Federal Court  Cour fédérale

Date: 20120327

Docket: IMM-5477-11

Citation: 2012 FC 363

Ottawa, Ontario, March 27, 2012

PRESENT: The Honourable Madam Justice Bédard

BETWEEN:

BAHRAM NOORI NEKOIE

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act] of a decision made by the Immigration Appeal Division (the IAD) of the Immigration and Refugee Board on August 30, 2011, wherein the IAD rejected Mr. Nekoie's (the applicant) appeal of a departure order made against him by an immigration officer. The immigration officer determined that the applicant was inadmissible to Canada because he failed to comply with his residency obligation as a permanent resident. The

applicant did not challenge the legal validity of the departure order. Rather, the issue before the IAD was whether the applicant had established sufficient humanitarian and compassionate considerations to overcome the breach of the residency requirement.

[2] For the following reasons, the application is dismissed.

I. Background

[3] The applicant is a citizen of Iran. He landed in Canada with his wife and two children in March 2002 as a permanent resident in the Investor Class. Two weeks after landing in Canada, the applicant and his family went back to Iran because his children had to return to school. The family returned to Canada in June 2003 and settled in Montreal.

[4] During the five years preceding the immigration officer's decision, the applicant was present in Canada for approximately 331 days out of the 730 days required to maintain permanent residence under subsection 28(2) of the Act.

[5] The applicant claims that during the reference period (August 24, 2004 to August 19, 2009), he was required to spend considerable time in Iran for two main reasons. First, he had to close his factories, lay off workers, provide employees with salaries and benefits and sell assets that belonged to him and his family. Second, as of 2007, his presence was required in Iran on a regular basis to deal with court proceedings in which he was involved.

II. The decision under review

[6] The IAD determined that there were insufficient humanitarian and compassionate considerations to warrant granting special relief to the applicant.

[7] First, the IAD considered the extent of the non-compliance with the residency obligation, or the legal impediment, and found that it was significant as the applicant spent less than half the days in Canada, as required by subsection 28(2) of the Act. The IAD also found that the applicant did not take his residency obligation very seriously.

[8] Second, the IAD considered both the reasons for the applicant's departure and whether these reasons were imperious. The IAD noted that after the applicant and his family landed in Canada, they had to return to Iran because the applicant's children needed to go back to school. It also noted the reasons put forward by the applicant to explain his departure from Canada and extend his stay in Iran, after his family settled in Montreal. The IAD indicated that the applicant said that he had to close his factories over a period of time and compensate his workers. The IAD also mentioned that the applicant testified that he had approximately $5 million worth of assets still in Iran and that he needed to transfer his money slowly and over a period of time, in order to respect Iranian law. The IAD further noted that the applicant testified that he needed to be present in Iran because he was involved in Court proceedings against his brother and sister-in-law, who had stolen approximately $2 million from him in lands, machinery and workshops.

[9] The IAD did not challenge the truth of these statements. However, it was not satisfied that the applicant had established that he had to stay in Iran for as long as he did and that it was not possible for him to spend more time in Canada. The IAD remarked that it was difficult to believe that the applicant found time to vacation outside of Iran during the reference period but was not able

to come to Canada. The IAD also noted that the applicant could have tried to stay in Canada, while his children were attending school in Iran.

[10] The third factor considered by the IAD related to the applicant's establishment in Canada. While it found that the applicant had some degree of establishment in Canada, the IAD noted that he had only transferred a portion of the money that he was legally permitted to transfer to Canada over the past 10 years. The IAD found that the applicant did not have the degree of establishment that he could have had, had he made all the necessary efforts to transfer his money as quickly as possible.

[11] Regarding the best interests of the children, the IAD noted that they were over the age of 18 and that the Federal Court has clearly established that only minor children must be considered in this type of assessment (*Leobrera v Canada (Minister of Citizenship and Immigration)*, 2010 FC 587 at para 63, [2011] 4 FCR 290). In this case, the only minor child involved was the applicant's grandson. The IAD acknowledged that the applicant's grandson had a right to know his grandparents and that this was a positive factor in its consideration, however it did not find that this was determinative of the decision since the child lived in Canada with his parents.

