Federal Court  Cour fédérale

Date: 20111028

Docket: T-372-11

Citation: 2011 FC 1232

[UNREVISED ENGLISH CERTIFIED TRANSLATION]

Ottawa, Ontario, October 28, 2011

PRESENT: The Honourable Mr. Justice Scott

BETWEEN:

IN THE MATTER OF THE *INCOME TAX ACT*

and

IN THE MATTER OF NOTICES OF ASSESSMENT BY THE MINISTER OF NATIONAL REVENUE UNDER THE *INCOME TAX ACT*, THE *CANADA PENSION PLAN* AND THE *EMPLOYMENT INSURANCE ACT*

AGAINST:

MEDHI TEHRANI
3718 Roger Lemelin
Saint-Laurent, Quebec H4R 2Z5

REASONS FOR JUDGMENT AND JUDGMENT

I. Introduction

[1] This is an application for review of an order for immediate collection under subsection 225.2(8) of the *Income Tax Act*, RSC 1985, c 1 (5th Supp) (ITA) filed by Medhi Tehrani (applicant). The purpose of the application is to set aside the order for immediate collection issued by the Federal Court on March 7, 2011 (Order), which allowed Her Majesty the Queen (respondent) to take the actions described in paragraphs 225(1)(*a*) to (*g*) of the ITA.

[2] The applicant is also seeking to have all writs of seizure issued by the Court following the Order set aside and all seizures pursuant to these writs released. He also seeks the cancellation of all legal hypothecs registered against his assets and the setting aside of all proceedings or other measures, regardless of their nature, undertaken under the terms of the Order.

[3] For the following reasons, the Court dismisses this application for review of the Order.

II. Facts

A. The audit of Yvon Talbot

[4] In June 2009, Yvon Talbot, auditor at the Enforcement Division (auditor), Canada Revenue Agency (CRA), began an audit of the applicant's file for the years 2004 to 2008.

[5] At the time of the audit, the applicant was a shareholder in the companies 9163-4840 Québec Inc. (with delivery truck rental as the reported activity), 9140-0333 Québec Inc. (a holding

company) and 9187-3729 Québec Inc. (with the renovation of non-residential immovables as the reported activity).

[6] The applicant had also performed the duties of vice-president of the Montréal Aviron Technical Institute for several years. This company belongs to his brother, Reza Tehrani. Its work is based in the field of teaching and personal and public training.

[7] The auditor reviewed the applicant's assets. They essentially included bank accounts, accounts receivable and investments, jewellery, vehicles and immovables. The auditor also noted a loan of $340,000 from the applicant to 9119-5594 Québec Inc. as an investment. Copies of two cheques were filed in a bundle as Exhibit E in the respondent's motion record, volume 1. The investment project did not materialize as hoped and the applicant requested reimbursement. Ms. Cocos, a majority shareholder and director of 9119-5594 Québec Inc. told the auditor that she and her husband, Mr. Brinza, had started to reimburse the applicant in August 2010, in payments of $5,000 to $10,000.

[8] The auditor identified another sum owed by 9132-3394 Québec Inc. The applicant confirmed to the auditor that the amount of $220,000 has been owing to him since 2004. The company 9132-3394 Québec Inc. belongs to the applicant's mother, Fourogh Rezmahand, as it appears in the enterprise register, a copy of which is submitted as Exhibit G in the respondent's motion record, volume 1.

[9] The auditor also noted the purchase in 2008 of a 2003 Mercedes for $69,982.50. Copies of payments made are filed as Exhibit H in the respondent's motion record, volume 1.

[10] The auditor determined that the net value of the applicant's assets has fluctuated over the years in the following manner:

1. Year 2004 – $326,998
2. Year 2005 – ($65,100)
3. Year 2006 – $241,577
4. Year 2007 – $56,297
5. Year 2008 – $54,113

[11] In addition, the auditor noted that, based on certain bank accounts and credit card statements, the applicant spent $1,223,275 during the same period.

[12] The applicant also received shareholder benefits totalling $1,556,266. They came in part from 9140-0333 Québec Inc., of which the applicant was a majority shareholder and sole director at the time of the audit. Since it was created in 2004, 9140-0333 Québec Inc. has never filed an income tax return with the CRA. The auditor identified numerous cheque withdrawals made by the applicant, for his personal benefit, from the bank accounts of 9140-0333 Québec Inc.

