

Docket: 2010-3524(IT)G

BETWEEN:

CINDY STEWART,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent;

Docket: 2010-3525(IT)G

AND BETWEEN:

ALAN STEWART,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeals heard on common evidence on April 25 and 26, 2018
at Calgary, Alberta

Before: The Honourable Justice Steven K. D'Arcy

Appearances:

Counsel for the Appellants: Douglas E. Roberts

Counsel for the Respondent: Ron D.F. Wilhelm

JUDGMENT

In accordance with the attached Reasons for Judgment:

1. The appeals with respect to reassessments made under the *Income Tax Act* for the 2000 taxation year of each of the Appellants' are allowed, and the reassessments are referred back to the Minister of National Revenue for

reconsideration and reassessment on the basis that no amount should be included in either appellant's income in respect of the investments made by their respective RRSPs in the Zowtra Mortgage;

2. The gross negligence penalty levied against each of the appellants is vacated; and
3. Costs are awarded to the appellants.

Signed at Ottawa, Canada, this 22nd day of January 2019.

“S. D’Arcy”

D'Arcy J.

Citation: 2019 TCC 22
Date: 20190122
Docket: 2010-3524(IT)G

BETWEEN:

CINDY STEWART,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent;

Docket: 2010-3525(IT)G

AND BETWEEN:

ALAN STEWART,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

D'Arcy J.

[1] In 2000, the appellant Cindy Stewart's self-directed registered retirement savings plan ("RRSP") purportedly acquired an interest in a mortgage (the "Zowtra Mortgage") for a consideration of \$42,500. At the same time, the appellant Alan Stewart's self-directed registered retirement savings plan purportedly acquired an interest in the Zowtra Mortgage for a consideration of \$37,000. The Minister subsequently reassessed Mrs. Stewart and Mr. Stewart to include \$42,500 and

\$37,000 respectively in their taxable income for the 2000 taxation year. The Minister also levied a gross negligence penalty under subsection 163(2) of the *Income Tax Act* against each of the appellants.

[2] The appellants appealed these reassessments to the Court. The Court heard the two appeals together on common evidence.

[3] During the hearing, I heard from two witnesses: the two appellants. Each of the appellants was a credible witness. I accept that they had a difficult time remembering certain details of events that occurred 18 years ago.

[4] The respondent filed a document entitled Admitted Facts (the “Admitted Facts”), which sets out the facts admitted by the appellants in response to the respondent’s Request to Admit. The Admitted Facts document is attached as Appendix A to these reasons for judgment.

I. Summary of Facts

[5] The appellants are married to each other and each has a high school education. During the relevant period, Mr. Stewart worked as a welder in Northern British Columbia. In addition, Mr. Stewart, together with Mrs. Stewart, owned and operated restaurant businesses in Prophet River and Dawson Creek, British Columbia.

[6] They acquired the Prophet River business from Mr. Stewart’s father. Mr. Stewart described the Prophet River business as a restaurant-service station and a 100-man camp.

[7] It is clear from their testimony that Mr. and Mrs. Stewart are not sophisticated investors. My conclusion is consistent with paragraph 9 of the Admitted Facts, which states that their entire investment history up to the point of filing their 2000 income tax returns involved the restaurants they owned and operated, investments made through their RRSPs in mutual funds and the investments in the Zowtra Mortgage.

[8] In early 2000, the appellants learned, through acquaintances, of a presentation in Fort Nelson (the “Fort Nelson Seminar”) during which certain individuals would provide information on an investment opportunity. The

appellants, as well as a number of area residents, attended the Fort Nelson Seminar.

[9] The appellants understood the investment opportunity to be an investment that a self-directed RRSP could make in what was described as a “third party mortgage”. During the presentation, the organizers of the seminar provided the appellants with the document attached as Tab 1 to Exhibit R-1.

[10] On page 1 of the document the third party mortgage program is described as follows:

In this program, a development company is utilized that has a large registered mortgage registered on land that it is developing. The mortgage company that holds the mortgage sells off and transfers undivided parts of the mortgage to interested investors. Since this is a qualified investment for RRSPs and RRIFs, the investor can invest these funds into this investment.

[11] Page 4 of the document contains a description of the actual investment, namely the development of a campground/trailer park on property located near Edmonton, Alberta (the “Development Project”). The document notes that Zowtra Investments Inc. (“Zowtra”) has acquired suitable land for the Development Project and has prepared a development budget of \$4.8 million. The \$4.8 million would be raised in a series of three mortgages, which would be registered on the property consecutively after each mortgage subscription was completed.

[12] The document also states that an Edmonton finance company which specializes in marketing mortgages, U-Have Credit (Canada) Corporation (“U-Have”), will be used to effect the financing. It notes that U-Have will initially acquire the mortgage security and then market undivided interests in the real estate mortgages in \$1,000 increments.