[12] The IAD considered the hardship caused to both the family and the applicant if the appeal were refused. The IAD noted that the applicant's departure from Canada would be sad for the applicant and his family. However, it indicated that the applicant could apply for a visitor's visa and when he is ready to come to Canada permanently, the family could sponsor him. The IAD found that, in the interim, the family will continue to be in the same situation as it had been for the last five years.

[13] The IAD explained that it gave a lot of weight to the legal impediment of the applicant's residency requirement. It also noted that the applicant had not come back to Canada at the first opportunity, that he has a house in Iran in which he could live, and that, over the time he had been in Canada, he had not transferred to Canada the amount of money that he could have. Accordingly, the IAD concluded that the applicant's level of establishment in Canada was not what it could have been if he had really tried to transfer all of his business to Canada.

III. Issues and standards of review

[14] The applicant challenged the IAD's decision on three fronts, which raised the following issues:

- Did the IAD err in its assessment of the evidence and the circumstances of the applicant?
- Did the IAD provide adequate reasons?
- Did a breach in procedural fairness arise because of errors in the translation?

[15] It is well established that the factual conclusions and the IAD's assessment of humanitarian and compassionate considerations involve a high degree of discretion. Accordingly, the IAD's decision should be reviewed under the reasonableness standard (*Alonso v Canada (Minister of Citizenship and Immigration)*, 2008 FC 683 at para 5, 170 ACWS (3d) 162; *Arizaj v Canada (Minister of Citizenship and Immigration)*, 2008 FC 774 at para 18, 168 ACWS (3d) 830; *Ikhuiwu v Canada (Minister of Citizenship and Immigration)*, 2008 FC 35 at para 15, 163 ACWS (3d) 438; *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at 857, 174 DLR (4th) 193).

[16] With respect to adequacy of reasons, the recent decision of the Supreme Court of Canada *Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 22, [2011] 3 SCR 708 [*NFLD and Labrador Nurses' Union*] determined that the adequacy of reasons is not a stand alone basis for setting aside a decision. This issue is to be examined within the purview of whether the outcome of a decision is reasonable. Justice Abella, writing for the Court, expressed the following:

> 14 Read as a whole, I do not see *Dunsmuir* as standing for the proposition that the "adequacy" of reasons is a stand-alone basis for quashing a decision, or as advocating that a reviewing court undertake two discrete analyses - one for the reasons and a separate one for the result (Donald J. M. Brown and John M. Evans, *Judicial Review of Administrative Action in Canada* (loose-leaf), at ss.12: 5330 and 12: 5510). It is a more organic exercise - the reasons must be read together with the outcome and serve the purpose of showing whether the result falls within a range of possible outcomes. This, it seems to me, is what the Court was saying in *Dunsmuir* when it told reviewing courts to look at "the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes" (para. 47).

[17] Therefore, the first two issues raised by the applicant boil down to whether the IAD's decision is reasonable.

[18] The Court's role when reviewing a decision against the standard of reasonableness is defined in *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47, [2008] 1 SCR 190 [*Dunsmuir*]:

> 47 . . . A court conducting a review for reasonableness inquires into the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes. In judicial review, reasonableness is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process. But it is also concerned with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.

[19] The issue of adequate language interpretation at the hearing is a question of procedural fairness (*Mohammadian v Canada (Minister of Citizenship and Immigration)*, 2001 FCA 191, [2001] 4 FC 85) and should be reviewed under the correctness standard.

IV. Analysis

A. *Was the IAD's decision reasonable?*

[20] The applicant argues that the IAD did not consider all of the evidence, ignored material facts and failed to provide adequate reasons.

[21] The applicant argues that merely reciting the submissions and evidence of the parties and then stating a conclusion does not satisfy the obligation to provide reasons. Rather, a decision maker must set out its findings and the principal evidence upon which it based those findings. The reasons must address all of the points in issue. The applicant relies on *VIA Rail Canada Inc v National Transportation Agency*, [2001] 2 FC 25, 193 DLR (4th) 357, to support his position.

