Federal Court  Cour fédérale

Date: 20140916

Docket: T-1154-13

Citation: 2014 FC 880

Ottawa, Ontario, September 16, 2014

PRESENT: The Honourable Mr. Justice O'Keefe

BETWEEN:

SANDRA VIOLET SUMMERS

Applicant

And

MINISTER OF NATIONAL REVENUE

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application under section 41 of the *Access to Information Act*, RSC 1985, c A-1 [the Act].

[2] The applicant asks the Court to allow the application for judicial review and order the Canada Revenue Agency (CRA) to disclose all audit documentation which supports the CRA's decision to disallow the business losses the applicant claimed in her 2007 tax return. The applicant further requests all documents related to the garnishment of her wages due to the 2007

reassessment. In the alternative, if the documents were destroyed or not found, the applicant wishes to know what happened to them.

[3] The respondent asks the Court to dismiss this application.

I. Background

[4] In 2008, the CRA reassessed the applicant's 2007 tax return because she was involved in what it determined to be a tax avoidance scheme (the Synergy scheme).

[5] In the Synergy scheme, taxpayers would purchase units in a corporation. The corporation would then provide consulting services to small businesses in exchange for 5% of the business profits and 95% of the business losses. These losses would be allocated to unit holders. The applicant was one of these unit holders and incurred substantial business losses as part of the Synergy scheme which she deducted from her 2007 tax return.

[6] Because of the disallowance of the business losses from the alleged scheme, the applicant had a significant amount of taxes owing. Her file was forwarded to the CRA's collections unit, which took steps to recover the unpaid tax by collecting it from her wages. The respondent states the deduction of the debt owed from the applicant's wages was a statutory set-off, not a garnishment and as such, a notice of objection would not stop the wage deduction. However, it should be noted that the CRA in its correspondence with the applicant referred repeatedly to garnishment, not statutory set-off. Nothing turns on this point, but I will refer to the deduction as the garnishment action.

[7] On August 6, 2008, the applicant filed a notice of objection which was meant to cease the garnishment action. By CRA error, garnishment continued. There is documentation relating to a refund and it appears the applicant paid the full amount owing.

[8] On August 29, 2012, the applicant submitted an access to information request by registered mail to the CRA. She requested all documents relating to "Re: CRA Notice of Assessment and/or Reassessment to me for the year 2007, and my Notice of Objection thereto, dated the 6 day of August, 2008."

[9] On August 30, 2012, she faxed this request which the CRA received. This application was supposed to come with a $5 payment. The CRA says it did not receive this payment. However, the applicant claims she sent a cheque and the CRA lost it. Though the CRA searched for the $5 cheque, it could not be found.

[10] On September 28, 2013, the CRA received the request again along with a cheque for the $5 fee. The CRA began searching for the records.

II. The First Disclosure

[11] On November 20, 2012, the CRA sent the applicant a package of documents, consisting of 88 pages (the first disclosure).

[12] The first disclosure was assembled by two CRA ATIP analysts, Abagail Bauer and Mary Read. The first analyst in charge of the file, Ms. Bauer, contacted the Burnaby-Fraser Tax

Services Office, which is the local office for the applicant's records. She also contacted the Thunder Bay office, where personal tax returns of many of the participants in the Synergy scheme were stored. In the course of the investigation, she also contacted the Shawinigan office, but was informed that office did not have any of the applicant's records.

[13] On November 2, 2012, Ms. Read was assigned. Ms. Read was told no audit had been performed on the applicant's 2007 tax year. This information came from the Vancouver Island Tax Services Office. She made four redactions to remove a third party's social insurance number and sent the first batch of documents to the applicant.

III. Second Request for Documents and the Second Disclosure

[14] On December 11, 2012, the applicant wrote to the CRA requesting further information, expecting the CRA to have included all information regarding the garnishment action taken against her, as well as to disclose information on the audit conducted on her file.

[15] After receipt of this letter, Ms. Read discovered an audit had occurred and that the Vancouver Island Tax Services Office erred in not providing documents related to the audit. In early December, Ms. Read began investigation but disclosure did not occur until December 31, 2012.

[16] In mid-December, the applicant complained to the Office of the Information Commissioner. On December 18, 2012, the applicant stated the CRA had failed to provide all requested records and objected to the use of subsection 24(1) to redact the documents.