[13] Each appellant believed her/his RRSP would invest in a mortgage that paid 12% interest.

[14] The appellants thought this was a good investment because of the significant oil and gas development in the area. On the basis of his experience from working in the area, Mr. Stewart thought that there would be a large number of construction workers who would require a place to stay while working on oil and gas construction projects in that area. Mrs. Stewart testified that they knew the area from “the ground up”; they lived in the oil patch and had constant contact with the construction workers staying at their small campground.

[15] Mr. Stewart also noted that at that point in time his RRSP investments were not realizing significant returns. He thought it would be better to make 12% per year rather than incur the negative return he was receiving on his RRSP. Mrs. Stewart testified that the 12% return was better than the return she was realizing on her then current investments, but was not outrageous and was based on a tangible asset, the future “resort” trailer park.

[16] The appellants testified that, prior to making the investment in the Zowtra Mortgage, they discussed the investment with an Edmonton lawyer, David Knight, and an official at the Canadian Western Trust Company (“Canadian Western”). Mr. Stewart noted that Mr. Knight informed the appellants that it was a good investment that was a qualified investment for their RRSPs. Mr. Stewart testified that he would not have made the investment without the lawyer’s advice.

[17] I heard conflicting evidence on when the meeting occurred. However, I accept the evidence of the appellants that the meeting occurred after the Fort Nelson seminar and prior to each of their RRSPs making the investment in the Zowtra Mortgage.

[18] The creation of the Zowtra Mortgage and the appellants’ investment in the Zowtra Mortgage occurred as follows:

- On December 16, 1999, Zowtra acquired 9.96 acres of land (the “Zowtra Land”) in Lamont County, Alberta for \$5,000.¹
- On January 5, 2000, a purported \$1.8 million mortgage executed on December 15, 1999 in favour of U-Have Credit was registered at the Alberta Government Services Land Titles Office (the “Land Titles Office”) against the Zowtra Land. The mortgage required interest to be paid at a rate of 12% per annum.²
- On June 14, 2000, each of the appellants applied to open a self-directed RRSP account (“the self-directed RRSP”) with Canadian Western.³
- On June 15, 2000, the appellants directed their then RRSP trustee, CI Mutual Funds, to transfer their RRSP funds to Canadian Western.⁴

¹ Admitted Facts, paragraph 31.

² Admitted Facts, paragraphs 33 and 34; Exhibit R-1, Tab 6.

³ Admitted Facts, paragraph 65; Exhibit R-1, Tabs 10 to 13.

- On October 6, 2000, the appellants signed incomplete documents respecting their RRSP transactions and then faxed the documents to Academy Financial Planners & Consultants Inc. (“Academy”).⁵
- On October 17, 2000, a transfer of mortgage document indicating that a 37/1,800 interest in the Zowtra Mortgage was transferred by U-Have to Mr. Stewart’s self-directed RRSP was registered at the Land Titles Office “in exchange for \$37,000”.⁶
- Mr. Stewart’s self-directed RRSP acquired a 37/1,800 interest in the rights provided by the Zowtra Mortgage document registered against the Zowtra Land.⁷
- On October 17, 2000, a transfer of mortgage document indicating that a 42.5/1,800 interest in the Zowtra Mortgage was transferred by U-Have to Mrs. Stewart’s self-directed RRSP was registered at the Land Titles Office “in exchange for \$42,500”.⁸
- Mrs. Stewart’s self-directed RRSP acquired a 42.5/1,800 interest in the rights provided by the Zowtra Mortgage document registered against the Zowtra Land.⁹

[19] Exhibit A-1 contains two letters sent to Canadian Western by David D. Knight, who at the time was an Edmonton, Alberta barrister and solicitor.

[20] The first letter, dated October 10, 2000, i.e., a week before the transfer of mortgage interests to the appellants was registered with the Land Titles Office, has the subject line “FUNDING OF MORTGAGE - Your client: STEWART Alan, Plan Number 11818 \$37,000”. The letter contains the following statements:

- “I act as the solicitor for *Alan Stewart* only in this matter. . . .

⁴ Admitted Facts, paragraph 66.

⁵ Admitted Facts, paragraph 67; Exhibit R-1, Tabs 14 to 20 and Tabs 22 to 25.

⁶ Admitted Facts, paragraph 72; Exhibit R-1, Tab 27.

⁷ Admitted Facts, paragraph 73.

⁸ Admitted Facts, paragraph 74; Exhibit R-1, Tab 28.

⁹ Admitted Facts, paragraph 75.

