Docket: 2008-5(IT)I

BETWEEN:

CENTRAL SPRINGS LIMITED,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on common evidence with the appeal of
A & E Precision Fabricating and Machine Shop Inc. (2008-6(IT)I),
on June 3 and 4, 2010, at St. John's, Newfoundland.

Before: The Honourable Justice Patrick Boyle

Appearances:

Counsel for the appellant:	Robert B. Anstey
Counsel for the respondent:	Jill L. Chisholm Martin J. Hickey

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AMENDED JUDGMENT

The appeals from the assessments made under the *Income Tax Act* with respect to the appellant's 2001, 2002 and 2003 taxation years are allowed and **the respondent is ordered to reconsider and reassess in accordance with the reasons for judgment attached.**

Costs will be dealt with separately following written submissions to be received on or before November 22, 2010.

It is further ordered that the filing fee in the amount of $100 be reimbursed to the appellant.

This amended judgment is issued in substitution for the judgment signed on October 22, 2010.

Signed at Ottawa, Canada, this 13th day of December 2010.

"Patrick Boyle"

Boyle J.

Docket: 2008-6(IT)I

BETWEEN:

A & E PRECISION FABRICATING
AND MACHINE SHOP INC.,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard on common evidence with the appeal of *Central Springs Limited* (2008-5(IT)I), on June 3 and 4, 2010, at St. John's, Newfoundland.

Before: The Honourable Justice Patrick Boyle

Appearances:

Counsel for the appellant:	Robert B. Anstey
Counsel for the respondent:	Jill L. Chisholm Martin J. Hickey

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AMENDED JUDGMENT

The appeals from the assessments made under the *Income Tax Act* with respect to the appellant's 2001, 2002 and 2003 taxation years are allowed and **the respondent is ordered to reconsider and reassess in accordance with the reasons for judgment attached.**

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It is further ordered that the filing fee in the amount of $100 be reimbursed to the appellant.

This amended judgment is issued in substitution for the judgment signed on October 22, 2010.

Signed at Ottawa, Canada, this 13th day of December 2010.

"Patrick Boyle"

Boyle J.

Citation: 2010 TCC 543
Date: 20101213
Docket: 2008-5(IT)I

BETWEEN:

CENTRAL SPRINGS LIMITED,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

and

Docket: 2008-6(IT)I

A & E PRECISION FABRICATING
AND MACHINE SHOP INC.,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR AMENDED JUDGMENT

[1] Judgments and reasons for judgment in favour of the taxpayers in these informal appeals were signed on October 22, 2010. On November 1, 2010, Crown counsel wrote to the Court and copied the appellants' counsel indicating that it appeared that the judgments were inconsistent with the reasons for judgment.

[2] The Court scheduled a hearing on November 19, 2010 to discuss whether there was an inconsistency between the judgments and the reasons for judgment. That hearing was adjourned *sine die* after hearing from both counsel, and after the Court expressed its concern that there appeared to be an unintended inconsistency in its judgments. The adjournment was to permit the appellants' counsel to communicate with the appellants' accountant to see if the appellants were in a position to agree that, in order to be consistent with the reasons for judgment, the judgments should have vacated the assessments in respect of 2001, dismissed the appeals in respect of

2003, and allowed in part the taxpayers' appeals in respect of 2002 up to the date of the corporate payroll reorganization in 2002 referred to in the reasons for judgment. Further, taxpayers' counsel was to see if the taxpayers could identify to the Crown's satisfaction, on the evidence in the hearing or otherwise, the date on which that corporate payroll reorganization occurred; such information would permit the Court to amend its judgments in a specific manner without directing that 2002 be referred back to the Minister for reconsideration and reassessment in accordance with the reasons.

[3] Before the date fixed for resuming the hearing, the Crown filed notices of appeal to the Federal Court of Appeal in which it is challenging the merits of the Court's decisions alleging errors of fact and law, as well as challenging the inconsistency between the judgments and the reasons for judgment.

[4] When the hearing resumed on December 1, 2010 as to whether the Court should be issuing amended judgments, appellants' counsel took the position that the Court did not have any jurisdiction to consider amending the judgments given that the Crown had proceeded otherwise than by way of motion and because, having signed judgment, I was *functus officio*. He thought his argument that I was *functus officio* was further reinforced by, but not dependent upon, the Crown having filed notices of appeal in the Federal Court of Appeal. For these reasons, appellants' counsel chose not to address the substantive question of whether the judgments were inconsistent with the reasons for judgment.