[17] On December 20, 2012, Ms. Read received 13 pages relating to the audit of the applicant's 2007 tax year. Ms. Read made four redactions to remove business numbers and CRA file numbers of third parties.

[18] On December 24, 2012, Ms. Read was informed of the complaint to the Commissioner.

[19] On December 31, 2012, the additional documents were sent to the applicant, roughly four months from the time of the first access to information request.

IV. Third Request for Documents

[20] On January 17, 2013, the applicant made a third request for further documents. An investigator from the Office of the Information Commissioner (OIC), Martin Leroux, contacted Ms. Read. He explained that the applicant's first request would include information related to the garnishment of her wages and though the CRA disagreed, they should disclose the information.

[21] On March 14, 2013, Ms. Read received a document through the investigator from the applicant, a statutory set-off notice, dated October 23, 2008. This document had not been disclosed by the CRA in either the first or the second batches of disclosure, but the applicant had a copy in her possession.

[22] Ms. Read took a number of steps to obtain further documents. The further investigation turned up archived collections of computer diary entries, two letters concerning notices of

objection and one concerning the garnishment action. Ms. Read further requested a statement of account.

[23] During the process, Ms. Read contacted the CRA's Taxpayer Services and Debt Management Branch. In the attempt to obtain collections diary entries, she learned that some of the archived records relating to the applicant were destroyed due to the records being older than four years old. She informed the OIC investigator who wrote this in his report to the applicant.

[24] On May 30, 2013, the OIC determined the applicant's complaint was well-founded, but was resolved.

V. Application for Judicial Review and Fourth Disclosure

[25] On June 26 2013, the applicant applied for judicial review.

[26] After being served with the judicial review, the CRA began to search for additional documentation. It discovered it had not destroyed any records, contrary to what was previously told to the applicant.

[27] The newly discovered documents included 36 pages of records relating to the 2007 tax year - documents which had been sitting untracked at the Surrey Tax Centre. Further documents included three records relating to the 2007 tax year from the Vancouver Island office and two documents related to the GST and B.C. Climate Action credits, unrelated to the Synergy Scheme.

VI. Decision

[28] The CRA has taken the position throughout that in order to disclose any taxpayer information related to the corporate parties in the Synergy scheme, the applicant must provide them with a cross-consent and other documentation specifically allowing her access to the information.

[29] The CRA, prior to the judicial review being launched, had not disclosed all information which existed. It only did so after the launch of the judicial review.

VII. Issues

[30] The respondent phrases the issues as:

1. Is the Respondent refusing the Applicant access to records requested in her request, and if so, is that refusal authorized under the Act? In particular:
   (a) Has the Respondent released to the Applicant all of the records to which she is entitled under the Act in respect of her request? and;
   (b) Were the released records properly redacted, pursuant to the exemption against disclosure set out in subsection 24(1) of the Act?
2. Did the Respondent breach the principles of fundamental justice or procedural fairness?

[31] The applicant states the issues are:

1. The Respondent breached natural justice and procedural fairness by failing to disclose documents.
2. The CRA had no right to redact documents under susbsection 24(1) of the Act or non-release documents relating to the Synergy corporate persons under section 241 of the *Income Tax Act*, as they are agents for the Applicant.

[32] I would restate the issues as:

A. Did the CRA fail to disclose all of the applicant's information?

B. Can the CRA disclose taxpayer information on the Synergy corporate persons to the applicant?

C. Was there a breach of procedural fairness or fundamental justice and what is the appropriate remedy if there was such a breach?

D. Is the applicant entitled to costs in any event, due to the CRA's misconduct?

VIII. Applicant's Submissions

[33] The applicant submits that the CRA had no right to redact her information and it should have disclosed evidence related to the Synergy scheme, as the corporate persons were her agents.

[34] The applicant wishes the CRA to disclose additional information relating to her 2007 reassessment, audit and garnishment and would like the CRA to confirm whether the CRA destroyed her collection tax records, and if so, why.

[35] The applicant alleges there is a breach of procedural fairness or fundamental justice, as the respondent has consistently delayed disclosure of information, withheld information, destroyed information and mislead the applicant as to what information was available.