[13] The applicant also received benefits from the company 9187-3729 Québec Inc., of which he was the sole shareholder at the time of the audit. Since its creation, 9187-3729 Québec Inc. had never filed an income tax return. However, it did so on August 16, 2010, since it filed income tax

returns for 2007 and 2008, as it appears in a copy of the returns filed in the respondent's motion record, volume 1, as Exhibit I. Following the filing of these income tax returns, notices of assessment totalling $34,956.46 were issued against 9187-3729 Québec Inc. This amount remains outstanding to date.

[14] The auditor noted numerous cheque withdrawals made by the applicant, for his personal benefit, from the bank account of 9187-3729 Québec Inc. He treated these amounts as shareholder benefits.

[15] The audit established that the applicant received unreported income of $3,108,468.81 for all the years audited.

[16] On March 11, 2010, notices of assessment totalling $1,365,808.25 were issued against the applicant.

[17] On March 11, 2010, the applicant filed an objection against these notices of assessment (respondent's motion record, volume 1, as Exhibit J).

B. Collection investigation by André Laurendeau

[18] As it appears in his affidavit of March 3, 2011, André Laurendeau, Resource and Complex Case Officer at the CRA, confirmed having prepared an analysis of the possibility of collecting the

applicant's debts. It mentions that as far as the CRA is aware, the assets belonging to the applicant and his companies are those described below:

1. ***Immovable at 3718 Roger-Lemelin Avenue, Montréal***. This immovable was acquired by 9140-0333 Québec Inc. on June 4, 2004, for $894,000 and resold by it on November 17, 2006, to Medhi Tehrani for $1, subject to the hypothec, as it appears in the deeds of sale and the index of immovables, copies of which are filed as Exhibits AA and BB in the respondent's motion record, volume 2. According to an assessment conducted by ABMS for the Bank of Montréal on March 11, 2009, this immovable has a fair market value of $1,075,000. It is charged with two hypothecs, one in the amount of $550,000 published on June 3, 2004, and the other in the amount of $250,000 published on May 4, 2009, which may leave $325,000 in equity (respondent's motion record, volume 2, Exhibit B). On June 14, 2010, the applicant's mother published a hypothec in the amount of $300,000 on the said immovable, as it appears in the deed of hypothec, a copy of which is filed as Exhibit C of the respondent's motion record, volume 2.

2. ***Immovable 12068-12072A, Joseph-Casavant Street, Montréal***. The applicant purchased this immovable on June 27, 2006, for the price of $375,000, as it appears in the deed of sale filed as Exhibit D of the respondent's motion record, volume 2. According to the 2010 property assessment roll, this immovable has a value of $340,900, as it appears on the said roll, a copy of which is filed as Exhibit E of the respondent's motion record, volume 2. It is charged with a hypothec with the Royal Bank in the amount of $200,000, published on June 29, 2006, which could leave

$140,900 in equity. However, the applicant's mother published a hypothec of $200,000 on this immovable on June 14, 2010, as it appears in the deed of hypothec reproduced in the respondent's motion record, volume 2, as Exhibit F.

3. ***Company 9163-4840 Québec Inc.*** This company has been incorporated since December 10, 2005. According to its balance sheet of November 30, 2008, 9163-4840 Québec Inc. reported assets valued at $75,610 including $1,040 in cash, $52,324 owed by the shareholder, equipment valued at $8,851 and a deposit of $13,395. As to liabilities, they amount to $24,154, leaving the shareholders' net worth at $51,456. This company only filed income tax returns for the taxation years of 2006 and 2007. These returns were filed late, on December 20, 2007, for the year 2006 and on March 17, 2009, for the year 2007. After these returns were sent, notices of assessment in the amount of $31,496.41 were issued against 9163-4840 Québec Inc. on March 1, 2010. On March 31, 2010, 9163-4840 Québec Inc. filed amended income tax returns showing an increased amount. The company disputes the amount claimed in the notices of assessment.