- “It is my legal opinion, based on the declaration of *the above mentioned* which is enclosed, that he is dealing with the borrower “at arm’s length” as defined by the Income Tax Act.”
- “It is also my legal opinion that this is a qualified investment for a self-directed RRSP.”¹⁰

[21] The second letter, dated November 22, 2000, is also in respect of Mr. Stewart’s \$37,000 investment in the Zowtra Mortgage. The letter indicates that Mr. Knight has attached a number of documents relating to that investment, including his instructions to pay funds in respect of the investment and a transfer of mortgage document. He also provides the opinion that the mortgage is valid and enforceable and properly secured by the land.

[22] The appellants were not the only individuals to invest in the Zowtra Mortgage. The Admitted Facts show that, in total, 35 individuals purchased interests in the Zowtra Mortgage through their self-directed RRSPs for a consideration of \$1,799,800. In addition, 34 individuals purchased interests in a second mortgage on the Zowtra Land through their self-directed RRSPs for a consideration of \$2,400,100, and 50 individuals purchased interests in a third mortgage on the Zowtra Land through their self-directed RRSPs for a consideration of \$2,795,000.¹¹

[23] In summary, 119 individuals paid, through their self-directed RRSPs, a total consideration of \$6,994,900 (the “RRSP funds”) for interests in the three mortgages on the Zowtra Land.

[24] I have concluded that Mr. Knight acted as the appellants’ lawyer when they purchased their interest in the Zowtra Mortgage.

[25] When assessing the appellants, the Minister assumed that Zowtra received the monies paid by the appellants as consideration for the interests in the Zowtra Mortgage. Further, the Minister assumed that Zowtra received all of the RRSP funds paid by the 119 individuals who purchased interests in the three mortgages on the Zowtra Land.

¹⁰ Exhibit A-1, Tab 15.

¹¹ Admitted Facts, paragraphs 37 to 48.

[26] When assessing the appellants, the Minister further assumed that Zowtra, after receiving the RRSP funds from the 119 individuals, distributed the funds as follows:

- it transferred 86.6% of the RRSP funds to financial institutions located outside of Canada;
- it paid 11.5% of the funds to various corporations as commissions for promoting investment in the Zowtra mortgages and to other persons through payment of the cash portion of their investment in a film partnership;
- it paid 1.5% to Mr. Orest Rusnak and/or Sherry Corthell; and
- it used the remaining funds to pay expenses it incurred for services.

[27] The appellants did not provide any evidence to rebut the Minister's assumptions. In fact the appellants stated that they had no idea what Zowtra did with the funds, other than they did not use the funds for their intended purpose of developing a campground/trailer park on the Zowtra Land. They both stated that the money they invested in the Zowtra Mortgage was stolen from them.

II. Relevant Law and the Position of the Parties

[28] The relevant sections of the *Income Tax Act* for the purposes of these appeals are subsections 146(8), 146(9) and 146(10). During the relevant period these subsections read as follows:

146(8) Benefits taxable – There shall be included in computing a taxpayer's income for a taxation year the total of all amounts received by the taxpayer in the year as benefits out of or under registered retirement saving plans

146(9) Where disposition of property by trust – Where in a taxation year a trust governed by a registered retirement savings plan

- (a) disposes of property for consideration less than the fair market value of the property at the time the disposition, or for no consideration, or
- (b) acquires property for a consideration greater than the fair market value of the property at the time of the acquisition,

the difference between the fair market value and the consideration, if any, shall be included in computing the income for the taxation year of the annuitant under the plan.

146(10) Where acquisition of non-qualified investment by trust – Where at any time in a taxation year a trust governed by a registered retirement savings plan

- (a) acquires a non-qualified investment, or
- (b) uses or permits to be used any property of the trust as security for a loan,

the fair market value of

- (c) the non-qualified investment at the time it was acquired by the trust, or
- (d) the property used as security at the time it commenced to be so used,

as the case may be, shall be included in computing the income for the year of the taxpayer who is the annuitant under the plan at that time.

[29] Subsection 146(8) includes in a taxpayer's income any amounts that the taxpayer received from her/his RRSP trust.

[30] The respondent argues, in the first instance, that the amounts the appellants transferred from their self-directed RRSPs to Zowtra should be included in the appellants' income under subsection 146(8). She states that this is the result since the appellants received the benefit, within the meaning of subsection 146(8), of the amounts transferred when they directed the transfer of the \$37,000 and \$42,500 from their self-directed RRSPs to Zowtra.

[31] In her written argument, the respondent argues that the appellants participated in an RRSP scheme to obtain tax-free access to their RRSP funds. In her Reply, the respondent states that the appellants participated in the RRSP scheme to obtain tax-free access to their RRSP funds through a collateral arrangement that included an investment source of income from which they would receive funds.

[32] The appellants argue that they did not receive such a benefit. They did not participate in any collateral arrangement. The monies were transferred to allow the self-directed RRSPs to acquire interests in the Zowtra Mortgage.