[36] The applicant makes no submissions with respect to entitlement to costs due to the CRA's misconduct.

IX. Respondent's Submissions

[37] The respondent states that since the application for judicial review was filed, it has done a more thorough search and has now disclosed all previously undisclosed documents to the applicant. It argues that because of this, the Federal Court lacks jurisdiction over this matter.

[38] The respondent states subsection 24(1) of the Act prevents the disclosure of any information listed in Schedule II of the Act. This includes section 241 of the *Income Tax Act*, RSC 1985, c 1 (5th Supp), the restriction on disclosure of any taxpayer information other than to the taxpayer, without consent. The respondent states the OIC explained this position to the applicant.

[39] The redacted information includes business numbers and social insurance numbers of the Synergy corporate persons. Further, there appears to be an undisclosed audit report conducted on the Synergy corporate persons.

[40] The respondent states it has not received consent from the Synergy corporate persons to disclose this information, and as such, it was properly redacted.

[41] In the alternative, the disclosure does not fall within an exception under section 241 of the *Income Tax Act*. The respondent cannot release the audit of the Synergy corporate persons to the applicant.

[42] The respondent states the applicant has not demonstrated a breach of procedural fairness. Further, the principles of fundamental justice only arise under section 7 of the Canadian *Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11, which is not at issue in this proceeding.

[43] The respondent makes no submissions on the applicant's request and entitlement to costs.

X. Analysis and Decision

A. *Issue 1: Did the CRA fail to disclose all of the applicant's information?*

[44] It appears that as a result of the applicant's judicial review, the respondent has disclosed all additional information requested by the applicant, but for information it cannot disclose under subsection 24(1) of the Act.

[45] However, over the course of the investigation, the respondent failed to disclose information, stated the applicant's information had been destroyed, misplaced information and created an environment lacking in trust between the respondent and the applicant.

[46] The respondent further argues that absent a genuine or continuing refusal or a deemed refusal to disclose, the Federal Court is without jurisdiction to make an order under section 49 of the Act (see *X v Canada (Minister of National Defence*) *(1990),* [1991] 1 FC 670, 41 FTR 73 [*X v Canada (Minister of National Defence*)] ; *Blank v Canada (Minister of Justice)*, 2009 FC 1221 at paragraph 9, 373 FTR 1 [*Blank FC*], aff'd 2010 FCA 183, 409 NR 152; *Rubin v Canada (Minister of Foreign Affairs and International Trade)*, 2001 FCT 440 at paragraph 11, 204 FTR 313 [*Rubin*]; *Public Service Alliance of Canada v Canada (Attorney General)*, 2011 FC 649 at paragraphs 21 to 23, 391 FTR 28; *Statham v Canadian Broadcasting Corporation*, 2010 FCA 315 at paragraph 30, [2012] 2 FCR 421 [*Statham*]; *Canada (Information Commissioner) v Canada (Minister of External Affairs)* (1988), [1989] 1 FC 3 at 13 and 14, 18 FTR 278 (TD)).

[47] The respondent also states that the above cases suggest the Court should not examine the reasonability of the conduct of the internal affairs of a government department.

[48] The respondent is incorrect that the Court has lost jurisdiction. In *Statham*, the Federal Court of Appeal determined at paragraph 30 that where information had been released only due to a judicial review being launched, the Federal Court retains jurisdiction to hear additional matters, such as costs:

> Further, on the facts before the Judge I am satisfied that he committed no reviewable error in the exercise of that discretion.

> Mr. Statham had conceded before the Prothonotary that if every request for access was responded to the application would become moot and would be withdrawn. Given that Mr. Statham's complaint to the Commissioner only concerned the CBC's deemed refusal of access, and given the clarifications Mr. Statham gave to the Prothonotary, referred to in the quotation at paragraph 11 above, Mr. Statham's concession was correct in law. Once all of the access requests were responded to, the rights of the parties in relation to those responses could not be affected by any decision in the pending application for judicial review. With respect to the Judge's reference to the Court lacking "jurisdiction to entertain the application", there was no issue of jurisdiction in the sense the Court was forbidden from speaking on the issues before it. After the access requests were responded to the Court could still consider issues such as costs.
>
> [Emphasis added]

[49] In any event, there are two issues of disclosure: the applicant's personal information relating to her 2007 reassessment and information about the corporate taxpayers in the Synergy scheme.