4. ***Investments***. The applicant contributes to a registered retirement savings plan (RRSP) that he has had with the Royal Bank of Canada since 2003. This RRSP has not been cashed to date. In 2008, the applicant received interest income of $2,011.75 according to a T-5 statement issued by the Royal Bank, a copy of which is filed as Exhibit G in the respondent's motion record, volume 2. This interest comes from an investment with an estimated value of $100,000 and a deemed interest rate of 2% per

year. In 2009, the applicant received interest income of $581.35 according to a T-5 statement issued by the Royal Bank, a copy of which is filed as Exhibit H in the respondent's motion record, volume 2. This interest comes from an investment with an estimated value of $29,000 and a deemed interest rate of 2% per year. In 2010, no T-5 statement was issued by the Royal Bank, as it appears in the statement of worksheets for the year 2010, a copy of which is filed as Exhibit I in the respondent's motion record, volume 2. Mr. Laurendeau found that the applicant had liquidated his investments at the Royal Bank during the years 2009 and 2010.

5. ***CIBC Wood Gundy Account***. On February 19, 2010, the applicant withdrew $30,935.14 from his account after receiving his notice of assessment. The statement of account is reproduced as Exhibit J in the respondent's motion record, volume 2. He withdrew $8,219.89 from this same account on March 19, 2010. Following this withdrawal, the account balance was $4.32 (Exhibit K of the respondent's motion record, volume 2).

6. ***Creditor***. The applicant holds debts totalling $560,000 against 9119-5594 Québec Inc. and 9132-3394 Québec Inc.

7. ***Motor vehicle.*** Last, the applicant purchased a 2003 Mercedes for $69,982.50.

[19] Mr. Laurendeau stated that the applicant's conduct toward the taxation authorities and his actions after receiving notices of assessment led him to believe that collection of the CRA's debt

could be in jeopardy if the Court were to allow the application. The applicant's mother published hypothecs after the notices of assessment were issued and the applicant liquidated several investments. These facts weigh against allowing the applicant's application to set aside the Order. In addition:

1. On June 22, 2010, Mr. Laurendeau called the applicant to ask him why the hypothecs were published. The applicant confirmed that he owed a debt to his mother. Being then aware of her son's tax debt, she took measures to protect herself by publishing these two hypothecs.

2. During a telephone conversation with Mr. Laurendeau on July 5, 2010, the applicant told him that he had liquidated several investments in 2008 to purchase a car (2003 Mercedes). On April 6, 2011, the applicant wrote in his affidavit that he is no longer the owner of the vehicle since he sold it to Messod Bendayan on January 12, 2010, for $27,000 in cash. Mr. Bendayan stated, during a telephone conversation with Mr. Laurendeau, that he had obtained a discount on the sale price of the vehicle since he paid for it in cash.

3. Finally, Mr. Laurendeau analyzed the applicant's bank accounts. He noted on May 20, 2009, that the balance of account 06941-5038211 at the Royal Bank of Canada was $58,115.52 (see the history of this account as Exhibit A of André Laurendeau's additional affidavit of July 13, 2011). Between May 20, 2009, and July 8, 2010, eight transfers/withdrawals were made, leaving a balance of $105.06 in the account. Some of these transfers/withdrawals were made after the audit.

Mr. Laurendeau did not have all the exhibits related to these transfers; he could not identify where the funds were transferred to. However, following the seizure executed on the applicant's account on March 9, 2011, the CRA received a total of $771.69.

C. Application under section 225.1 of the ITA

[20] In its *ex parte* application filed without a personal appearance on March 4, 2011, the respondent requested the Federal Court's authorization to take forthwith the actions provided under section 225.1 of the ITA so as to collect and guarantee payment of $1,406,269, with interest compounded daily at the rate prescribed under the ITA, owed by the applicant.

D. Order of the Federal Court

[21] On March 7, 2011, the Federal Court allowed the respondent's application in its entirety. The Court then decided that there were reasonable grounds to believe that granting a delay to the applicant to pay the said amount would jeopardize collection in whole or in part.

III. Issue

- ***Are there reasonable grounds to believe that the collection of the amounts claimed would be jeopardized in whole or in part if the Court were to allow the application for review of the Order and grant the applicant a delay in payment?***

IV. Legislation

[22] The relevant legislation is reproduced in the Annex to these reasons.

V. Positions of the parties

A. Position of the applicant

[23] The applicant submits that there are no reasonable grounds in this case to believe that the collection of the amounts claimed by the CRA would be jeopardized under subsection 225.2(2) of the ITA. The Court must verify whether it is reasonable to believe that such grounds exist.

[24] He presented an overview of the case law and reiterated seven important points that justify the validity of his application.