[5] Although this is an appeal under this Court's informal procedure and there is no analogous rule to the Court's general procedure rule 168(*a*) or rule (172)(1)(*a*), this Court has jurisdiction to amend a judgment of its own motion if the Court is satisfied that its judgment contains an error arising from an accidental slip or omission or is otherwise manifestly inconsistent with the Court's intentions expressed in the reasons for judgment. The Supreme Court of Canada has described (i) the correction of a slip in drawing up a final judgment and (ii) the correction of an error in its judgment that is inconsistent with the court's intention manifest in its reasons for judgment, as exceptions to the concept of *functus officio*: *Chandler v. Alberta Association of Architects*, [1989] 2 S.C.R. 848. The decision of the Federal Court of Appeal in *Bujnowski v. The Queen*, 2006 FCA 32, 2006 DTC 6071, confirms that this Court can correct such slips and errors in informal procedure appeals. There is no requirement that a party draw an alleged error to the Court's attention by way of motion. Nor is there a specific time period within which the Court may act, although it certainly may well be subject to a reasonable time period requirement which in this case I am satisfied would be met. It is clear from the

courts' consideration of so-called slip rules that it is limited to unintended errors by the court and it does not allow the court to reconsider its intended decision. The scope of the slip rule in this Court has been discussed in *Highway Customs Warehouse Ltd. v. The Queen*, 2007 TCC 715, 2008 DTC 2500.

[6] In this case it is manifestly clear from the reasons for judgment what was intended. It is clearly set out in paragraph 2 of the reasons for judgment. The key background facts are set out in paragraph 5 and paragraphs 7, 8 and 21 of the reasons. The core findings of the decision are restated again in paragraphs 32 and 33 up to the end of the decision.

[7] The judgments, however, vacated the assessments in respect of 2001, being the year before the corporate payroll reorganization, vacated the assessments in respect of 2002 being the year partway through which the corporate payroll reorganization occurred, and vacated the assessments in respect of 2003 being the year following the corporate payroll reorganization. Vacating all three years in respect of the taxpayers is clearly inconsistent with the reasons. I only faulted the Canada Revenue Agency for assessing the taxpayers in respect of the periods which were prior to the corporate payroll reorganization which occurred partway through 2002.

[8] Being satisfied that I erred in signing such judgments and being satisfied that it was manifestly and demonstrably inconsistent with the reasons for judgment, the further question arises whether the Court is precluded from or should refrain from correcting its error because the Crown filed notices of appeal to the Federal Court of Appeal. In my opinion, there is no compelling reason for me not to remedy my error given its nature. It would be a waste of the Federal Court of Appeal's time as well as the time and costs of the parties to force that Court, in addition to considering the Crown's position that I erred in fact and law on the merits in reaching the decision I did, to go on to consider whether, even if I was correct on the merits, I slipped up in signing the judgments. I cannot conclude that I should compound my error by introducing such inefficiency into the judicial process. It would bring the administration of justice into question in the minds of the Canadian tax-paying public if I were to decide otherwise.

[9] For these reasons, I am issuing amended judgments in respect of each of the years under appeal and in respect of each of the appellants ordering that the Minister reconsider and reassess the taxpayers in accordance with the reasons for judgment.

[10] Let me conclude by sincerely apologizing to the parties and their counsel for any difficulties that my unintended and inadvertent error introduced. I assure them

it was well-intended as I was trying to end as quickly as possible what I wrongly thought were the unnecessary continued dealings between the parties given the already lengthy history to their disputes.

Signed at Ottawa, Canada, this 13th day of December 2010.

"Patrick Boyle"

Boyle J.

Citation: 2010 TCC 543
Date: 20101022
Docket: 2008-5(IT)I

BETWEEN:

CENTRAL SPRINGS LIMITED,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

and

Docket: 2008-6(IT)I

A & E PRECISION FABRICATING
AND MACHINE SHOP INC.,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Boyle J.

I. Introduction

[1] These informal procedure appeals were heard together over two days in St. John's in June. Written submissions were filed by both the appellants and the respondent thereafter. The issues involve the right of the Canada Revenue Agency ("CRA") to determine, redetermine or recharacterize whether or not the corporate employer, being the entity that paid the employees and reported to the CRA as employer, is the employer for purposes of the withholding and remittance provisions of the *Income tax Act* (the "*Act*") and whether the CRA can redetermine or recharacterize the employer as another corporation in a related corporate group because an employee works some or much of the time for the related corporations.