[50] The applicant's personal information has been disclosed due to the launching of this application for judicial review. However, issues remain relating to the redaction of that information and the non-disclosure of information relating to the Synergy corporate persons are still live issues in this case.

B. *Issue 2: Can the CRA disclose taxpayer information on the Synergy corporate persons to the applicant?*

[51] The respondent states that it cannot produce information on the Synergy corporate taxpayers. Further, it argues it properly redacted the documents sent to the applicant. The

applicant states the corporate persons were its agents, and as such, it has deemed consent to see their tax returns; and in any event, needs the information to properly defend herself in Tax Court.

XI. The Law

[52] The standard of review of a section 41 *Access to Information Act* request is correctness, with regard to the recommendations of the Office of the Information Commissioner (see *Canadian Council of Christian Charities v Canada (Minister of Finance)*, [1999] 4 FC 245 at 255 and 256, 168 FTR 49 (TD) [*Canadian Council*]; *Blank FC* at paragraphs 26 to 31 and 41).

[53] The respondent has the burden of proving an exemption applies.

[54] The exemption under subsection 24(1) of the *Access to Information Act* is mandatory. Subsection 241(1) of the *Income Tax Act* prohibits disclosure of taxpayer information without consent, or unless the information falls within an exception.

[55] In *Canadian Council* at paragraph 46, the Federal Court has noted that it is important to maintain the strict confidentiality of taxpayer information:

> … not only as a matter of fairness to individuals who are required by law to supply information to the Minister, but also for the effect of disclosure on the efficient administration of the *Income Tax Act*. If taxpayers become concerned about Revenue Canada's ability to keep confidential information about their financial affairs, they are likely to be less forthcoming in providing information that Revenue Canada requires for the expeditious and accurate assessment of tax liability.

[56] The exceptions in section 241 of the *Income Tax Act* at issue in this case are where the taxpayer information is reasonably necessary for the purposes of determining any tax, interest penalty or other amount payable by the requesting party (see paragraph 241(4)(b)); or where it is reasonably necessary for the purposes of the administration and enforcement of the *Income Tax Act* (see paragraph 241(4)(a)).

[57] Where a government institution fails to give access to a record within the time limits set in the *Access to Information Act*, the institution is deemed to have refused access.

[58] On judicial review, if the court finds the institution is not authorized to refuse to disclose a record, the court shall order the head of the institution to disclose the record, subject to conditions, or make such other order as appropriate (see *Access to Information Act*, sections 41 and 49).

[59] The respondent submits that the applicant has provided no more than assertions that the corporate taxpayer information is necessary to create a Tax Court defence. In any event, if the applicant goes to Tax Court, the respondent says that it will be able to obtain such disclosure through the *Tax Court of Canada Rules*.

[60] Further, the respondent submits the applicant has not provided any information to conclude the release of the audit records is necessary for the purposes of the administration and enforcement of the *Income Tax Act*.

[61] The applicant argues that as the Synergy corporate persons were her agents, she should have access to their tax returns. This argument is unsupported by law. Her allegation that she requires the Synergy corporate persons audit information in order to defend or appeal her tax assessment to Tax Court is more compelling, but she has provided no information on why this is necessary.

[62] The respondent cites *Scott Slipp Nissan Ltd v Canada (Attorney General)*, 2005 FC 1477 at paragraphs 52 and 53, 283 FTR 62 [*Scott Slipp*], to demonstrate that the applicant has not demonstrated why the release of records would be necessary:

> 52 The Applicant says that the release of the confidential information to the Applicant is clearly necessary for it to properly deal with its Notice of Objection and the underlying assessment. The Minister never challenged the necessity of that disclosure. The purpose of the disclosure is to allow for the proper administration of the Act, which includes the Notice of Objection process. The disclosure is solely for that purpose. As such, it falls squarely within paragraph 295(5)(a) of the Act.
>
> 53 The disclosure is also necessary for the determination of the liability or obligation of the taxpayer, as contemplated by paragraph 295(5)(b). Since the litigation process exemption (s. 295(3)) covers the interests of the Minister in determining liability or obligations, as found in *Slattery*, paragraph 295(5)(b) must include the administrative processes and is focused on disclosure for the use of the taxpayer. Other provisions cover disclosure for governmental purposes. The disclosure requested is to permit the Applicant to better know and potentially reduce or eliminate his alleged tax liability. Disclosure in this case would meet the purpose of and be consistent with the words in paragraph 295(5)(b).