[25] In *Danielson v Canada* (*Deputy Attorney General*), [1987] 1 FC 335, [1987] FCJ No 519 at para 7 (*Danielson)*, Justice McNair wrote: “The test of whether ‘it may reasonably be considered’ is susceptible of being reasonably translated into the test of whether the evidence on balance of probability is sufficient to lead to the conclusion that it is more likely than not that collection would be jeopardized by delay”. The applicant argues that the Court could not make such a finding in this case.

[26] It is also alleged that subsection 225.2(2) of the ITA only applies in exceptional cases. According to the applicant such circumstances do not exist in this case (*Deputy Minister of National Revenue, Taxation v Shelley Dawn Quesnel*, 2001 DTC 5602, at para 23 (*Quesnel*), citing *Canada v Laframboise*, 86 DTC 6396).

[27] Mere suspicions are not sufficient to find that granting a delay to the applicant would jeopardize the collection of amounts owed (*Naber (Re)*, [2004] 2 CTC 360).

[28] The applicant also claims that the inability to pay is not sufficient justification to enable the respondent to take exceptional measures using the ITA (see *Danielson*, above).

[29] The applicant points out that the respondent has the burden to justify the decision granting the Order for immediate collection (see *Quesnel*, at para 25). The respondent must show that there are "reasonable grounds for believing that the taxpayer would waste, liquidate or otherwise transfer his assets so as to become less able to pay the amount assessed and thereby jeopardizing the Minster's debt" (see *Canada v Golbeck*, [1990] FC No 852, 90 DTC 6575 (*Golbeck*)). The applicant argues that he did not attempt to waste, liquidate or transfer his assets so as to avoid paying the amounts claimed by the CRA and evade his responsibilities to the taxation authorities.

[30] The applicant points out that the long delay between issuing the notices of assessment on March 11, 2010, and filing the application for authorization to proceed forthwith on March 3, 2011, shows that granting a delay to pay the amounts claimed from him while the assessments are being disputed would in no way jeopardize the collection of the said amounts.

[31] The applicant further claims that his actions do not prove in any way that he does not intend to pay his tax debt if it is upheld despite his objection.

[32] The applicant considers that his loss of status as majority shareholder and director of 9140-0333 Québec Inc. and 9187-3729 Québec Inc. is not relevant in justifying an application for immediate collection. In fact, these are private companies and the shares he holds are of minimal value. A third party would not benefit from them.

[33] Furthermore, the applicant denies that he disposed of the shares in 9140-0333 Québec Inc. and/or ceased to act as director. He argues that the changes that were reported to the Quebec enterprise register were without his knowledge. This is why he intends to undertake the proceedings required to remedy this situation.

[34] In addition, he states that some clarifications must be made to the respondent's statements with respect to the liquidation of his investments. As it appears in paragraphs 20 to 28 of the affidavit of Mr. Laurendeau, the applicant had approximately $140,000 at some point between 2008 and 2010.

[35] It should be noted that the investments that the respondent refers to in her application for immediate collection were withdrawn prior to issuing the notices of assessment. According to Mr. Laurendeau's statements, approximately $100,000 was withdrawn in 2008 and 2009, before the

notices of assessment were issued. The amounts withdrawn were therefore not intended to jeopardize the future collection of the amounts that were to be assessed later.

[36] The applicant withdrew $66,000 in 2008 to purchase a 2003 Mercedes. This withdrawal was prior to the audit.

[37] As for the other withdrawals, the applicant points out that they were purely one-time withdrawals and reiterated that they were partly reinvested in his RRSP.

[38] The applicant argues that the hypothecs granted to his mother guarantee the repayment of loans that had existed for some time. He points out that these hypothecs were published three months after the notices of assessment were issued and several months before the respondent's application. As it appears in Mr. Laurendeau's sworn statement, the respondent had known since June 22, 2010, that hypothecs of $500,000 in value had been published on June 14, 2010, against the properties of the applicant or of his companies. The respondent had been aware of their existence since June 22, 2010, and filed her application only in March 2011. According to the applicant, the time elapsed confirms that there was no urgency to collect the amounts. He points to some excerpts of Mr. Laurendeau's examination relating to the dates and explanations provided to explain the 9 months that elapsed between learning of the hypothecs and filing the application to obtain the Order.

[39] The applicant further argues that he did not liquidate any of his assets since the notices of assessment were issued so as to remove them from his patrimony.

