

Docket: 2009-2342(IT)G

BETWEEN:

CHANDLER TURNNIR,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on September 16, 2011, at Vancouver, British Columbia

Before: The Honourable Justice Valerie Miller

Appearances:

For the Appellant: The Appellant himself
Counsel for the Respondent: Selena Sit

JUDGMENT

The appeal from the reassessments made under the *Income Tax Act* for the 1999, 2000 and 2001 years is dismissed with costs in accordance with the attached Reasons for Judgment.

Signed at Ottawa, Canada, this 20th day of October 2011.

“V.A. Miller”

V.A. Miller J.

Citation: 2011TCC495
Date: 20111020
Docket: 2009-2342(IT)G

BETWEEN:

CHANDLER TURNNIR,

Appellant,

and

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Respondent.

REASONS FOR JUDGMENT

V.A. Miller J.

[1] The Appellant has appealed the reassessment of his 1999, 2000 and 2001 taxation years in which the Minister of National Revenue (the “Minister”) included unreported income in the Appellant’s income as follows:

<u>Year</u> Reassessment	Employment/ Other Income	Taxable Dividends	Interest Income
<u>1999</u> April 29, 2005	\$ 64,200.00	\$ 15,375.00	
<u>2000</u> March 7, 2002 April 29, 2005	\$ 20,000.00 \$444,000.00	\$ 12,741.00 \$ 3,750.00	\$122.00
<u>2001</u> April 29, 2005	\$ 16,283.63 \$ 4,500.00 \$ 10,205.00		

The Minister also assessed gross negligence penalties in each of the years and a late filing penalty for the 2000 taxation year.

[2] The Appellant reported nil income on his income tax returns for 1999, 2000 and 2001.

[3] In 2006, the Appellant was convicted by the Provincial Court of British Columbia of evading the payment of taxes by failing to report taxable income in the amount of \$574,075 between December 31, 1999 and May 1, 2002. The Appellant's defence at the criminal proceedings was that he was a "natural person".

[4] According to the Reply, the Minister made the following assumptions of fact when he determined the Appellant's income tax liability:

- a) at all material times the Appellant was the sole shareholder, director and the president of Chandler Holding Ltd. ("Chandler") which was formerly known as Fair Garbage Disposal Ltd. ("Fair Garbage");
- b) Fair Garbage changed its name to Chandler on February 18, 2000;
- c) at all material times the Appellant was an employee of Fair Garbage and Chandler;
- d) Fair Garbage's and Chandler's year end were both October 31;
- e) Fair Garbage and Chandler operated as a garbage disposal business;
- f) in February 2000 Chandler sold the garbage disposal business after which it operated as a holding company;

1999 Unreported Employment Income: \$64,200.00

- g) in 1999 Fair Garbage paid the Appellant employment income in the amount of \$64,200.00 as follows:
 - i) salary in the amount of \$5,000.000 per month from January to December; and
 - ii) vacation pay in August 1999 in the amount of \$4,200;
- h) Chandler issued the Appellant a T4 slip indicating that the Appellant received the amount of \$64,200.00 in employment income in 1999;
- i) the Appellant did not include his receipt of \$64,000.00 in employment income that he received from Chandler in 1999 in his tax return filed with the Minister for the 1999 taxation year;

1999 Unreported Taxable Dividends: \$15,375.00

- j) in 1999 the Appellant withdrew funds from Chandler utilizing his shareholder loan account in the amount of \$12,300.00 (the “1999 Funds”);
- k) the Appellant used the 1999 funds for his personal investment purposes;
- l) the Appellant and his accountant determined that Chandler would treat these 1999 Funds as dividends received by the Appellant in 1999;
- m) Chandler issued the Appellant a T5 slip indicating that the Appellant received the amount of \$15,375.00 in taxable dividends in respect of the 1999 Funds;
- n) the Appellant did not include his receipt of the 1999 Funds in the amount of \$15,375.00 that he received from Chandler in 1999 in his tax return filed with the Minister for the 1999 taxation year;

2000 Unreported Employment Income: \$20,000

- o) in 2000 Chandler paid the Appellant salary in the amount of \$5,000.00 per month from January to April for a total amount of employment income of \$20,000.00;
- p) Chandler issued the Appellant a T4 slip indicating that the Appellant received the amount of \$20,000 in employment income in 2000;
- q) the Appellant did not include his receipt of \$20,000 in employment income that he received from Chandler in 2000 in his tax return filed with the Minister for the 2000 taxation year;