[33] The relevant portion of subsection 146(9) for the purposes of these appeals, is paragraph 146(9)(b). Paragraph 146(9)(b) applies when the RRSP trust acquires property for a consideration greater than the fair market value of the property at the time of the acquisition. The difference between the consideration paid and the fair market value is included in the income of the taxpayer who is the annuitant under the plan.

[34] It is the respondent's position that paragraph 146(9)(b) applies because each appellant's self-directed RRSP acquired an interest in the Zowtra Mortgage for an amount that was greater than the fair market value of that interest. The appellants disagree; they argue that their RRSPs paid consideration equal to the fair market value of the interests in the Zowtra Mortgage.

[35] Subsection 146(10) applies, in part, when an RRSP trust acquires a *non-qualified investment*. In such a situation, the fair market value of the *non-qualified investment* at the time it was acquired by the trust is included in the income of the taxpayer who is the annuitant under the plan.

[36] For the purposes of these appeals, the relevant provisions relating to the definition of the term non-qualified investment as used in subsection 146(10) are contained in subsection 146(1) and read as follows:

146(1) Definitions – In this section,

...

“non-qualified investment”, in relation to a trust governed by a registered retirement savings plan, means property acquired by the trust after 1971 that is not a qualified investment for the trust;

...

“qualified investment” for a trust governed by a registered retirement savings plan means

...

(d) such other investments as may be prescribed by regulations of the Governor in Council made on the recommendation of the Minister of Finance;

...

[37] The relevant regulation is subsection 4900(4) of the *Income Tax Act Regulations*, which is set out below:

Income Tax Act Regulations, section 4900

(4)[Mortgage] – For the purposes of subparagraphs 146(1)(g)(iv) [146(1) “qualified investment”(d)] and 146.3(1)(d)(iii) [146.3(1) “qualified investment” (c)] of the Act, a mortgage secured by real property situated in Canada, or an interest therein, is a qualified investment for a registered retirement savings plan or a registered retirement income fund unless the mortgagor is the annuitant under the plan or fund, as the case may be, or is a person with whom the annuitant does not deal at arm’s length.

[38] The effect of these provisions is that the Zowtra Mortgage will constitute a “qualified investment” if it is a mortgage secured by real property situated in Canada, or an interest therein, unless the mortgagor is the annuitant under the RRSP or is a person with whom the annuitant does not deal at arm’s length.

[39] The respondent argues that subsection 146(10) applies to the appellants because the interests in the Zowtra Mortgage were not a qualified investment under the RRSP regime. She argues that the “rights provided by the Zowtra Mortgage . . . document registered in the land title office against the Zowtra Land” did not constitute a mortgage. The appellants disagree. They argue that the Zowtra Mortgage was clearly a mortgage as that term is defined in the *Land Titles Act* (Alberta).

[40] In his closing argument, counsel for the respondent stated that if I were to find that each appellant’s self-directed RRSP actually acquired a valid mortgage for a fair market value equal to the amount paid for the mortgage, then I should allow the appeal. I assume counsel was referring to the RRSPs acquiring an interest in a valid mortgage.

III. Disposition of Appeal

[41] I will first address the issue of whether the appellants participated in a collateral arrangement. The respondent’s Reply in each of the appeals states that when assessing each of the appellants the Minister assumed the following:

The acquisition by the RRSP trusts of the undivided interests in Zowtra Mortgage #1 [the Zowtra Mortgage], Zowtra Mortgage #2 and Zowtra Mortgage #3 were

part of the arrangement to provide the annuitant with direct or indirect access and/or control of the funds in their RRSP.

The acquisition by the RRSP trusts of undivided interests in Zowtra Mortgage #1 [the Zowtra Mortgage], Zowtra Mortgage #2 and Zowtra Mortgage #3 for amounts in excess of FMV was an integral part of an arrangement where funds would be made available, either directly or indirectly, to the annuitant of the RRSP.

All parties involved in the RRSP Plan acted in concert and not at arm's length.

[42] Through their testimony, the appellants destroyed each of these assumptions.

[43] When assessing the appellants, the Minister assumed that Mr. Rusnak controlled Zowtra, U-Have and Academy. The appellants did not provide any evidence with respect to these assumptions. Therefore, the Court must accept the assumptions. Further, the assumptions are consistent with the Admitted Facts and the documentary evidence before the Court.

[44] Mr. Rusnak was the lead promoter of the sale of the mortgage interests.

[45] The appellants are not related to Mr. Rusnak either by blood relationship or by adoption. Since the appellants and Mr. Rusnak are not related persons under the *Income Tax Act*, it is a question of fact whether they were dealing with each other at arm's length.

