The Appellant filed her notice of appeal more than ten years ago. The cases of the Appellant's former husband, Ron S. Sourani (97-1896(IT)G and 98-1350(IT)G), and the Appellant's case were part of a larger group of cases managed by my colleague, Justice Eric Bowie. Each of these cases involved so-called convertible hedging strategies. Most of the cases have been settled on the basis of the terms of a decision of the Federal Court of Appeal on a similar issue.

[2] The Appellant alleges that she cannot settle her case nor can she proceed to trial because the Canada Revenue Agency (the "CRA") has failed to return documents produced on her behalf. This is not a new allegation. The Appellant first made the allegation in late 1999.

[3] The Respondent alleges that all documents that were filed with the CRA on behalf of the Appellant have been returned to her. The Respondent further argues that the Appellant has had ample time to obtain copies of the documents that were supposedly lost by the CRA, which the Appellant denies. The Respondent requests that the Appellant's appeal be set down for hearing with the appeals of her former husband, Ron S. Sourani, as many of the transactions involve both the Appellant and her former spouse.

[4] I find that the Appellant has had more than ample time to request from the brokers that she dealt with during the taxation years at issue duplicates of the documents that she claims have been lost by the CRA. Moreover, it would have been prudent for the Appellant and her advisors to make copies of the documents that were submitted to the CRA or, at the very least, to make a complete list of the documents that were provided. This was not done. As a result, the Court has no way of determining whether the Appellant's allegation is true or not.

[5] I surmise that the Appellant would not find herself in her present situation had she kept proper books and records for her trading activities. The *Income Tax Act* (Canada) places the obligation to do so squarely on the Appellant's shoulders. Had the Appellant kept proper books and records and retained source documents, these would all be available to the Appellant and the CRA in the context of settlement discussions.

[6] For these reasons, I dismiss the Appellant's motion and order that any examinations for discovery that either party wishes to undertake shall be completed no later than 90 days from the date of the Order, that any undertakings given at such examinations shall be satisfied no later than 30 days after the expiration of the 90-day period, and that the Appellant's appeal be set down for hearing jointly with the appeals of Ron S. Sourani at the Tax Court of Canada, Federal Judicial Centre, 180 Queen Street West, 6th Floor, Toronto, Ontario, commencing at 9:30 a.m. on November 16, 2009 for an estimated duration of four days. In the event that any of the above Appellants' appeals is settled prior to the hearing date, the remaining appeals shall proceed.

Signed at Ottawa, Canada, this 27th day of April 2009.

« Robert J. Hogan »

Hogan J.

CITATION: 2009 TCC 213
COURT FILE NO.: 97-1894(IT)G
STYLE OF CAUSE: ANAT SOURANI v. HER MAJESTY
THE QUEEN
PLACE OF HEARING: Toronto, Ontario
DATE OF HEARING: January 26, 2009
REASONS FOR ORDER BY: The Honourable Justice Robert J. Hogan
DATE OF ORDER: April 27, 2009

APPEARANCES:

Agent for the Appellant: Ron S. Sourani

Counsel for the Respondent: Annette Evans
Paolo Torchetti

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

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