While it is common to refer to employers' withholding obligations, more accurately paragraph 153(1)(*a*) of the *Act* imposes such withholding obligations upon the person paying the salary, wages or other remuneration.

[2] As described below, I find that the CRA has no such right to redetermine or recharacterize a legal employment relationship, absent a sham or the possible application of the general anti-avoidance rule ("GAAR") set out in section 245 of the *Act*, neither of which was pleaded or argued. Further, the respondent has been unable to show that a different company was either the *de facto* or *de jure* employer or was the person actually paying the employees their salary or wages. The respondent has not adequately put forward a legal basis under the *Act* to permit recharacterization nor is there evidence to support an argument, much less a conclusion, that the chosen employer was a sham or otherwise not the employer at law or was not the person paying its employees.

[3] These issues have their genesis in this file with CRA Collections and I can only say that it appears to be a case of Collections' actions gone awry. It appears that, in order to have existing employee withholding liabilities attach to more solvent companies in the corporate group, the CRA collections and payroll audit officers set off on some unsuccessful, unauthorized and inappropriate retroactive collection planning.

II. Background

[4] Humby Enterprises Limited ("Humby Enterprises") is a Newfoundland company that was primarily engaged in the wood harvesting business. Its sole shareholder and director was Mr. Eli Humby, its owner-manager and President throughout the relevant period. Until about 1995 all of the business activities were done within Humby Enterprises. In 1995 or 1996 a related corporation, Central Springs Limited ("Central Springs"), was incorporated. In 1998 or 1999 another related corporation, A & E Precision Fabricating and Machine Shop Inc. ("A & E"), was incorporated. Central Springs and A & E were set up on the recommendation of Humby Enterprises' outside chartered accountant because Humby Enterprises had started to carry on related precision mechanics and metal manufacturing businesses to maximize revenues from its available workforce. Humby Enterprises' employees included mechanics and welders to service large machinery and equipment used in its wood harvesting business.

[5] These related businesses were transferred over to A & E and Central Springs when they were incorporated. All of the employees continued to be employees of Humby Enterprises as before the transfer of the related businesses. Appropriate chargebacks were made by Humby Enterprises to A & E and Central Springs to correctly match revenues and expenses for each corporation as required by the *Act*. There is no suggestion that all three businesses were not solvent going-concerns at the time these arrangements were put in place.

[6] Some years later Humby Enterprises lost a major portion of its wood supply contracts which meant it began facing significant financial uncertainty. A & E and Central Springs were not as significantly adversely affected financially. Apparently, Humby Enterprises' loss of its wood supply was something of a cause célèbre in Newfoundland and the then acting Premier of the Province assured Humby Enterprises it should not close or lay off its employees as new wood supply contracts would be forthcoming from the Crown. I understand that things did not turn out as hoped or planned.

III. The Corporate Payroll Reorganization

[7] Part way through 2002, A & E and Central Springs became the employers of those workers who were needed for their businesses. By this time Humby Enterprises was in considerable financial difficulty and had fallen into arrears with its employer remittance obligations as a result. A & E and Central Springs began paying these employees and doing the withholding, reporting and remitting to the CRA. The Humby Enterprises' employees who did not also work in the business of A & E and Central Springs remained as employees of Humby Enterprises. We are talking about a small number of employees in the overall corporate group. The heavy equipment and the shop tools remained in Humby Enterprises. Following the transfer of these employees, A & E and Central Springs made chargebacks to Humby Enterprises for Humby Enterprises' work done by these employees in order to ensure each company's income continued to be properly reported.

[8] The 2002 reorganization of the Humby related group's employees appears to have been to the financial benefit of the CRA as the solvent companies became the employers of several former Humby employees. However, as described below, the CRA determined that A & E and Central Springs should have been regarded as the employers of these transferred employees even before the 2002 corporate payroll reorganization. The effect of this position by CRA was to further improve the CRA's

position as the CRA then looked to A & E and Central Spring for Humby Enterprises' past arrears of withholding remittances.

[9] There is no dispute that the payroll and accounting records, payslips, pay cheques, bank statements and regulatory reporting reflected the above, i.e. that Humby Enterprises was the employer of these employees up until part way through 2002 and thereafter A & E or Central Springs was the employer of the transferred employees. This came out clearly in the testimony of the two CRA payroll auditors/trust examiners.