[40] The respondent claims that the applicant made several misrepresentations. The applicant allegedly failed to report $3,108,468.81 of income between the years 2004 and 2008. The applicant explains that he is disputing this amount.

[41] Further, the applicant argues that it is incorrect to claim that he failed to report certain assets or facts during his meeting with the auditor or during telephone conversations with the collections officer, Mr. Laurendeau.

[42] No omission was made as to the 2003 Mercedes. In addition, the applicant no longer owned the vehicle at the time of the June 22, 2010, conversation with Mr. Laurendeau.

[43] The applicant argues that he did not omit anything regarding the $340,000 that 9119-5594 Québec Inc. owes him.

[44] The respondent's allegations as to the applicant's fiscal behaviour are not conclusive, such as the applicant disputing the amounts claimed and the merit of the notices of assessment. The courts have already decided that the nature of an assessment and its merit are not relevant criteria in obtaining an order for immediate collection.

[45] In this regard, the applicant cites *Minister of National Revenue v Services M.L. Marengère Inc*, 2000 DTC 6032 at para 64 (*Marengère*), which, in his view, confirms this principle in the following terms: "the issue of the correctness of the assessments is one which will be resolved in

another forum". He believes that the respondent's allegations—that the collection of the debt could be jeopardized if a delay were to be granted to him while the objection to the assessments is taking place—cannot be accepted.

[46] He claims that the evidence presented does not establish that there is a risk that collection would be jeopardized. Moreover, there are reasonable grounds to doubt that the criteria set out in section 225.2 of the ITA were met. The applicant therefore argues that the Order was not justified and that is why he requests that the Court allow his application and set aside the Order, or alternatively, to change its content.

B. Respondent's position

[47] A taxpayer seeking the review of an order for immediate collection under subsection 225.2(8) of the ITA has the burden of showing that there are reasonable grounds to believe that the criteria set out in subsection 225.2(2) of the ITA were not met (see *Marengère*). In this case, the applicant cannot discharge this burden.

[48] The respondent in this case must persuade the Court, on the balance of probabilities, that granting a delay could jeopardize collection of her debt (see *Marengère*; *Canada (Minister of National Revenue) v Blouin*, [2003] FCJ No 258, 2003 FCT 178 at para 3).

[49] To determine whether the debt collection will truly be jeopardized, the taxpayer's conduct must be analyzed, while considering the nature of the tax debt *(Canada (Deputy Minister of*

National Revenue) v Iura, [2001] BCJ No 68 at para 44). The taxpayer's failure to report income or the unorthodox way he conducts his business can also be taken into consideration (*Canada (Minister of National Revenue - M.N.R.) v Rouleau*, [1995] FCJ No 1209, 101 FTR 57 at para 8 (*Rouleau*)). The size of the debt in relation to the reported income (*Canada (Minister of National Revenue) v Calb*, [1997] FCJ No 1033, or the fact that the taxpayer has made misrepresentations (*Canada v Chamas*, 2006 FC 1548, [2006] FCJ No 1933 (*Chamas*)) can also be taken into consideration. The same is true if the taxpayer shelters a significant asset from the taxation authorities or if all the assets are insufficient to repay his tax debt (*Golbeck*), above; *Canada (Customs and Revenue Agency) v 144945 Canada Inc*, [2003] FCJ No 937, 2003 FCT 730).

[50] In this case, the respondent alleges that the evidence filed in support of her application to obtain the Order meets all the criteria because:

1. The applicant did not report income totalling $3,108,468.81. The applicant incurred personal expenses through his bank accounts and credit cards amounting to $1,223,275. He appropriated funds from his companies 9140-0333 Québec Inc. and 9187-3729 Québec Inc. totalling $1,556,266.

2. These companies are not meeting their fiscal obligations because 9140-0333 Québec Inc. has never filed any income tax returns since it was created, whereas 9187-3729 Québec Inc. only filed returns after it received notices of assessment. Assessments of $34,956.46 remain unpaid.

3. The applicant is involved in two companies that produced invoices of convenience to benefit other companies belonging to his brother, Reza Tehrani. The applicant did not report his involvement in 9187-3729 Québec Inc. and 6092055 Canada Inc. to the auditor.

4. The applicant provided false information regarding his income by reporting higher income in his financing applications with financial institutions.

5. In addition, after receiving the auditor's draft assessment, the applicant withdrew money and made transfers from his CIBC and Royal Bank of Canada bank accounts.