[63] Though uncited, the preceding paragraphs in *Scott Slipp* state:

> 49 In my view, the Notice of Objection stage of the appeal process accords a taxpayer the important right to know the true basis of an assessment, to consider its position, to make

> meaningful responses to departmental officials. The goal of the process includes assurance that the assessment process is fair, to resolve tax issues without resorting to litigation and to narrowing any issues to be litigated. To deny a taxpayer as meaningful disclosure as the circumstances allow does not serve the interests of the administration and enforcement of the Act.
>
> 50 The right to proceed through the Notice of Objection stage cannot be denuded of value by a blanket claim of confidentiality. If that process is to be meaningful, it must equip the disputing taxpayer with sufficient information, particularly when CRA relies on sources outside the control of the taxpayer. It is not a sufficient answer to a request for documents that all will be disclosed when the taxpayer proceeds to court.
>
> [Emphasis added]

[64] I am unclear as to how the above paragraphs assist the respondent. It may be arguing that the applicant did not show the information was necessary for a defence or that the information falls into one of the exceptions to section 241 of the *Income Tax Act*. The applicant states she wishes the audit report of the Synergy corporate persons provided to her such that she can create a Tax Court case for the notice of objection process. However, it is unclear as to whether or not the applicant continues to have a valid notice of objection in place or why and how the Synergy corporate person tax information would assist the applicant.

[65] The respondent states the audit of the Synergy corporate taxpayers is not necessary, as the applicant's tax reassessment was based on the business loss claimed from the scheme. The personal audit of her focused on whether or not the activities with Synergy were "business" activities resulting in "income from a source" and provides enough information for the applicant to pursue her notice of objection. It provides an analysis by the CRA of the scheme as a "sham", as well as an unregistered tax shelter.

[66] I agree with the respondent. To allow the applicant to access the Synergy corporate taxpayer records on the basis of an agency agreement executed with the Synergy corporate persons is the same as allowing a home buyer to access a realtor's tax records. They are still the personal tax records of the corporate persons and as such, are protected by section 241 of the *Income Tax Act* unless consent is granted. Further, the audit report of the applicant is quite clear as to why her business losses were disallowed.

A. *Issue 3: Was there a breach of procedural fairness or fundamental justice and what is the appropriate remedy if there was such a breach?*

[67] The respondent states the applicant has not demonstrated a breach of procedural fairness. Further, the principles of fundamental justice only arise under section 7 of the Canadian *Charter of Rights and Freedoms*, which is not at issue in these proceedings. The applicant raises just the issue in her memorandum of fact and law. I agree with the respondent that this is not an issue of fundamental justice.

[68] In this case, even if a duty of fairness arises, it has been discharged. The documents which can be disclosed have been disclosed. The OIC and the Federal Court's supervisory jurisdiction have remedied any breach. There are no damages awarded on judicial review.

[69] Further, I would cite the decision of the Federal Court in *X v Canada (Minister of National Defence)* at paragraph 9:

> … prior to this statute there was no common law or statutory right of access to records held by the Government of Canada and no right of action in respect thereto. How government institutions responded to requests by citizens for information was typically a