[22] In particular, the applicant argues that the IAD did not explain why it rejected his testimony and material evidence regarding the fact that he was required to remain in Iran for his court proceedings. He also argues that he explained to the IAD that, while he was in Canada in 2007, some of his Iranian assets were stolen from him by his brother and sister-in-law with the help of three other people. He supported this allegation with documentary evidence; the applicant submitted a judgment dated September 28, 2008 from the Public Prosecutor's Office of Isfahan accepting the applicant's request to safeguard approximately US $1.2 million of property of the accused. At the

time the applicant submitted written submissions to this Court, the applicant's file was ready to be presented to an Iranian court of judgment.

[23] The applicant is of the view that the IAD should have explained why it afforded no weight to the documentary evidence establishing the court proceedings in Iran, since there was no question regarding his credibility.

[24] The applicant further argues that his level of establishment in Canada is far more than the IAD's decision implied and that there were extenuating circumstances preventing him from transferring more of his assets to Canada than he did.

[25] The applicant also alleges that while he was investing in Canada, he was going through a parallel process in Iran, disposing of his assets. The applicant argues that he stated to the IAD that, in Iran, it is impossible to close down workshops and businesses and fire all the workers immediately. He explained to the IAD that during this process, he was only able to close down his businesses slowly and transfer money to Canada. The applicant argues that the IAD should have stated why these explanations were rejected.

[26] The applicant further argues that the reference by the IAD to his travel was irrelevant, since all of his travel outside of Iran occurred prior to the reference period. Despite the fact that there may have been confusion on this issue in his testimony, the entries in his passport clearly established that his trips were made before the reference period. In the applicant's view, it was an error on the part of the IAD to ignore this evidence.

[27] The respondent, for his part, argues that the IAD's decision is reasonable. The respondent alleges that the IAD considered all of the relevant factors in its decision and assessed all of the evidence submitted by the applicant. The respondent further contends that the IAD's reasons are adequate. In the respondent's view, the IAD did not need to explain in detail the weight that it attributed to the evidence and to each factor. The respondent insists that the applicant raises a mere disagreement with the IAD's decision and asks the Court to reweigh the evidence and reassess the factors.

[28] With respect, I consider that the IAD's decision is reasonable and that its reasons are sufficient.

[29] Section 28 of the Act outlines the residency requirement for permanent residents, but affords immigration officers the discretion to determine whether humanitarian and compassionate considerations should overcome a breach of the residency obligation. The IAD is vested with the same discretion under section 67 of the Act:

Appeal allowed	Fondement de l'appel
67. (1) To allow an appeal, the Immigration Appeal Division must be satisfied that, at the time that the appeal is disposed of,	67. (1) Il est fait droit à l'appel sur preuve qu'au moment où il en est disposé :
(*a*) the decision appealed is wrong in law or fact or mixed law and fact;	*a*) la décision attaquée est erronée en droit, en fait ou en droit et en fait;
(*b*) a principle of natural justice has not been observed; or	*b*) il y a eu manquement à un principe de justice naturelle;

(*c*) other than in the case of an appeal by the Minister, taking into account the best interests of a child directly affected by the decision, sufficient humanitarian and compassionate considerations warrant special relief in light of all the circumstances of the case.	*c*) sauf dans le cas de l'appel du ministre, il y a — compte tenu de l'intérêt supérieur de l'enfant directement touché — des motifs d'ordre humanitaire justifiant, vu les autres circonstances de l'affaire, la prise de mesures spéciales.
Marginal note:Effect	Note marginale :Effet
(2) If the Immigration Appeal Division allows the appeal, it shall set aside the original decision and substitute a determination that, in its opinion, should have been made, including the making of a removal order, or refer the matter to the appropriate decision-maker for reconsideration.	(2) La décision attaquée est cassée; y est substituée celle, accompagnée, le cas échéant, d'une mesure de renvoi, qui aurait dû être rendue, ou l'affaire est renvoyée devant l'instance compétente.

