

Federal Court



Cour fédérale

Date: 20101122

Docket: T-1903-10

Vancouver, British Columbia, November 22, 2010

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

THE MINISTER OF NATIONAL REVENUE

Applicant

and

**0627658 B.C. LTD., 0822115 B.C. LTD.
108 BUILDING SUPPLY LTD.
2400 BUILDERS SUPPLY LTD.
4313208 CANADA INC., 616536 B.C. LTD.
664842 B.C. LTD., 666069 B.C. LTD.
ALL KINDS OF CARPET AND FLOORING LTD.
ALPINE LUMBER & BUILDING
SUPPLIES CO. LTD.
ANDREW SHERET LIMITED
ANDREW SHERET PURCHASING LTD.
ARROW BUILDING SUPPLIES LTD.
BARTLE & GIBSON CO. LTD.
BERDICK MFG. (PACIFIC) LTD.
BRISCOE HARDWARE LTD.
CAN-CELL INDUSTRIES INC.
CANWEL BUILDING MATERIALS LTD.
CANYON LUMBER COMPANY LTD.
CAPITAL GLASS (1996) LTD.
CENTRAL HARDWARE LTD.
CENTURY LANE KITCHENS INC.
CHASE HARDWARE AND BUILDING
MATERIALS LTD.
CLOVERDALE PAINT INC.
COMMERCIAL CONSTRUCTION SUPPLY
(KELOWNA) LTD.
CONVOY SUPPLY LTD.**

**COSTCO WHOLESALE CANADA LTD.
CRANBROOK BUILDING CENTRE LTD.
DANNBURG CONTRACT FLOORS LTD.
DAVID WHEELER,
DREAM EASY KITCHENS & BEDROOMS INC.
ECONOMY FLOOR SUPPLIES
RICHMOND LTD.
ELLIS HOLDINGS LTD.
EUROCLAD BUILDING PRODUCTS INC.
EURO-TEK BLIND FACTORY (2000) LTD.
G & G HARDWARE LTD.
GLACIER BUILDING SUPPLIES LTD.
GRAND OPENINGS WINDOWS & DOORS LTD.
GREYSTOKES MILLWORK LTD.
GROWERS SUPPLY COMPANY LIMITED
H & J FLOOR COVERING LTD.
HOME DEPOT OF CANADA INC.
IMAGINE COUNTERTOPS INC.
INVERMERE HARDWARE & BUILDING
SUPPLIES CO. LTD.
IRLY DISTRIBUTORS LTD.
J. WALSH & SONS PLUMBING
& HEATING LTD.
JAMES D. MACGUIRE, JORG ENGEL
JR CERAMICS INC., KAMLOOPS TRUSS LTD.
KELOWNA CARPET SUPERSTORE LTD.
KITCHENHAUS CABINETS LTD.
KON KAST PRODUCTS (2005) LTD.
LAKE COUNTRY BUILDERS MART LTD.
LAKE COUNTRY TRUSS LTD.
LOUGHEED FLOORING CENTRE LTD.
MCGREGOR & THOMPSON HARDWARE LTD.
MAGLIO BUILDING CENTRE LTD.
MANX PROFESSIONAL FLOORING
SERVICES INC.
MARA LUMBER (KELOWNA) LTD.
MORGAN'S GLASS CO. LTD.
OK BUILDERS SUPPLIES LTD.
OK CONCEPT FLOORING INC.
OKANAGAN CLASSIC CABINETS
& MILLWORK INC.
OUTDOOR LIVING MANUFACTURING LTD.
PRINCETON WOOD PRESERVERS LTD.
PRO BUILDERS SUPPLY LTD.
PRO. FLOOR SUPPLIES DIST. LTD.
PURPLE HOLDINGS INC.
QUAD CITY BUILDING MATERIALS LTD.
REIMER HARDWOODS LTD.
RICK KURZAC BUILDING MATERIALS LTD.
ROBINSON LIGHTING LTD.
RONA REVY INC., ROY'S HARDWOODS LTD.**

**SC HOME RENOVATION CENTRE LTD.
SD PLYWOOD SALES LTD.
SHEPHERD'S HARDWARE LIMITED
SILVERTON BUILDING SUPPLIES LTD.
SKYVIEW SERVICES LTD.
SOUTH OKANAGAN CONCRETE
PRODUCTS LTD.
SOUTHGATE PAINT AND FLOOR LTD.
STATUS WOODCRAFT LTD.
STEELS INDUSTRIAL PRODUCTS LTD.
SUMMERLAND BUILDERS MART LTD.
SUPERIOR PLUS LP. OP. WINROC A DIVISION
OF SUPERIOR PLUS LP
TOTAL FLOORING CONCEPTS (2008) LTD.
VERN FLOORING SALES LTD.**

Respondents

ORDER

UPON the *ex parte* application of the Minister of National Revenue under subsection 231.3(3) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) and the *Excise Tax Act*, R.S.C. 1985, c. E-15, coming on for hearing on Monday, November 22, 2010, at the courthouse located at 701 West Georgia Street, Vancouver, British Columbia;

AND UPON reading the materials filed by the Minister and hearing counsel on behalf of the Minister;

THIS COURT ORDERS that:

