

**Date: 20091208**

**Docket: A-615-08**

**Citation: 2009 FCA 358**

**CORAM: LÉTOURNEAU J.A.  
NADON J.A.  
PELLETIER J.A.**

**BETWEEN:**

**GIGI GREIN**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

Heard at Montréal, Quebec, on December 3, 2009.

Judgment delivered at Ottawa, Ontario, on December 8, 2009.

**REASONS FOR JUDGMENT BY:**

**LÉTOURNEAU J.A.**

**CONCURRED IN BY:**

**NADON J.A.  
PELLETIER J.A.**

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**BETWEEN:**

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**REASONS FOR JUDGMENT**

**LÉTOURNEAU J.A.**

[1] The appellant had her income reassessed for the years 2002, 2003 and 2004. As a result of the audit, her self-employed income was increased by the amounts of \$14,748 for 2002, \$10,118 for 2003 and \$12,364 for 2004. Penalties in the range of \$600 to \$700 were imposed for each year.

[2] Because the appellant had no internal control in place for her business and because some jobs performed were never actually invoiced and were paid in cash, the auditor used an indirect

method of auditing. He proceeded by way of net worth assessment on the basis that the appellant's revenue was too low and did not correspond with her cost of living.

[3] Before the Tax Court of Canada, the appellant had the burden of showing on a balance of probabilities that the amount of income determined by the Minister was erroneous.

[4] Essentially, Angers T.C.J. (judge) was called upon to make determinations of fact and credibility findings. In the absence of overriding and palpable errors, our Court has no authority and power to overturn these determinations and findings: see *Housen v. Nikolaisen*, [2002] 2 S.C.R. 235. In addition, there are issues of credibility which clearly are beyond our reach.

[5] Notwithstanding her efforts, the appellant who was self-represented has not been able to establish that the judge erred in finding that:

- a) the auditor was justified in using an indirect audit method and doing a net worth assessment;
- b) the internal control for her business was weak;
- c) clients were not provided with invoices;
- d) there were inconsistencies between the statements made by the appellant's father to the auditor and the appellant's version given at trial;

e) the appellant's explanations for her low food costs and automobile costs were unacceptable;  
and

f) there were contradictions and inconsistencies regarding an alleged loan that she would have made to her father and the payments allegedly made to her by her father in repayment of the loan.

[6] There was evidence supporting the judge's conclusions that the appellant had made false statements in her tax returns in failing to declare income and, therefore, that the imposition of penalties by the respondent was justified.

[7] For these reasons, I would dismiss the appeal with costs.

“Gilles Létourneau”

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J.A.

“I agree  
M. Nadon J.A.”

“I agree  
J.D. Denis Pelletier J.A.”

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-615-08

**STYLE OF CAUSE:** GIGI GREIN v. HER MAJESTY THE  
QUEEN

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** December 3, 2009

**REASONS FOR JUDGMENT BY:** LÉTOURNEAU J.A.

**CONCURRED IN BY:** NADON J.A.  
PELLETIER J.A.

**DATED:** December 8, 2009

**APPEARANCES:**

Mrs. Gigi Grein SELF-REPRESENTED

Me Marie-Andrée Legault FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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