[30] The powers of the IAD concerning removal orders are highly discretionary and exceptional. As explained in *Chieu v Canada (Minister of Citizenship and Immigration)*, 2002 SCC 3 at para 57, [2002] 1 SCR 84 [*Chieu*]:

> Second, in appeals under the I.A.D.'s discretionary jurisdiction, the onus has always been on the individual facing removal to establish why he or she should be allowed to remain in Canada. If the onus is not met, the default position is removal. Non-citizens do not have a right to enter or remain in Canada: *Chiarelli*, supra, at p. 733, per Sopinka J. See also *Singh v. Minister of Employment and Immigration*, [1985] 1 S.C.R. 177, at p. 189, per Wilson J.; *Kindler v. Canada (Minister of Justice)*, [1991] 2 S.C.R. 779, at p. 834, per La Forest J.; and *Dehghani v. Canada (Minister of Employment and Immigration)*, [1993] 1 S.C.R. 1053, at p. 1070. In general, immigration is a privilege not a right, although refugees are protected by the guarantees provided by the 1951 *Convention Relating to the Status of Refugees*, Can. T.S. 1969 No. 6, entered into force April 22,

> 1954, entered into force for Canada September 2, 1969 (the "*1951 Geneva Convention*"), and the *Protocol relating to the Status of Refugees*, 606 U.N.T.S. 267, entered into force October 4, 1967, entered into force in Canada June 4, 1969. . . .

[31] Further, as more recently explained in *Shaath v Canada (Minister of Citizenship and Immigration)*, 2009 FC 731 at para 42, [2010] 3 FCR 117:

> 42 As to why paragraph 67(1)(c) was enacted by Parliament, Justice Binnie stated:
>
> > 57 In recognition that hardship may come from removal, Parliament has provided in s. 67(1)(c) a power to grant exceptional relief. The nature of the question posed by s. 67(1)(c) requires the IAD to be "satisfied that, at the time that the appeal is disposed of ... sufficient humanitarian and compassionate considerations warrant special relief". Not only is it left to the IAD to determine what constitute "humanitarian and compassionate considerations", but the "sufficiency" of such considerations in a particular case as well. Section 67(1)(c) calls for a fact-dependent and policy-driven assessment by the IAD itself. . . . [Emphasis added.]

[32] The IAD noted that in the exercise of its discretion under section 67 of the Act, it followed the criteria put forward in the IAD decisions *Bufete Arce v Canada (Minister of Citizenship and Immigration)* [2003] IADD No. 370 (QL) (IRB) and *Kok v Canada (Minister of Citizenship and Immigration)* [2003] IADD No. 514 (QL) (IRB), which were endorsed by the Federal Court in *Ambat v Canada (Minister of Citizenship and Immigration)*, 2011 FC 292 at para 27, 386 FTR 35 [*Ambat*]. In *Ambat* at para 27, the Court listed the factors that were applied by the IAD in determining whether there were sufficient humanitarian and compassionate considerations to warrant special relief:

> 27 The IAD considered the statutory provision allowing special relief found in paragraph 67(1)(c) of the IRPA. The IAD then stated that in considering whether the Applicant's breach of the residency obligation was overcome that it was guided by the IAD decisions in

> *Bufete Arce, Dorothy Chicay v. Minister of Citizenship and Immigration* (IAD VA2-02515), [2003] I.A.D.D. No. 370, and *Yun Kuen Kok & Kwai Leung Kok v. Minister of Citizenship and Immigration* (IAD VA2-02277), [2003] I.A.D.D. No. 514. Those two cases suggest that in addition to the best interests of a child directly affected, there are other particularly relevant factors to consider in these types of appeals. The IAD listed these at para 38:
>
> > (i) the extent of the non-compliance with the residency obligation;
> > (ii) the reasons for the departure and stay abroad;
> > (iii) the degree of establishment in Canada, initially and at the time of hearing;
> > (iv) family ties to Canada;
> > (v) whether attempts to return to Canada were made at the first opportunity;
> > (vi) hardship and dislocation to family members in Canada if the appellant is removed from or is refused admission to Canada;
> > (vii) hardship to the appellant if removed from or refused admissions to Canada; and.
> > (viii) whether there are other unique or special circumstances that merit special relief.

