

97-2224(IT)G  
97-2225(IT)G

BETWEEN:

ALESSIO RAVAGNOLO,  
FRANCESCO PIPIA,

Appellants,

and

HER MAJESTY THE QUEEN,

Respondent.

[OFFICIAL ENGLISH TRANSLATION]

### **REASONS FOR TAXATION**

#### **The Registrar, T.C.C.**

[1] This taxation was heard by telephone conference on August 27, 2002. It gives effect to the judgment of the Honourable Judge Dussault, dated March 19, 2001, in which Judge Dussault ordered as follows:

The appeals from the assessments made under the *Income Tax Act* for the 1989, 1990, 1991 and 1992 taxation years are dismissed with costs to the respondent. However, as regards the costs awarded to the respondent for the services of counsel for each day or part day of hearing, only half of such costs are awarded in relation to each appellant. The whole in accordance with the attached Reasons for Judgment.

[2] The appeal was heard jointly with the appeal of Alessio Ravagnolo, Docket No. 97-2224(IT)G. The hearing lasted five days. The same Reasons for Taxation will apply to both appeals.

[3] The Appellants were represented by François Leduc and the Respondent was represented by Simon-Nicolas Crépin.

[4] The Respondent's Bill of Costs is reproduced below:

[TRANSLATION]

Tariff "B"

**1.(1) SERVICES OF COUNSEL**

1(1)(a)	For services prior to examination for discovery	\$250.00
1(1)(b)	For the examination for discovery of Francesco Pipia on September 14, 1999	\$250.00
	For the status hearing of March 15, 1999	\$250.00
	For the motion for special mode of service on November 8, 2000 ( $\$250 \div 2$ )	\$125.00
	For the taxation of costs	\$250.00
1(1)(c)	For the preparation of a hearing	\$250.00
1(1)(d)	For the conduct of the hearing for each day or part day $\$750 \times 5 \text{ days} = \$3,750 \div 2$ (only half such costs are awarded for each appellant)	\$1,875.00
1(1)(e)	For services after judgment	\$125.00
	<b>TOTAL FOR SERVICES OF COUNSEL</b>	<b>\$3,375.00</b>

**1.(2) DISBURSEMENTS**

Reporting fees:	\$512.32
Transcript of examination for discovery (\$313.51)	
Reserved reporting services in Montréal on October 2, 2000 (\$37.45)	
Partial transcription of the recording of the hearing of December 2 and December 3, 1999 (\$673.67)	
Total: $\$1,024.63 \div 2$	
Witness Fee – Tariff A – Schedule II of the Rules:	\$125.00
20/23-11-2000: Michel Candussi – \$100	
22-11-2000: Michel Candussi – \$50	
22-11-2000: Claudia Guénette – \$50	
23-11-2000: Francesco Pulciani – \$50	

Photocopies \$196.74  
\$149.60 + \$184.98 + \$58.91  
Total: \$393.49 ÷ 2

Bailiff \$181.31  
24-09-1997: Service of Reply to the Notice of Appeal  
(\$6.42)  
29-06-1999: Service of list of documents  
(\$6.42)  
07-11-2000: Service of subpoena on  
Michel Candussi c/o Les Planchers de béton  
Candussi (\$57.86 ÷ 2)  
10-11-2000: Service of subpoena on  
Francesco Pulciani (\$79.59 ÷ 2)  
13-11-2000: Service of subpoena on  
Claudia Guenette (\$138.13 ÷ 2)  
16-11-2000: Service of subpoena and  
copy of Order on Michel Candussi  
(\$61.37 ÷ 2)  
Total: \$6.42 + \$6.42 + (\$57.86 + \$79.59 +  
\$138.13 + \$61.37 = \$336.95 ÷ 2 = \$168.47

**TOTAL DISBURSEMENTS: \$1,015.37**

**TOTAL SERVICES OF COUNSEL  
AND DISBURSEMENTS: \$4,390.37**

[5] I will deal with the questions on which the parties did not reach an agreement.

[6] The first point concerns [TRANSLATION] "For the motion for special mode of service on November 8, 2000 (\$250 ÷ 2)" for a total of \$125.00. The same item appears in the bill of costs in Mr. Ravagnolo's matter, so the amount claimed for both files is \$250.00.

[7] Mr. Leduc argues that since it was not necessary to act on this motion, the item should not be granted. He asserts that this motion was unnecessary, and questions why the Appellants should bear the costs thereof.