2000 Unreported Other Employment Income: \$444,000.00

- r) in April 2000 the Appellant withdrew funds from Chandler utilizing his shareholder loan account in the amount of \$905,000.00 (the “2000 Funds”);
- s) the Appellant used the 2000 Funds for his personal investment purposes;
- t) the Appellant and his accountant determined that Chandler would offset this \$905,000.00 shareholder loan debit by declaring a shareholder bonus in 2000 in the amount of \$444,000.00;
- u) Chandler did not issue the Appellant a T4 slip indicating that the Appellant had received a shareholder bonus in the amount of \$444,000.00 in 2000;

- v) the Appellant did not include his receipt of the shareholder bonus in the amount of \$444,000.00 that he received from Chandler in his tax return filed with the Minister for the 2000 taxation year;

2000 Unreported Taxable Dividends: \$12,741.00

- w) in 2000 received dividends of \$9,000.00 from Chandler
- x) Chandler issued the Appellant a T5 slip indicating that the Appellant received the amount of \$11,250.00 in taxable dividends in 2000;
- y) in 2000 the Appellant received a dividend amount of \$1,193.00 from Odlum Brown Ltd. (“Odlum”);
- z) Odlum issued the Appellant a T5 slip indicating that the Appellant received the amount of \$1,491.00 in taxable dividends in 2000;
- aa) in his 2000 tax return filed with the Minister the Appellant did not include taxable dividends from Chandler of \$11,250.00 or from Odlum of \$1,491.00;

2000 Unreported Taxable Dividends: \$3,750.00

- bb) in November 2000 the Appellant received additional dividends from Chandler in the amount of \$3,000.00;
- cc) Chandler did not issue the Appellant a T5 slip indicating that the Appellant received the amount of \$3,750.00 in taxable dividends in 2000;
- dd) the Appellant did not include his receipt of taxable dividends from Chandler in the amount of \$3,750.00 in 2000 in his tax return filed with the Minister for the 2000 taxation year;

2001 Unreported Employment Income: \$16,283.63

- ee) the Appellant withdrew salaries in the amount of \$16,283.63 itemized as “contract labour”;
- ff) Chandler expensed these amounts through the “salaries” account and at year end adjusted these amounts to the “contract labour” account;
- gg) Chandler did not issue a T4 slip to the Appellant for the employment income it paid to the Appellant in the amount of \$16,283.63 in 2001;
- hh) the Appellant did not report his receipt of employment income from Chandler in 2001 in the amount of \$16,283.63 in his tax return filed with the Minister for the 2001 taxation year;

2001 Unreported Employment Income: \$4,500.00

- ii) the Appellant received an additional amount of employment income from Chandler in 2001 in the amount of \$4,500.00 in respect of “contract labour”;

Unreported Other Employment (Vehicle Standby Charge and Operating Cost Benefit)

- jj) the Appellant had a 1991 Cadillac Seville automobile made available to him by Chandler 2001 (the “Cadillac”);
- kk) in 2001 Chandler paid all of the operating costs of the Cadillac;
- ll) in 2001 the Appellant did not reimburse Chandler for any of the operating costs associated with the Cadillac;
- mm) in 2001 the Appellant did not keep a mileage log to record his business use or personal use of the Cadillac;
- nn) the Appellant drove the Cadillac approximately 18,000 kilometres per year in 2001;
- oo) in 2001 the Cadillac had a 10% business use;
- pp) the cost to Chandler for providing the use of this Cadillac to the Appellant was \$31,722.60;
- qq) the Appellant received a standby charge from Chandler in 2001 in the amount of \$7,613.00 in respect of the Cadillac; and
- rr) the Appellant received an operating cost benefit for Chandler in 2001 in the amount of \$2,592.00 in respect of the Cadillac.