[33] The criteria used by the IAD are appropriate for this type of analysis; they are the criteria taken from *Ribic v Canada (Minister of Employment and Immigration)* [1985] IABD No. 4 (QL) (IRB) and adapted to removal orders in *Chieu*, above, at para 40. This Court has affirmed their use for analyses by the IAD regarding departure orders issued for failure to fulfill residency obligations pursuant to section 28 of the Act (*Canada (Minister of Citizenship and Immigration) v Sidhu*, 2011 FC 1056 at para 43 (available on Can LII); *Tai v Canada (Minister of Citizenship and Immigration)*, 2011 FC 248 at para 36, 47 (available on Can LII)). These factors are not exhaustive and can vary,

depending on the special circumstances of each case. Furthermore, it is at the discretion of the IAD to determine the weight to be accorded to each factor and to each piece of evidence; this Court ought not to interfere with those determinations (*Tai*, above, at para 82) regardless of whether or not the Court agrees with the outcomes (*Shaath*, above, at para 57).

[34] It is clear from the IAD's decision that it considered all of the evidence the applicant submitted and that it understood his allegations and arguments. The IAD assessed all of the factors and proceeded to explain how the evidence related to each factor, as well as how much weight should be assigned to various elements. The IAD also described which elements it found most significant to its analysis and concluded that it found that the applicant did not meet his burden of proof.

[35] The IAD considered the legal impediment in this case and found that it was significant. The IAD also examined all the reasons put forward by the applicant to explain why he had to spend considerable time in Iran and could not be in Canada: he had to sell his assets in Iran; gradually close down his factories; and his presence was required in Iran due to ongoing court proceedings. The IAD concluded that the applicant failed to show that he was obliged to stay in Iran for as long as he did and that it was impossible for him to spend more time in Canada. It was clear to the IAD that the applicant did not return to Canada at the first available opportunity.

[36] I disagree with the applicant's contention that his travel outside Iran was irrelevant since it took place outside the reference period and that the IAD should not have considered it. While the applicant's testimony about his travel was somewhat confused, he clearly mentioned that he had

spent approximately one month travelling outside of Iran during the reference period. The applicant argues that the IAD should have cleared up the confusion by looking at the entries in the applicant's passport. With respect, the onus was on the applicant and the IAD's finding is based on the applicant's own testimony.

[37] Regarding the applicant's degree of establishment in Canada, the IAD considered the applicant's explanation that he had to transfer money slowly out of Iran. However, it found that the applicant still had not transferred all of the money to which he was legally entitled, with significant portions remaining in Iran.

[38] The IAD also considered the best interests of the applicant's grandson and considered it as a positive factor for the applicant. It was not, however, determinative as the child's best interests were looked after by remaining with his parents in Canada.

[39] The IAD also assessed the hardship on the applicant and his family. It found that the applicant could come to Canada as a visitor and could be sponsored by his family when he is ready to establish himself permanently in Canada.

[40] In my view, the applicant's arguments amount to a mere disagreement with the IAD's assessment of the evidence and to the weight that it accorded to each factor. It is not the Court's role to reassess the evidence and reweigh the factors and the Court cannot substitute its own view of the evidence with that of the IAD's. This principle was clearly enunciated by the Supreme Court in *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 59, [2009] 1 SCR 339:

> 59 Reasonableness is a single standard that takes its colour from the context. One of the objectives of *Dunsmuir* was to liberate judicial review courts from what came to be seen as undue complexity and formalism. Where the reasonableness standard applies, it requires deference. Reviewing courts cannot substitute their own appreciation of the appropriate solution, but must rather determine if the outcome falls within "a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (Dunsmuir, at para. 47). There might be more than one reasonable outcome. However, as long as the process and the outcome fit comfortably with the principles of justification, transparency and intelligibility, it is not open to a reviewing court to substitute its own view of a preferable outcome.
>
> [Emphasis added]

[41] I also consider that the IAD's reasons are sufficient. This Court has affirmed that the duty to provide reasons does not require a decision maker to mention every piece of evidence, its probative value and how it relates to the conclusions (*Cepeda-Gutierrez c Canada (Minister of Citizenship and Immigration)*, 157 FTR 35 at para 16, 83 ACWS (3d) 264). The Supreme Court of Canada reaffirmed this principle in *NFLD and Labrador Nurses' Union*, above, at para 16 and 17, and made it clear that:

> 16 Reasons may not include all the arguments, statutory provisions, jurisprudence or other details the reviewing judge would have preferred, but that does not impugn the validity of either the reasons or the result under a reasonableness analysis. A decision-maker is not required to make an explicit finding on each constituent element, however subordinate, leading to its final conclusion (*Service Employees' International Union, Local No. 333 v. Nipawin District Staff Nurses Assn.*, [1975] 1 S.C.R. 382, at p. 391). In other words, if the reasons allow the reviewing court to understand why the tribunal made its decision and permit it to determine whether the conclusion is within the range of acceptable outcomes, the *Dunsmuir* criteria are met.
>
> 17 . . . Reviewing judges should pay "respectful attention" to the decision-maker's reasons, and be cautious about substituting their

> own view of the proper outcome by designating certain omissions in the reasons to be fateful.

[42] The reasons must not be read microscopically, but rather, they must be taken as a whole (*Liang v Canada (Minister of Citizenship and Immigration)*, 2003 FC 1501 at para 41-42, 128 ACWS (3d) 262). Furthermore, the IAD was not required to explain in detail the weight that it attributed to each piece of evidence and to each factor. The IAD's decision is reasonable because it allows the applicant to understand why it dismissed the appeal. It also allows this Court to determine whether the IAD's conclusions are within the range of acceptable outcomes. In my view, the reasons meet the standard of a justified, transparent and intelligible decision pursuant to the criteria outlined in *Dunsmuir*, above, at para 47 and the outcome is reasonable. Accordingly, I find no reason to interfere with the IAD's decision.

B. *Did a breach of procedural fairness arise because of a lack of adequate translation?*

[43] The applicant argues that the quality of translation at a hearing raises a breach of procedural fairness.

[44] The applicant alleges that there were material errors in the transcript due to inadequate translation and he submitted his own certified translations to demonstrate this. More specifically, he points out that the transcript on record incorrectly refers to the issuance of a contract in relation to court proceedings. The certified translation shows that the applicant was speaking about a court decree ordering the seizure of assets worth US $2 million. The applicant alleges that the interpreter also failed to interpret key parts of his testimony. For example, the applicant clearly explained that he took no vacations during the five-year reference period but the interpreter did not repeat that

statement to the IAD. The applicant argues that it is very likely that errors in translation contributed to the IAD's analysis and conclusion.

[45] The arguments raised by the applicant cannot succeed.

[46] First, I find that the error regarding the court decree is immaterial as nothing leads me to conclude that this error had any impact on the IAD's conclusions. Whether a contract was issued or a court decree was ordered does not affect the IAD's findings on whether the applicant's reasons for remaining in Iran were sufficient to warrant humanitarian and compassionate relief from his residency obligations.

[47] Second, as mentioned above, despite any error that could have occurred in the translation of the applicant's testimony about his travel outside of Iran, there is no doubt that he stated at the hearing that he was out of Iran for approximately one month during the reference period.

[48] In conclusion, while I acknowledge that the interpreter may have made some small errors during the hearing, I do not find, given the evidence submitted by the applicant, that these errors amounted to any breach of natural justice.

[49] For all of the above reasons, the application for judicial review is dismissed. The parties did not submit any question for certification and no serious question of importance arises in this case.

JUDGMENT

THIS COURT'S JUDGMENT is that the application is dismissed. No question is certified.

"Marie-Josée Bédard"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-5477-11
STYLE OF CAUSE:	BAHRAM NOORI NEKOIE v MCI
PLACE OF HEARING:	Montreal, Quebec
DATE OF HEARING:	March 1, 2012
REASONS FOR JUDGMENT AND JUDGMENT:	BÉDARD J.
DATED:	March 27, 2012

APPEARANCES:

Mr David Berger	FOR THE APPLICANT
Ms. Andrea Shahin	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Blanshay Goldberg Berger Montreal, Quebec	FOR THE APPLICANT
Myles J. Kirvan Deputy Attorney General of Canada Montreal, Quebec	FOR THE RESPONDENT