[8] Counsel for the Crown argues that the motion was necessary because it was difficult to track down the witness Michel Candussi. A motion was brought in the Court, and, based on an examination of the file and of the Order dated November 10, 2000, counsel for the Respondent did try to serve a subpoena on Michel Candussi without success. The Court accepted counsel's arguments and ordered the substituted service of the subpoena on Mr. Candussi.

[9] I disagree with the arguments of counsel for the Appellants. Based on the court file and the affidavit in support of the Crown's motion, there were three unsuccessful attempts to serve a subpoena on Mr. Candussi. The Court ordered substituted service, and the bailiff was able to serve the document on a person who lived with Mr. Candussi. I will allow the sum of \$125.00 for each matter, for a total of \$250.00.

[10] The second point is the legal fees for the [TRANSLATION] "taxation of costs". Counsel for the Appellant argues that the submissions made by the two solicitors upon the taxation apply to both matters, and that I should therefore not allow costs for both matters. Counsel for the Respondent asserted that two bills of costs were submitted, each of which complied with the Court's judgment.

[11] I agree with counsel for the Appellants. The submissions upon the taxation of costs applied to both matters, and only one set of legal fees for the taxation will be allowed. I will subtract \$250 from the instant matter and leave the claimed amount in Mr. Ravagnolo's matter in connection with both matters.

[12] The third point of contention is the costs of the [TRANSLATION] "Partial transcription of the recording of the hearing of December 2 and December 3, 1999 (\$673.67)". Counsel for the Crown submits that this item was essential to the proper conduct of the hearing. He submits that transcription would have been necessary if the Court had requested a copy of the transcript, or if the witness Mr. Candussi had given contradictory testimony. Counsel for the Appellants submits that there was no reason for this expense and that no transcript was used at the hearing or tendered in evidence. He asserts that the transcript could have been ordered if the witness had given contradictory testimony. The transcript was of Mr. Candussi's testimony in another matter. I agree with counsel for the Appellants. Mr. Crépin could have taken possession of the tapes and had them played during the hearing as needed. If the Court had wished to obtain a copy of the transcript at that time, it could have been ordered, thereby avoiding needless expense. I would disallow this item totalling \$673.67.

[13] The next point in issue is the \$50 [TRANSLATION] "Witness Fee" for Mr. Candussi. Counsel for the Appellants objects to reimbursing Michel Candussi's witness fee. He submits that Mr. Candussi was a Crown witness and that he should therefore not reimburse the witness fee. I disagree with this assertion. Subsection 4(1) of Tariff A is very clear because it states that a witness "is entitled to be paid by the party who arranged for his or her attendance \$50 per day . . ." No one is disputing the fact that the witness received the \$50, and, under Tariff A, this is an item that can be claimed on a taxation of party and party costs. I will allow the amount of \$25.00, which represents half the amount claimed in each matter, for a total of \$50.00 duly payable on account of witness fees.

[14] The next point in issue is the number of photocopies claimed, and the fact that the photocopying job is marked urgent on some of the invoices. Counsel for the Appellants wonders whether the photocopy cost is higher when the request is urgent. Counsel for the Respondent was unable to answer this question.

[15] I have examined the file, and, in my opinion, the number of copies requested and made is not unreasonable for a five-day hearing. Moreover, I am not convinced that the cost of the copies was higher because some of them were urgent. There is no difference between the amount billed for copies that were done by a regular deadline and the amount billed for the urgent copies. I will allow \$196.74 in each matter for this item, for a total of \$393.48.

[16] It should be mentioned that the amount allowed in relation to the above items takes account of the fact that there was a single Bill of Costs for both appeals. Upon preparing the Bill of Costs, counsel for the Crown halved all the claimed amounts in order to comply with the Court's judgment, and Certificates of Costs, each representing half the total amount, will be issued accordingly.

[17] Consequently, I allow costs in the amount of \$3,791.03 in matter of Francesco Pipia, Docket No. 97-2225(IT)G. I also allow costs in the amount of \$4,048.54 in the matter of Alessio Ravagnolo, Docket No. 97-2224(IT)G.

[18] A certificate will be issued in each matter.

Signed at Ottawa, Canada, this 23rd day of December 2002.

"R.P. Guenette"

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T.C.C.J.

Translation certified true  
on this 25th day of February 2009.

Brian McCordick, Translator