

**Date: 20071213**

**Docket: A-138-03**

**Citation: 2007 FCA 403**

**BETWEEN:**

**FAIDY FOUAD NAGUIB**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

**ASSESSMENT OF COSTS - REASONS**

**Charles E. Stinson**  
**Assessment Officer**

[1] The Court dismissed with costs this appeal of a decision of the Tax Court of Canada concerning net worth reassessment. I issued a timetable for written disposition of the assessment of the Respondent's amended bill of costs.

[2] The Appellant did not file any materials in response to the Respondent's materials. My view, often expressed in comparable circumstances, is that the *Federal Courts Rules* do not contemplate a litigant benefiting by having an assessment officer step away from a neutral position to act as the litigant's advocate in challenging given items in a bill of costs. However, the assessment officer cannot certify unlawful items, i.e. those outside the authority of the judgment and the tariff. I

examined each item claimed in the amended bill of costs and the supporting materials within those parameters.

[3] Certain items warrant my intervention as I feel that the Respondent cannot establish entitlement thereto notwithstanding the absence of objections from the Appellant. The amended bill of costs claimed a counsel fee item 21(a) for two motions addressing the contents of the appeal book. As the resultant orders were silent on costs, I am satisfied further to my conclusions in *Balisky v. Canada (Minister of Natural Resources)*, [2004] F.C.J. No. 536 at para. 6 (A.O.) and *Aird v. Country Park Village Properties (Mainland) Ltd.*, [2005] F.C.J. No. 1426 at para. 10 (A.O.), that I have no jurisdiction to allow item 21(a). As well, I have reduced the claimed disbursement total by \$205.00 to account for these motions. The Respondent's amended bill of costs, presented at \$3,524.49, is assessed and allowed at \$2,599.49.

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"Charles E. Stinson"  
Assessment Officer

**FEDERAL COURT OF APPEAL**

**SOLICITORS OF RECORD**

**DOCKET:** A-138-03

**STYLE OF CAUSE:** FAIDY FOUAD NAGUIB v. HMQ

**ASSESSMENT OF COSTS IN WRITING WITHOUT PERSONAL APPEARANCE OF THE PARTIES**

**REASONS FOR ASSESSMENT OF COSTS:** CHARLES E. STINSON

**DATED:** December 13, 2007

**WRITTEN REPRESENTATIONS:**

n/a

FOR THE APPELLANT

Ms. Kandia Aird

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Marciano Beckenstein LLP  
Concord, ON

FOR THE APPELLANT

John H. Sims, Q.C.  
Deputy Attorney General of Canada

FOR THE RESPONDENT