> matter for political judgment only and the sanctions, if any, for refusal to disclose were essentially political. Into this situation the *Access to Information Act* was introduced, relying in large measure on (1) a statutory codification of rules for the guidance of officials as to what records should or should not be disclosed; (2) over-all administrative supervision of all government institutions in this respect by a "designated minister", referred to in section 70, who is to keep under review the manner in which "records" are maintained in the government and to prescribe for all institutions certain procedures for compliance with the Act; (3) an independent ombudsman-type officer, the Information Commissioner, who can receive complaints under the Act or indeed initiate such complaints, and can carry out investigations which can then be followed by discussions with departments with a view to resolving the problem without further difficulties; (4) reports to Parliament and designated committees of both Houses by the Information Commissioner under sections 38 and 39 and by heads of each institution under section 72; and (5) a right to seek judicial review in cases of actual or deemed refusal of access for the purpose of obtaining that access. It will be seen from this that a large measure of administrative and political control has been provided to try to ensure the proper administration of the Act, as well as a new right of action in specified circumstances. Among other matters of which complaint may be made to the Information Commissioner, a person requesting access may pursuant to paragraph 30(1)(c) complain that the institution head has extended unreasonably the time limit for response. Such a complaint can be pursued by the Information Commissioner and can be the subject of a special report to Parliament or be referred to in a general report. The Information Commissioner can also through such processes identify and report on patterns of conduct or systemic deficiencies, where similar complaints are frequently made about the same institution or about access to the same type of information.
>
> [Emphasis added]

[70] It appears the OIC is in place to address a breach of procedural fairness or a lack of investigation and the Federal Court acts as a safe-guard to the rights of the individual making the request.

B. *Issue 4: Is the applicant entitled to costs in any event, due to CRA's misconduct?*

[71] Neither party has made submissions on this point.

[72] The Federal Court of Appeal has dealt with a similar issue in *Dagg v Canada (Minister of Industry)*, 2010 FCA 316, 414 NR 182 [*Dagg*]. In that case, the applicant had commenced an application for judicial review due to a deemed refusal. The documents were then provided to the applicant. The trial judge determined that the application was therefore moot and that costs should not be awarded.

[73] The Court of Appeal disagreed, determining that the documents would not have been released but for the judicial review application at the Federal Court. The Court said at paragraphs 14 and 15:

> 14 … Mr. Dagg's application for judicial review was not premature when it was commenced. The three prerequisites under section 41 of the Act were all met. Throughout, the Federal Court had jurisdiction under section 41 of the Act. Later, when access was provided the application was rendered moot.
>
> 15 But for that error of principle, the Judge would have considered Mr. Dagg's claim for costs on the basis that his application had been properly commenced, but had been rendered moot. The Judge would also have considered that Mr. Dagg was provided with the requested records after the application for judicial review was commenced, some 20 months after the access request had been filed. In the specific circumstances now before the Court, considering the above factors, I conclude that the Court should have ordered that Mr. Dagg was entitled to have his costs in the Federal Court.

[74] The Federal Court of Appeal then went on to award costs on a party-and-party basis, as a solicitor-client basis was not warranted because the actions of Industry Canada were not "reprehensible, scandalous or outrageous" (see *Dagg* at paragraph 16, citing *Young v Young*, [1993] 4 SCR 3 at 134, 108 DLR (4th) 193).

[75] In this case, party-and-party costs as in *Dagg* seem appropriate. The documents were only disclosed due to the filing of the application for judicial review. The actions of the respondent, though somewhat inaccurate at times and delayed, eventually turned up the required documents and there is no evidence on record of malice towards the applicant. They do not rise to the level of "reprehensible, scandalous or outrageous" required for solicitor-client costs.

[76] The applicant has all documentation related to her request which the respondent is able to disclose. There was a deemed refusal to disclose, as rightly admitted by the respondent, but there was additional information on the Synergy corporate taxpayers which could not be disclosed. The applicant puts forward a case to disclose this information, but does not effectively demonstrate why she requires it to continue her notice of objection proceedings.

[77] This application for judicial review is therefore dismissed, with costs to the applicant on the party-and-party scale.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. The applicant shall have her costs of the application.

"John A. O'Keefe"