[10] As a result, the CRA's assessments can only be upheld if:

(i) the pre-2003 arrangements were a sham, ineffective or did not reflect the legal relationships, or

(ii) the *Act* gives CRA the power to recharacterize the employment relationship to enhance its collection rights, or

(iii) the appellants, though not the employer, were the persons paying the salaries, wages and remuneration to the employees of Humby Enterprises.

IV. The CRA Payroll Audit

[11] In the course of its dealings with the Humby Enterprises' arrears, the Collections Division of the CRA requested that a payroll audit of Humby Enterprises, A & E and Central Springs for the period 2001 to 2003 be completed.

[12] This was requested by Gary Peddle, the collections officer dealing with Humby Enterprises, because "[a] review of the earnings of all 3 companies clearly shows that Humby Enterprises Limited did not generate sufficient revenue to pay the employee gross earnings. It is believed that [employees] who work for the associated companies are being reported on the Source Deductions account for Humby Enterprises Limited." Mr. Peddle was not called to testify and this reason is set out in the CRA reports in evidence. Mr. Peddle had also entered notes on the CRA's electronic taxpayer file, which were accessed by the trust examiners but these were not in evidence. One of the CRA trust examiners described Mr. Peddle's involvement as "Mr. Peddle noted that employees that were on Humby Enterprises should have

been on Central Springs or A & E". There was no other evidence to indicate the basis for Mr. Peddle's belief or knowledge.

[13] Payroll audits are now called Trust Account Examinations and the auditors involved are now called Trust Account Examiners. Examiners now attend at "visits" at employers' places of business. Examiners do not have any professional qualifications or educational requirements and their training within the CRA consists of a two-week training period in which they are familiarized with operational policies and work with experienced examiners.

[14] In this case it was decided that two examiners should conduct the review because, according to notes on the CRA's electronic files from someone, Mr. Humby could be expected to be a difficult "client".[1]

[15] The senior examiner was Ed Madden. He has been with the CRA for over 30 years. He started working in Trust Account Examination in 2000. From 1997 to 2000 he was a collection officer within the CRA. Apparently, while he was a collection officer he also did trust account examinations. The other Trust Account Examiner was Andrew McKillop. Both Mr. Madden and Mr. McKillop attended from St. John's one day at the shared business premises of Humby Enterprises, A & E and Central Springs in Gander to complete their examination. Mr. McKillop wrote up the Trust Account Examination Results report that is in evidence.

[16] It is not clear if the examiners showed up unannounced or if a scheduled appointment was made for the trust examination visit. According to the examiners their review was scheduled though they could not remember by whom, nor with whom they spoke, nor was any written evidence produced of such prior contact though, if it were relevant, it might be expected to be recorded in the CRA's files somewhere. The office manager or clerk, Mr. Humby's sister-in-law, does not remember the meeting being scheduled and, as discussed below, does not remember any details of the meeting.

[17] Upon arriving for their visit they met with Winnie Humby, Mr. Eli Humby's sister-in-law. The trust examiners in their evidence and in their report described her as the office manager for the companies. She described herself as the office clerk, responsible for general office duties of the companies such as answering the phones,

[1] None of the CRA's electronic notes relating to the request for a payroll audit was put in evidence even though it was in the control of the respondent and should presumably have been available to appellant's counsel if an Access to Information request had been made.

attending to the mail and filing. She was responsible for payroll although she did not describe what the extent of her involvement was.

[18] According to the trust examiners, Winnie Humby assembled some of the documentation they had asked to see. There is no written record of what this was nor what they thought of those documents. The examiners do not recall clearly what the documents were beyond that (i) they were not given any employment agreements and they did not ask for any, (ii) they reviewed the payroll records, and (iii) they did some payroll cheque samplings. The document review did not cause them to think the employers had not been properly identified. They then met with Winnie Humby for about a half-hour to an hour or so during part of which she gave them verbal job descriptions for all of the employees describing what they did and for which companies. The officers have no specific recollection of what they were told by Winnie Humby. Their notes consist of half dozen names with single word job descriptions beside them such as welder or mechanic. There is no record of which company's or companies' work demands occupied how much of the employees' time. All that the two examiners could recall is that, based upon the oral description of the job duties from Winnie Humby, they were satisfied that the employees working for A & E and Central Springs since the 2002 corporate payroll reorganization should have been employees of these two corporations and not Humby Enterprises going back to at least 2001. There was no reason for them selecting 2001, that was simply the start date of their review period.