[46] I have concluded on the evidence before me, particularly the testimony of the appellants, that, as a matter of fact, the appellants dealt at arm's length with Mr. Rusnak and the three companies involved in the sale of the interests in the Zowtra Mortgage. The appellants themselves made the decision to invest in the Zowtra Mortgage. They did not make this decision in concert with Mr. Rusnak or any of his companies.

[47] The appellants testified that they first met Mr. Rusnak in early 2000 at the Fort Nelson Seminar. Their only contact with him was in the context of deciding whether to invest in the Zowtra Mortgage.

[48] They viewed the investment in the Zowtra Mortgage as a long-term investment that would help fund their retirement. It was an investment in the development of a \$5 million campground/trailer park in the oil patch. As I

discussed earlier in these reasons for judgment, they felt it was a good investment because of the significant oil and gas development in the area.

[49] It is also clear from their testimony that they relied upon the advice of their lawyer, Mr. Knight, who told them that it was a good investment that was a qualified investment for their RRSPs.

[50] The appellants do not know what the persons behind Zowtra and U-Have did with their money, other than the fact that they stole it from them.

[51] The appellants testified that they did not have access to the monies they invested in the Zowtra Mortgage.

[52] The Respondent did not provide the Court with any objective or documentary evidence to rebut the appellants' testimony. She did not provide me with any evidence that would lead me to conclude that the appellants participated in an RRSP scheme to obtain tax-free access to their RRSP funds.

[53] I accept the appellants' testimony that the persons behind Zowtra and U-Have stole their money. They did not enter into any agreement with Mr. Rusnak or anyone else to recover their loss in whole or in part by way of a collateral agreement. They were innocent victims in what was in effect a con.

[54] I will now address the question of whether or not the interest in the Zowtra Mortgage was a non-qualified investment for the purposes of subsection 146(10). The interest in the Zowtra Mortgage will be a qualified investment if it is an interest in a mortgage secured by real property situated in Canada.

[55] The term mortgage is not defined in the *Income Tax Act*. During the relevant period, the Alberta *Land Titles Act* defined mortgage as meaning "a charge on land created merely for securing a debt or loan".

[56] The investment in the Zowtra Mortgage occurred as follows:

- First, Zowtra granted a mortgage on the Zowtra Land in the amount of \$1.8 million to U-Have. Tab 6 of Exhibit R-1 contains a copy of the mortgage as registered with the Alberta Government Services Land Titles Office.
- U-Have then sold undivided interests in this mortgage to 35 individuals (through their self-directed RRSPs) for a consideration of \$1,799,800.

Tabs 27 and 28 of Exhibit R-1 contain copies of the transfer of the undivided interests in the Zowtra Mortgage to each appellant's RRSP. These documents were registered with the Alberta Government Services Land Titles Office.

- Zowtra received the \$1,799,800 paid by the 35 individuals through their self-directed RRSP's.

[57] The result of these two transactions is that collectively the RRSPs of 35 individuals made to Zowtra a \$1,799,800 loan secured by a mortgage on the Zowtra Land. In my view, when the appellants' RRSPs acquired the undivided interests in the Zowtra Mortgage the relevant RRSPs acquired an interest in a mortgage, that is an interest in "a charge on land created . . . for securing a debt or loan". As a result, the investment by the RRSPs in the Zowtra Mortgage was a qualified investment.

[58] The final issue I must address is the application of paragraph 146(9)(b). That paragraph will apply if the appellants' self-directed RRSPs acquired interests in the Zowtra Mortgage for amounts greater than the fair market value of those interests.

[59] Cindy Stewart's self-directed RRSP invested \$42,500 for an interest in the Zowtra Mortgage. Alan Stewart's self-directed RRSP invested \$37,000 for an interest in the same mortgage. This resulted in Zowtra owing Cindy Stewart's RRSP and Alan Stewart's RRSP \$42,500 and \$37,000 respectively.

[60] The money invested by the appellants' RRSPs, together with the money invested by the RRSPs of the other 33 individuals, was paid to Zowtra. As a result, at that point in time, Zowtra's assets were comprised of the Zowtra Land and the \$1,799,800 received from the sale of the interests in the Zowtra Mortgage to the 35 individuals' RRSPs (which include the appellants' RRSPs). In other words, at that point in time, Zowtra had the ability to repay all of the loans, including the amounts owed to the appellants' RRSPs.

[61] Further, the appellants believed that, as a result of the Development Project, the \$1,799,800 would be invested in the Zowtra Land to increase the land's value and thus maintain the value of their interest in the Zowtra Mortgage.

[62] In *Henderson*¹², Justice Cattanach defines fair market value as follows:

The statute does not define the expression “fair market value”, but the expression has been defined in many different ways depending generally on the subject matter which the person seeking to define it had in mind. . . . **That common understanding I take to mean the highest price an asset might reasonably be expected to bring if sold by the owner in the normal method applicable to the asset in question in the ordinary course of business in a market not exposed to any undue stresses and composed of willing buyers and sellers dealing at arm's length and under no compulsion to buy or sell.** . . . These definitions are equally applicable to “fair market value” and “market value” and it is doubtful if the use of the word “fair” adds anything to the words “market value”.