Judge

ANNEX

Relevant Statutory Provisions

***Access to Information Act*, RSC 1985, c A-1**

24. (1) The head of a government institution shall refuse to disclose any record requested under this Act that contains information the disclosure of which is restricted by or pursuant to any provision set out in Schedule II.	24. (1) Le responsable d'une institution fédérale est tenu de refuser la communication de documents contenant des renseignements dont la communication est restreinte en vertu d'une disposition figurant à l'annexe II.
…	…
Income Tax Act	*Loi de l'impôt sur le revenu*
section 241	section 241
…	…
41. Any person who has been refused access to a record requested under this Act or a part thereof may, if a complaint has been made to the Information Commissioner in respect of the refusal, apply to the Court for a review of the matter within forty-five days after the time the results of an investigation of the complaint by the Information Commissioner are reported to the complainant under subsection 37(2) or within such further time as the Court may, either before or after the expiration of those forty-five days, fix or allow.	41. La personne qui s'est vu refuser communication totale ou partielle d'un document demandé en vertu de la présente loi et qui a déposé ou fait déposer une plainte à ce sujet devant le Commissaire à l'information peut, dans un délai de quarante-cinq jours suivant le compte rendu du Commissaire prévu au paragraphe 37(2), exercer un recours en révision de la décision de refus devant la Cour. La Cour peut, avant ou après l'expiration du délai, le proroger ou en autoriser la prorogation.
…	…
49. Where the head of a government institution refuses	49. La Cour, dans les cas où elle conclut au bon droit de la

to disclose a record requested under this Act or a part thereof on the basis of a provision of this Act not referred to in section 50, the Court shall, if it determines that the head of the institution is not authorized to refuse to disclose the record or part thereof, order the head of the institution to disclose the record or part thereof, subject to such conditions as the Court deems appropriate, to the person who requested access to the record, or shall make such other order as the Court deems appropriate.

personne qui a exercé un recours en révision d'une décision de refus de communication totale ou partielle d'un document fondée sur des dispositions de la présente loi autres que celles mentionnées à l'article 50, ordonne, aux conditions qu'elle juge indiquées, au responsable de l'institution fédérale dont relève le document en litige d'en donner à cette personne communication totale ou partielle; la Cour rend une autre ordonnance si elle l'estime indiqué.

***Income Tax Act*, RSC 1985, c 1 (5th Supp)**

241. (1) Except as authorized by this section, no official or other representative of a government entity shall

241. (1) Sauf autorisation prévue au présent article, il est interdit à un fonctionnaire ou autre représentant d'une entité gouvernementale :

(a) knowingly provide, or knowingly allow to be provided, to any person any taxpayer information;

a) de fournir sciemment à quiconque un renseignement confidentiel ou d'en permettre sciemment la prestation;

(b) knowingly allow any person to have access to any taxpayer information; or

b) de permettre sciemment à quiconque d'avoir accès à un renseignement confidentiel;

(c) knowingly use any taxpayer information otherwise than in the course of the administration or enforcement of this Act, the Canada Pension Plan, the Unemployment Insurance Act or the Employment Insurance Act or for the purpose for which it was provided under this section.

c) d'utiliser sciemment un renseignement confidentiel en dehors du cadre de l'application ou de l'exécution de la présente loi, du Régime de pensions du Canada, de la Loi sur l'assurance-chômage ou de la Loi sur l'assurance-emploi, ou à une autre fin que celle pour laquelle il a été fourni en application du

	présent article.
…	…
(4) An official may	(4) Un fonctionnaire peut :
(a) provide to any person taxpayer information that can reasonably be regarded as necessary for the purposes of the administration or enforcement of this Act, the Canada Pension Plan, the Unemployment Insurance Act or the Employment Insurance Act, solely for that purpose;	a) fournir à une personne un renseignement confidentiel qu'il est raisonnable de considérer comme nécessaire à l'application ou à l'exécution de la présente loi, du Régime de pensions du Canada, de la Loi sur l'assurance-chômage ou de la Loi sur l'assurance-emploi, mais uniquement à cette fin;
(b) provide to any person taxpayer information that can reasonably be regarded as necessary for the purposes of determining any tax, interest, penalty or other amount that is or may become payable by the person, or any refund or tax credit to which the person is or may become entitled, under this Act or any other amount that is relevant for the purposes of that determination;	b) fournir à une personne un renseignement confidentiel qu'il est raisonnable de considérer comme nécessaire à la détermination de quelque impôt, intérêt, pénalité ou autre montant payable par la personne, ou pouvant le devenir, ou de quelque crédit d'impôt ou remboursement auquel elle a droit, ou pourrait avoir droit, en vertu de la présente loi, ou de tout autre montant à prendre en compte dans une telle détermination;

FEDERAL COURT

SOLICITORS OF RECORD

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DATED:	SEPTEMBER 16, 2014

APPEARANCES:

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Melissa Nicolls	FOR THE RESPONDENT

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