[5] At the hearing of this appeal, it was the Appellant’s position that he is the “authorized administrator of the legal person named” in the Reply. He stated that all of the assumptions were false because he is a “sovereign person” and as such he does not have to pay taxes unless it can be shown that there is a contract between him and the Government of Canada. It was his opinion that only government employees had to pay taxes. The Appellant made other statements which reflected his displeasure with the governments of Canada and British Columbia. He stated that he was not relying on the “natural person” argument which I note was his position in his Notice of Appeal.

[6] Subsequent to the hearing, the Appellant filed documents with the court which purported to show that there was a Security Agreement between him, “the flesh and blood living man” and the straw man / legal entity CHANDLER TURNNIR.

[7] The Appellant did not attempt to satisfy the burden of proof. Aside from stating that the assumptions were incorrect, he adduced no evidence to challenge the assumptions.

[8] The Appellant’s argument that he is a “sovereign person” and cannot be taxed unless there is a contract between him and the government is without merit. The *Income Tax Act* (the “Act”) does not distinguish between “person”, “natural person” and “sovereign person”. The definition of “person” in section 248 of the *Act* includes a “flesh and blood living man” such as the Appellant. As stated by Gauthier J. in *M.N.R. v Stanchfield*, 2009 FC 99 at paragraph 17:

...The whole notion of their being a second capacity distinct from the one of a natural person or human being is a pure fiction, one which is not sanctioned by law. One can describe nothing in any terms one wishes; it still remains nothing.

[9] The Appellant is a “person” who was resident in British Columbia, Canada in 1999, 2000, and 2001 and the income he received in those years is taxable.

[10] It is worth mentioning that the Appellant has argued that he is not liable for income taxes; and yet, he seeks the benefits of being a person resident in Canada. In his income tax returns he applied for the GST credit. Also, the 2000 T4 corporate summary showed that he had the maximum pensionable earnings for *Canada Pension Plan* purposes. At the criminal proceedings, the Appellant explained this by stating that “the taxpayer is entitled to any benefits which he is entitled to” and the “taxpayer” wanted to maximize his Canada Pension.

[11] The Minister has the burden to show that gross negligence penalties were properly assessed. According to the Federal Court in *Venne v. The Queen*, 84 DTC 6247, gross negligence involves a high degree of negligence tantamount to intentional acting or indifference as to whether the law is complied with or not.

[12] The evidence has shown that prior to 1999 the Appellant reported his income and paid taxes on it. He stated that in 1999 he found out that there must be a contract between the legal person and the government in order for him to be liable for taxes. He wrote to the Canada Revenue Agency (“CRA”) and was told that he had to report all of his income. In spite of this, the Appellant reported nil income in his income tax returns for 1999, 2000 and 2001. The Appellant was also advised by his former accountant, R. W. Burr, C.A., that he had to report the amount of \$444,000 which he

withdrew in 2000 from his corporation, Chandler Holdings Ltd. In a letter dated December 18, 2001 to the Appellant, Mr. Burr wrote:

I am concerned that \$444,000 of wages were shown in the company records, paid to you in the prior year, that you have not reported on a personal tax return nor prepared T4 slips for (both of which I would argue are necessary).

You should be aware that you have a risk of having the wage deduction disallowed in the company because you have failed to report it personally.

In view of your opinion that you do not agree with the current assessment of personal income taxes, I am enclosing a photocopy of a recent release concerning a tax court case that went against a taxpayer with similar views. You might find this of interest and you should consider it carefully in your current stand.

[13] The Appellant's failure to report his income was intentional and I am satisfied that the Respondent has met the onus in this appeal and the subsection 163(2) penalties were properly assessed.

[14] The late filing penalty was also properly imposed and the Appellant did not speak to the issue.

[15] The appeal is dismissed with costs.

Signed at Ottawa, Canada, this 20th day of October 2011.

“V.A. Miller”

V.A. Miller J.

CITATION: 2011TCC495

COURT FILE NO.: 2009-2342(IT)G

STYLE OF CAUSE: CHANDLER TURNNIR AND
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PLACE OF HEARING: Vancouver, British Columbia

DATE OF HEARING: September 16, 2011

REASONS FOR JUDGMENT BY: The Honourable Justice Valerie Miller

DATE OF JUDGMENT: October 20, 2011

APPEARANCES:

For the Appellant:	The Appellant himself
Counsel for the Respondent:	Selena Sit

COUNSEL OF RECORD:

For the Appellant:

Name:

Firm:

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