[Emphasis added.]

[63] I have already found that the appellants dealt at arm's length with Mr. Rusnak and the companies he controlled, including Zowtra and U-Have. In fact, the evidence before me is that the appellants' only involvement with either company was through the purchase by their self-directed RRSPs of the interests in the Zowtra Mortgage.

[64] On the evidence before me, particularly the testimony of the appellants, I have concluded that the appellants purchased those interests as willing buyers from an arm's length seller and that neither the appellants nor the seller (U-Have) were under any compulsion to buy or sell. The appellants were two of a number of arm's length buyers who purchased interests in the Zowtra Mortgage. Further, as I discussed previously, the Court is not aware of any collateral agreement that influenced the appellants' purchase of the interests in the Zowtra Mortgage.

[65] The evidence before me is that the sales by U-Have to the appellants' self-directed RRSPs of the interests in the Zowtra Mortgage occurred in the ordinary course of Mr. Rusnak's and his companies' business of selling interests in mortgages. In addition to their sales to the appellants, Mr. Rusnak and his companies sold interests in three separate mortgages on the Zowtra Land to 117 other individuals.

[66] The appellants and others attended the Fort Nelson Seminar where Mr. Rusnak and his associates marketed the interests in the Zowtra Mortgage. The

¹² *Henderson Estate v Minister of National Revenue*, [1973] CTC 636 (FCTD) at 644.

appellants then decided, on the basis of their knowledge of the area, that investing in the Development Project through an interest in the Zowtra Mortgage was a good investment.

[67] Further, as one would expect, they obtained legal advice which was that the investment in the Zowtra Mortgage was a good investment that was a qualified investment for their RRSPs.

[68] In summary, they paid fair market value for the interests in the Zowtra Mortgage. They paid a price negotiated with an arm's length vendor, namely Mr. Rusnak and his companies. The fact that they paid a price similar to the price paid by 117 other individuals evidences that they negotiated the price in "a market not exposed to any undue stresses and composed of willing buyers and sellers dealing at arm's length".

[69] The fact that the money was subsequently stolen is, in my view, irrelevant. The key point in time for the purpose of determining the fair market value of the interests in the Zowtra Mortgage is the time of the sale, not some subsequent point in time. As I previously noted, at the time they purchased the interests in the Zowtra Mortgage, the appellants believed that the amounts their RRSPs paid for the interests in the Zowtra Mortgage represented a fair market value consideration. Their belief is consistent with my previous finding that, at that point in time, Zowtra had the ability to repay the mortgages.

[70] What the appellants did not foresee was that at some point in time in the future someone would, in effect, steal the funds they invested in Zowtra. In my view, paragraph 146(9)(b) does not apply in a situation where a taxpayer directs his/her RRSP to make an investment with an arm's length party for what the taxpayer believes is a fair market value consideration and the investment turns out to be a poor investment.

[71] My finding is consistent with the conclusion of Justice Sharlow in her concurring reasons in *St. Arnaud v. Canada*.¹³ In her reasons, Justice Sharlow accepted the appellant's argument with respect to the purpose of subsection 146(9). She summarized this argument as follows (at paragraph 64):

. . . They argue that it is reasonable to infer that Parliament assumed that if an RRSP or a RRIF is authorized to dispose of property for proceeds known to be

¹³ 2013 FCA 88 (CanLII).

less than its fair market value, or to acquire property at a cost known to be greater than its fair market value, the reason must be that the annuitant or someone connected to the annuitant has arranged to recover the resulting loss in whole or in part through a collateral arrangement. On that basis, they argue that the interpretation of these provisions is subject, by necessary implication, to the existence of such a collateral arrangement that is intended to avoid the tax that would have been imposed if the annuitant had simply withdrawn funds from the RRSP or the RRIF.

[72] Justice Sharlow then concluded that paragraph 146(9)(b) did not apply to the case before her since there was no collateral arrangement. I have previously concluded that the appellants here did not enter into any collateral agreement that would have allowed them to recover their loss in whole or in part.

[73] For the foregoing reasons, the appeals are allowed with costs to the appellants. The reassessments for each appellant are referred back to the Minister for reconsideration and reassessment on the basis that no amount should be included in either appellant's income in respect of the investments made by their respective RRSPs in the Zowtra Mortgage.

[74] The gross negligence penalty levied against each of the appellants is vacated.

Signed at Ottawa, Canada, this 22nd day of January 2019.

“S. D’Arcy”

D'Arcy J.