6. Three months after receiving the notices of assessment, the applicant hypothecated his two immovables in his mother's favour, all to guarantee a debt that was allegedly contracted in 2005, more than six years before, thereby wiping out any equity remaining on these assets.

[51] In the respondent's view, the applicant's claims are insufficient to dispute the validity of the impugned Order. The applicant argues that the delay between the date that the notices of assessment were issued and the date of obtaining the Order shows that any other delay that he may be granted would not jeopardize the collection of the tax debt. In response, the respondent reiterates that the hypothecs published on the two immovables caused her injury. There was no other choice than to obtain a declaration that the act may not be set up against her to attack these acts. Article 1635 of the *Civil Code of Quebec* (CCQ) provides a time frame of one year from the day on which the creditor

learned of the injury resulting from the publication to attack the validity of these acts or it is forfeited. To be able to take this action, the CRA had to obtain the order for immediate collection. Therefore, any other delay granted to the applicant would cause it injury. The Court cannot agree with the applicant's opposing argument that the time elapsed would prove the lack of jeopardy. It was during the delay between sending the notices of assessment and filing the application that the hypothecs were published.

[52] The applicant claims that the loss of his status as majority shareholder and director of 9140-0333 Québec Inc. and 9187-3729 Québec Inc. occurred after the CRA's audit and is therefore not relevant because these companies have no value. The respondent argues, on the contrary, that the applicant should have informed the auditor of this.

[53] The applicant submits that he answered all of the auditor's and Mr. Laurendeau's questions. According to the respondent, the applicant's misrepresentations may have an impact on the Court's decision (see *Chamas* at paras 25-27).

[54] The respondent argues that the applicant still refuses to disclose all of his assets. Mr. Laurendeau made a request to this effect and the applicant did not follow up on it. Since obtaining the Order and following the seizures executed by the CRA, the applicant requested and was granted release of two seizures of rent to help him make his hypothec payments. Since then, he asked for other releases to pay his expenses. Mr. Laurendeau asked for a list of his assets. The applicant did not provide this information. These actions are evidence of his refusal to disclose all his assets to the CRA.

[55] The respondent argues that all these facts are sufficient to warrant upholding the Order.

VI. Analysis

[56] In an application filed under subsection 225.2(8) of the ITA, the respondent must justify the Order. However, it is the taxpayer who has the initial burden of proving that there are reasonable grounds to believe that the criteria for issuing an order have not been met (see *Rouleau* at para 3; and *Canada v Duncan*, [1992] 1 FC 713).

[57] In *Canada (Ministre du Revenu National) c. Fiducie Dauphin*, 2010 CF 1144, 2010 DTC 5194 (*Fiducie Dauphin*) the Court writes in paragraph 24:

> [Translation]
>
> The case law has recognized that the presence of one or more of the following factors may justify a jeopardy collection order:
>
> A. The fraud or the unorthodox actions of the taxpayer …
>
> B. The liquidation or transfer of the assets by the taxpayer regardless of his intention …
>
> C. The taxpayer's lifestyle that is incompatible with his tax debt …
>
> D. The nature of the assessments and the fiscal behaviour of the taxpayer …

[58] In this case, the Court finds that the applicant did not establish that there were reasonable grounds to believe that the respondent does not meet the criterion set out in subsection 225.2(2) of the ITA. For the following reasons, the Court upholds the Order.

[59] By reiterating the time elapsed between issuing the notices of assessment and obtaining the Order, the applicant is trying to persuade us that granting a delay would in no way jeopardize collection of the CRA's debt. I am not so persuaded. The hypothecs granted to his mother on two of his immovables for the purpose of securing his debts paralyze the CRA's possibility of collecting on his most significant assets. The CCQ provides a delay of one year from the day on which the creditor learned of the injury resulting from the act which is attacked to bring its declaration that the act may not be set up against it for the hypothecs granted. Granting the applicant's application would jeopardize the CRA's action.

[60] In addition, the evidence before us establishes that the applicant made numerous misrepresentations.

[61] First, the applicant claims to dispute the notices of assessment issued to him, which attributed a total income of $3,108,468.81 to him during the years 2004 to 2008. He explains that his actions were due to his objection to the amount calculated by the CRA.

[62] The Court cannot accept this argument since the applicant did not file any tangible evidence to establish that he was disputing the amount of income that the CRA auditor attributed to him.