1. The Minister is authorized to impose on each of the respondents a requirement to provide information and documents under subsection 231.2(1) of the *Income Tax Act* and subsection 289(1) of the *Excise Tax Act* in the form attached to this Order as Appendix A (the "Requirement");

2. The Minister shall serve the Requirement and a copy of this Order upon each respondent at its store address or addresses as set out in Exhibit A to the affidavit of Kristy Martin sworn November 17, 2010 and filed in this matter;
3. The Minister shall also send by registered mail a copy of the Requirement and this Order to each respondent's registered and records office or head office, as applicable, with a cover letter in the form attached to this Order as Appendix B; and
4. A respondent may, within 15 days after the service of the Order, apply to have this Order reviewed and possibly varied or reversed pursuant to subsections 231.2(5) and 231.2(6) of the *Income Tax Act* which state:

231.2(5) Where an authorization is granted under subsection 231.2(3), a third party on whom a notice is served under subsection 231.2(1) may, within 15 days after the service of the notice, apply to the judge who granted the authorization or, where the judge is unable to act, to another judge of the same court for a review of the authorization.

231.2(6) On hearing an application under subsection 231.2(5), a judge may cancel the authorization previously granted if the judge is not then satisfied that the conditions in paragraphs 231.2(3)(a) and 231.2(3)(b) have been met and the judge may confirm or vary the authorization if the judge is satisfied that those conditions have been met

and/or pursuant to subsections 289(5) and 289(6) of the *Excise Tax Act* which state:

289(5) Where an authorization is granted under subsection (3), a third party on whom a notice is served under subsection (1) may, within 15 days after the service of the notice, apply to the judge who granted the authorization or, where the judge is unable to act, to another judge of the same court for a review of the authorization.

289(6) On hearing an application under subsection (5), a judge may

(a) cancel the authorization previously granted if the judge is not then satisfied that the conditions in paragraphs (3)(a) and (b) have been met; or

(b) confirm or vary the authorization if the judge is satisfied that those conditions have been met.

“Russel W. Zinn”

Judge

APPENDIX "A"

DRAFT

Southern Interior Tax Services Penticton
Surrey BC V3T 5E1

November 22, 2010

Account Number

RESPONDENT
1234 MAIN STREET
ANYTOWN BC

Dear Sir or Madam:

CONTACT: W. PARKER

RE: Requirement to provide information and documents issued pursuant to the Order of the Federal Court of Canada pronounced November 22, 2010 [Court docket number T-1903-10]

Under Paragraphs 231.2.(1) (a) and (b) of the "Income Tax Act," for the purpose related to the administration or enforcement of the "Income Tax Act," you are required to provide the following information and/or documents within 45 days from the date shown above:

- 1) A list of the names of each company, partnership, or individual to whom subcontract payments were made in 2007, 2008, and 2009, including the following information for each payee:
 - a) the amount and date of each payment;
 - b) the last known address and telephone number; and
 - c) the Social Insurance Number or Business Number.
- 2) A list of each company, partnership, or individual to whom a revolving account or card was granted with a credit limit of \$20,000 or more during 2007, 2008, and 2009, including the following information for each account holder:

.../2



Southern Interior B.C.
Tax Services Office
Revenue Collections Penticton
c/o 9755 King George Blvd
Surrey BC V3T 5E1

Local : 250-492-9235
Toll Free: 1-877-301-3131
Fax : 250-492-6345
Web site: www.cra.gc.ca

- 2 - Acct NO:

DRAFT

- a) the last known address and telephone number; and
- b) the Social Insurance Number or Business Number.

The above information is to be certified by you as being true and correct in every respect to the best of your knowledge and belief, and is to be forwarded to the address indicated on the front of this letter within 45 days from the date of this letter.

If you do not comply with this Requirement within the time specified you will be liable to prosecution without further notice.

Subsection 238(1) of the "Income Tax Act," provides that a person who fails to comply with this Requirement is guilty of an offence and liable to a fine of not less than \$1,000.00 and not more than \$25,000.00 or both a fine and imprisonment not exceeding twelve months. In addition to the criminal penalties resulting from subsection 238(1) of the "Income Tax Act," for failure to comply with this notice of requirement, subsection 231.7(1) of the "Income Tax Act," allows the Canada Revenue Agency to request a specific compliance order from the Court, in the event of non compliance. Failure to comply with that specific compliance order could lead to a finding of Contempt of Court.

Yours truly,

Paul DeShane
Manager
Revenue Collections

Enclosure(s)



Canada Revenue Agency / Agence du revenu du Canada

APPENDIX "B"

DRAFT

Tax Services Office
Surrey BC V3T 5E1

REGISTERED MAIL

November 22, 2010

Account Number

RESPONDENT
12345 MAIN STREET
ANYTOWN BC

Dear Sir or Madam:

RE: Requirement to provide information and documents issued pursuant to the Order of the Federal Court of Canada pronounced November 22, 2010 [Court docket number T-1903-10]

Please find enclosed a copy of the Requirement to Provide Information and Documents and the Order authorizing the issuance of the Requirement that was served on the following:

- a. [name of Respondent, store address].
- b. [name of Respondent, store address].

Please note that the information and documents required relate only to the store locations that have been served as set out above.

Yours truly,

Paul DeShane
Manager
Revenue Collections

Enclosure(s)



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c/o 9755 King George Blvd
Surrey BC V3T 5E1

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