APPENDIX A

2010-3525(IT)G
2010-3524(IT)G

TAX COURT OF CANADA

BETWEEN:

ALAN STEWART
CINDY STEWART,

TAX COURT OF CANADA COUR CANADIENNE DE L'IMPÔT		
N A M E	2010-3525(IT)G	EXHIBIT PIÈCE R-1
	2010-3524(IT)G	
DATE: April 25, 2018		
		
COURT REGISTRAR - GREFFIER DE LA COUR		
N°	2010-3525(IT)G 2010-3524(IT)G	

Appellants,

and

HER MAJESTY THE QUEEN,

Respondent.

ADMITTED FACTS

Mr. and Mrs. Stewart

1. Mr. Stewart turned 44 years old in 2000.
2. Mr. Stewart graduated high school in Hope, British Columbia in 1974, and obtained his journeyman welder's certificate in 1979.
3. Mr. Stewart:
 - (a) from 1975 to 1979, worked as an apprentice welder in Elkford, B.C.;
 - (b) from 1979 to 1981, worked as a journeyman welder at Skeena Cellulose in Prince Rupert, B.C. and as an ironworker welder in Sparwood, B.C.;

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- (c) from 1982 to 1991, worked as a journeyman welder at Crowsnest Resources in Sparwood, B.C.; and
 - (d) from 1991 to the point of filing his 2000 income tax return, worked as a journeyman welder in northeastern B.C., and also co-owned and operated restaurants in Prophet River and Dawson Creek, B.C.
4. Mrs. Stewart turned 40 years old in 2000.
5. Mrs. Stewart graduated high school in Sparwood, B.C. in 1978.
6. Mrs. Stewart:
- (a) in 1980, worked at Hudson's Bay and Canada Post in Prince Rupert, B.C.;
 - (b) in 1988, worked at Bunsmaster Bakery in Cranbrook, B.C.;
 - (c) in 1990, worked at Overwaitea in Cranbrook, B.C.; and
 - (d) from 1991 to the point of filing her 2000 income tax return, co-owned and operated restaurants in Prophet River and Dawson Creek, B.C.
7. The Prophet River restaurant that Mr. and Mrs. Stewart operated:
- (a) was located in B.C. at Mile 233 of the Alaska Highway;
 - (b) was acquired by them in 1991 from Mr. Stewart's father;
 - (c) was operated by them for around 5 years;
 - (d) had yearly gross revenues of around \$700,000 which then dropped after they had operated it for about 5 years;
 - (e) was sold by them around 1996;
 - (f) was taken over and operated by them again about 6 months later;
 - (g) was sold by them again after a period of time;
 - (h) was taken over and operated by them again about 3 months later; and
 - (i) was later finally sold by them.

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8. The Dawson Creek restaurant that Mr. and Mrs. Stewart operated:
 - (a) was located on the Alaska Highway on the outskirts of Dawson Creek;
 - (b) was acquired by them through a company called J-Jac Ventures Ltd.; and
 - (c) was operated by them for several years, until they sold it around 2002
9. Mr. and Mrs. Stewarts' entire investment history up to the point of filing their 2000 income tax returns involved:
 - (a) the restaurants that they owned and operated; and
 - (b) investments through their RRSPs in mutual funds and the investment in issue in these appeals.

Mr. Rusnak and his corporations

11. Prior to January 2, 2001, Mr. Rusnak's wife Patricia Rusnak was the sole shareholder of Academy Financial Planners & Consultants Inc. (Academy), after which he was the sole shareholder and director.
12. On September 20, 1999, Zowtra Investments Inc. (Zowtra) was incorporated.
13. Its sole director at all material times was Mr. Rusnak.
15. On October 1, 1999, U-Have Credit (Canada) Corporation (U-Have Credit) was incorporated.
18. In 1992, Mr. Rusnak was convicted of fraud for engineering a scheme that involved a false loan application for a mortgage and other false and misleading documents, and sentenced to three years in prison.
19. On February 12, 2000, the Alberta Securities Commission found that Mr. Rusnak was a director of a corporation called the World Stock Exchange (WSE), and Mr. Rusnak solicited Albertans to raise money for, and traded in securities of, the WSE contrary to law.
20. As a result, on March 31, 2000 the Alberta Securities Commission ordered that Mr. Rusnak resign any position that he held as a director or officer of any issuer,

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and prohibited him from becoming or acting as a director or officer of any issuer.

21. On or about November 20, 2007, the Alberta Provincial Court found Mr. Rusnak guilty of nine counts of failing to comply with the Alberta Securities Commission's March 31, 2000 order, by acting as a director of Academy and eight other corporations.

The implementation

31. On December 16, 1999, Zowtra acquired 9.96 acres of land (the Zowtra Land) in Lamont County, Alberta, from Mr. Iwaschuk for \$5,000.