[63] Second, the applicant failed to mention his involvement in 9187-3729 Québec Inc. and 6092055 Canada Inc. during his interview with auditor Talbot. These companies are the originators of numerous invoices of convenience issued to benefit the companies of the applicant's brother. It

appears, from the affidavit of auditor Talbot, that 6092055 Canada Inc. claimed in its annual returns from 2005 and 2006 that it had no paid employees. It also does not have an employer number. Nevertheless, during this same period, it issued invoices to several companies belonging to Reza Tehrani, the applicant's brother (see the invoices issued to Aviron, 9114-8536 Québec Inc. and 9044-6808 Québec Inc. as filed in the respondent's motion record, volume 1, as Exhibit W).

[64] The auditor established that 3140-0333 Québec Inc. was an accommodator for Aviron, which thereby received payments amounting to at least $305,902 during the years 2004 to 2008. These amounts were reported as business expenses for Aviron.

[65] Auditor Talbot's analysis established that 9187-3729 Québec Inc. issued invoices of convenience to Aviron and 9044-6808 Québec Inc., as it appears in the invoices filed in the respondent's motion record, volume 2, as Exhibit FF. It should be noted that 9187-3729 Québec Inc. has no employees and does not have an employer number.

[66] Third, the applicant made misrepresentations to some financial institutions. On the credit application to lease a 2007 Mercedes from the Laval Mercedes Benz dealership, the applicant indicated that Aviron was his employer and that he had a gross salary of $100,000. He signed this application on April 18, 2007. In point of fact, the applicant received a salary from Aviron of $60,313 in 2006 and $63,815 in 2007 (see Exhibits L and M in the respondent's motion record, volume 1).

[67] Furthermore, in the applicant's credit file at the Bank of Montréal, located at 9150 De l'Acadie Boulevard, Montréal, a letter from Aviron dated March 10, 2009, stated that the applicant earned an annual salary of $125,000 plus a car allowance of $1,063 per month. The applicant reported gross income of $69,956 for the year 2008 (see Exhibits N and O of the respondent's motion record, volume 1).

[68] The auditor considered the applicant's credit file with the Bank of Montréal located at 274 Dorval, Montréal. He noted that the applicant reported to the bank an income of $70,000 for the year 2001 and an income of $72,000 for the year 2002. The summaries are reproduced in the respondent's motion record, volume 1, as Exhibit P. In fact, the income reported by the applicant to the CRA is $34,346 for the year 2001 and $34,529 for the year 2002, as it appears in Exhibit Q filed in the respondent's motion record, volume 1.

[69] In addition, the evidence filed by the respondent confirms the applicant's refusal to provide the list of his assets.

[70] By applying the criteria stated in *Fiducie Dauphin* to this case, the Court finds that there are reasonable grounds to believe that granting the applicant a delay to pay the amounts claimed may jeopardize collection of the CRA's debt, in whole or in part. The Court finds that the applicant did not meet his burden of proving that there are reasonable grounds to believe that the respondent does not meet the criteria set out in paragraphs 225(1)(*a*) to (*g*) of the ITA.

VI. Conclusion

[71] Therefore, the Court dismisses the application for review of the Order and confirms the decision (Order) of Justice Lemieux dated March 7, 2011, with costs.

JUDGMENT

THIS COURT ORDERS AND ADJUDGES that the application for review of the Order issued by Justice Lemieux on March 7, 2011, be dismissed with costs.

"André F.J. Scott"

Judge

Certified true translation

Catherine Jones, Translator

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-372-11
STYLE OF CAUSE:	**IN THE MATTER OF THE *INCOME TAX ACT***
	and
	IN THE MATTER OF NOTICES OF ASSESSMENT BY THE MINISTER OF NATIONAL REVENUE UNDER THE *INCOME TAX ACT*, THE *CANADA PENSION PLAN* AND THE E*MPLOYMENT INSURANCE ACT*
	AGAINST:
	MEDHI TEHRANI
PLACE OF HEARING:	Montréal, Quebec
DATE OF HEARING:	October 18, 2011
REASONS FOR JUDGMENT AND JUDGMENT:	SCOTT J.
DATED:	October 28, 2011

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Philippe Alexandre Otis	FOR THE APPLICANT

SOLICITORS OF RECORD:

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STARNINO MOSTOVAC Montréal, Quebec	FOR THE APPLICANT