[19] After this, the two trust examiners met with Mr. Humby for the first time. They knew he had not been on the premises earlier that day when they arrived and when their meeting with Winnie Humby occurred. At this meeting, which lasted 20 minutes to a half-hour, they presented to him their findings that the transferred employees would be treated by them as having been employees of A & E and Central Springs from the beginning of their review period in 2001 and not only from the 2002 date at which their employments had been transferred. Mr. Humby apparently, and understandably, did not take this well, disputed the CRA's ability to tell him who his companies could employ, and promptly ended the meeting. Somewhat surprisingly, both examiners in their testimony relied on the fact that Mr. Humby had only disputed their authority to do what they did, but did not go on to dispute their findings, as support for their findings as having been correct.

[20] In their report, the examiners wrote that they relied on four factors in making their determination that A & E and Central Springs had been the employer of the transferred employees throughout. Firstly, they wrote it was based upon their observation of the employees in the workplace. However, they both acknowledged in

evidence that they did not in fact make any employee observations and did not know which of the companies even operated at the Gander premises. Secondly in their report, they say it was based upon their review of the records. However they acknowledged in their testimony that none of these records suggested Humby Enterprises was not the employer up until the 2002 corporate payroll reorganization. Thirdly, their reports say that it was based upon their "review" of job descriptions. However, in evidence they acknowledged they did not see written job descriptions and do not specifically recall if they even asked for them. In testimony this was said to be a reference to the verbal job duty outlines they received from Winnie Humby. The problem with that explanation for their third factor is that the information they received from their "interview" with Winnie Humby is their fourth enumerated factor upon which they based their decision. As mentioned above, they took virtually no notes of that meeting and have virtually no recollection of what it is they say they were told by her. Nonetheless, their testimony was that in reality the information from the interview with Winnie Humby was the sole basis upon which they decided to treat A & E and Central Springs as the employers of the transferred employees throughout the review period.

[21] As to whether they uncovered any evidence that A & E and Central Springs had in fact been paying the salaries, wages or remuneration of Humby Enterprises' employees going back to 2001, the strongest evidence heard was that Mr. Madden thought he saw some payments from A & E and Central Springs to Humby Enterprises that could have been the source of the money used to pay their wages. However, he did not consider whether these might have merely been payment of the chargebacks described above. This is not persuasive evidence that A & E or Central Springs was paying the employees. While there is a stronger statement in a summary prepared by the examiners in 2007, their testimony and contemporaneous documents do not support their statement in their 2007 interoffice memorandum upon which I am not prepared to place much weight.

[22] The trust account examination did turn up an unrelated problem with so-called "casual wages" paid to employees of all three companies by cheque without reporting or withholding. This turned up from the review of the financial records and the companies promptly divulged all of the information to the examiners. These amounts involved were modest and I understand related to certain types of overtime or extraordinary work.

[23] Mr. Madden reported the results of his trust examination to Mr. Peddle in Collections.

[24] The amounts assessed to A & E and Central Springs in respect of income tax, employment insurance and *Canada Pension Plan* withholdings and penalties aggregate more than $80,000, not including post-assessment interest since 2003.

V. The Witnesses

[25] I have set out my findings of fact as set out above having heard from a number of witnesses.

[26] The two CRA trust examiners testified. I found Mr. McKillop to be both forthright and forthcoming in all of his answers. Mr. Madden was more inclined to try to defend to the Court his decisions and assure the Court he was certain about his conclusions. He was less comfortable responding to the more difficult factual questions. I am concerned by his clear lack of candour at the opening of his testimony when asked with whom he had discussed the matter in preparation for the hearing. I accept Mr. McKillop's version as truthful.

[27] The companies' outside accountant Donald Farrell testified in a forthright and forthcoming manner. He had acted for the companies for years and was involved in both the corporate reorganization and the payroll reorganization. He knew each company's history very well, as one might expect of a long-standing accountant of an owner-managed business. He had reviewed the chargebacks and the cheques in payment of the chargebacks in the course of his annual professional services.

[28] Winnie Humby testified under subpoena by the respondent. As stated, she had little if any recollection of the details of her meeting with the trust examiners. I accept that this is largely consistent with her role in the business. I see no reason to expect her to remember details of a meeting that the two CRA officials cannot remember in any details.

[29] I do not draw any adverse inference from Mr. Humby not testifying; he was in Court throughout and available for either side to call.

[30] The respondent had successfully moved for an order to have a former employee of one or more of the companies testify by videoconference from outside the province. In the end neither party called that witness or any other former employee.

[31] I am also not prepared to draw any adverse inference from the fact that all possible corroborating documentation (such as pay stubs and pay cheques and information reported to the CRA) was not presented to the Court by the taxpayer since the respondent could not and did not suggest that such would not be consistent with Humby Enterprises having been the employer prior to the 2002 corporate payroll reorganization and A & E or Central Springs being the employer of the transferred employees thereafter. Also the T4 and remittance reporting of the corporate group was available to the CRA to enter into evidence if it thought otherwise.

VI. Analysis and Conclusions

[32] I find that the employment relationships were as reported by the three companies and that the appellants were not the employers of Humby Enterprises' employees. There was virtually no evidence put forward to suggest otherwise.

[33] I find that the appellants were not responsible for paying, and did not pay, the salaries, wages or remuneration of Humby Enterprises' employees. The respondent's hypothesis is a far cry from the relationships, facts and evidence in such cases as *The Queen v. Coopers & Lybrand Limited*, 80 DTC 6281 (FCA), *Mollenhauer Limited v. The Queen*, 92 DTC 6398 (FCTD) and the cases referred to therein.

[34] The courts have, on a number of occasions, reminded the CRA that it does not have the authority to second-guess business decisions legally implemented. See, for example, *Gabco Ltd. v. M.N.R.*, 68 DTC 5210 (Ex. Ct.), and *Jolly Farmer Products Inc. v. The Queen*, 2008 TCC 409, 2008 DTC 4396 (TCC).

[35] The *Act* does not otherwise give the respondent any legislative authority to recharacterize the legal employment relationships in a case such as this.

[36] There was scant evidence to support the recharacterization and the assessed withholding and penalty amounts. The result of the trust examination was certainly very favourable to the CRA with respect to being able to collect the remittances for which Humby Enterprises had fallen into arrears. Upon the CRA's recharacterization, the remittance arrears of the financially troubled Humby Enterprises became the legal liability of A & E and Central Springs and collectable from them. I do not have to decide if that outcome and result were the true reason for the trust examination. However, clearly Mr. Humby, his companies and his advisors

are not unreasonable for thinking that the trust examiners found what they set out to find given:

(i) Collections had requested the audit;

(ii) Collections' notes informed the examiners in preparation for the exam;

(iii) Collections recorded view was that Central Springs and A & E had been paying the employees' salaries;

(iv) Mr. Madden had been in Collections for a long period until shortly before the trust examination;

(v) Mr. Madden had done trust examinations when he was in Collections;

(vi) the incorrect reasons recorded in the Trust Account Examination Results;

(vii) that the assessments were based solely upon short discussions with an office manager or clerk;

(viii) Mr. Madden's lack of candour about whom he discussed the file with in preparation for the trial;

(ix) that the reasons given for the confirmation of the assessment by Appeals, being paragraph 18(1)(*a*) concerns regarding the income of Humby Enterprises, are not relevant to the taxpayers' objections, do not make sense and are inconsistent with the evidence; and

(x) the paucity of the evidence presented to the Court.

[37] The fact that the CRA may consider Mr. Humby and Humby Enterprises to be unsavoury characters and difficult clients does not allow it to issue such assessments.

[38] The respondent's case was baseless, with no grounding either in law or in evidence put forward. These appeals are allowed and the assessments are vacated. As requested, the parties have 30 days in which to file written submissions on costs.

Signed at Ottawa, Canada, this 22nd day of October 2010.

"Patrick Boyle"

Boyle J.

CITATION:	2010 TCC 543
COURT FILE NOS.:	2008-5(IT)I, 2008-6(IT)I
STYLE OF CAUSE:	CENTRAL SPRINGS LIMITED v. HMQ AND A & E PRECISION FABRICATING AND MACHINE SHOP INC. v. HMQ
PLACE OF HEARING:	St. John's, Newfoundland
DATES OF HEARING:	June 3 and 4, 2010
REASONS FOR JUDGMENT BY:	The Honourable Justice Patrick Boyle
DATE OF AMENDED JUDGMENTS:	December 13, 2010

APPEARANCES:

Counsel for the appellants:	Robert B. Anstey
Counsel for the respondent:	Jill L. Chisholm Martin J. Hickey

COUNSEL OF RECORD:

For the appellants:

Name:	Robert B. Anstey
Firm:	Robert B. Anstey Law Office St. John's, Newfoundland

For the respondent:	Myles J. Kirvan Deputy Attorney General of Canada Ottawa, Canada