Zowtra Mortgage #1

33. On January 5, 2000 a purported \$1.8 million mortgage, executed on December 15, 1999 in favour of U-Have Credit (the Zowtra Mortgage #1),¹ was registered at the Land Titles office against the Zowtra Land.
34. The mortgage terms required interest to be paid at a rate of 12% per annum, calculated half yearly, in equal annual instalments of \$200,000 which would be applied first to interest and then to the principal.
35. The payments were payable on the 15th of December commencing in 2000 for a period of five years, at which time the remaining balance would be due.
37. Effective December 29, 1999, U-Have Credit retained a .2/1800 interest and transferred and assigned the rest of its interest in the Zowtra Mortgage #1, as follows:
 - (a) in exchange for \$1,739,800, CWT acquired a 1,739.8/1800 interest in the Zowtra Mortgage #1 on behalf of 33 self-administered RRSP clients; and
 - (b) in exchange for \$60,000, the Laurentian Trust of Canada Inc. acquired a 60/1800 interest in the Zowtra Mortgage #1 on behalf of two of its self-

¹ Zowtra Mortgage #1 is defined in the Request to Admit (and in the assumptions in the Amended Replies, at paragraph 15(l)) as being a purported mortgage, as are Zowtra Mortgage #2 and Zowtra Mortgage #3. However, to be clear, while the respondent's position is that these were purported and invalid mortgages, the appellants' position is that they were valid mortgages.

administered RRSP clients.

38. The \$1,739,800 with which CWT acquired an interest in the Zowtra Mortgage #1 on behalf of its self-administered RRSP clients included:
 - (a) \$37,000 from Mr. Stewart's self-directed RRSP trust; and
 - (b) \$42,500 from Mrs. Stewart's self-directed RRSP trust.

Zowtra Mortgage #2

39. On October 20, 2000, another purported \$2.4 million mortgage in favour of U-Have Credit (Zowtra Mortgage #2) was registered at the Land Titles office against the Zowtra Land.
40. The mortgage terms required interest to be paid at a rate of 15% per annum, calculated half yearly, in equal annual instalments of \$400,000 which would be applied first to interest and then to the principal.
41. The payments were payable on the 1st of November, commencing in 2001 for a period of five years, at which time the remaining balance would be due.
43. On October 20, 2000, U-Have Credit retained a 0.4/2400 interest and transferred and assigned the rest of its interest in the Zowtra Mortgage #2, as follows:
 - (a) in exchange for \$152,000, B2B Trust (B2B) acquired a 152/2400 interest in the Zowtra Mortgage #2 on behalf of four of its self-administered RRSP clients; and
 - (b) in exchange for \$2,248,100, CWT acquired a 2247.6/2400 interest in the Zowtra Mortgage #2 on behalf of 30 of its self-administered RRSP clients.

Zowtra Mortgage #3

44. On December 6, 2000, another purported \$2.8 million mortgage in favour of U-Have Credit (Zowtra Mortgage #3) was registered at the Land Titles office against the Zowtra Land.
45. The mortgage terms required interest to be paid at a rate of 18% per annum,

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calculated half yearly, in equal annual instalments of \$550,000 which would be applied first to interest and then to the principal.

46. The payments were payable on the 1st of December, commencing in 2001, for a period of five years at which time the remaining balance would be due.
48. On December 6, 2000, U-Have Credit retained a 5/2800 interest and transferred and assigned the rest of its interest in the Zowtra Mortgage #3, as follows:
 - (a) in exchange for \$2,497,700, CWT acquired a 2497.7/2800 interest in the Zowtra Mortgage #3 on behalf of 45 of its self-administered RRSP clients;
 - (b) in exchange for \$283,500 B2B acquired a 283.5/2800 interest in the Zowtra Mortgage #3 on behalf of four of its self-administered RRSP clients; and
 - (c) in exchange for \$13,800, Co-operative Trust Company of Canada acquired a 13.8/2800 interest in the Zowtra Mortgage #3 on behalf of one of its self-administered RRSP clients.

Mr. and Mrs. Stewarts' participation

64. Prior to opening their self-directed RRSPs at CWT:
 - (a) Mr. and Mrs. Stewart had never previously had any self-directed RRSPs; and
 - (b) their RRSPs had been held through an investment management/insurance firm in Cranbrook, B.C.
65. On June 14, 2000, Mr. and Mrs. Stewart each applied to open a self-directed RRSP account with CWT.
66. On June 15, 2000, Mr. and Mrs. Stewart directed their then-RRSP trustee, CI Mutual Funds, to transfer their RRSP funds to CWT.
67. On October 6, 2000, Mr. and Mrs. Stewart signed incomplete documents respecting their RRSP transactions and then faxed them to Academy.

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72. On October 17, 2000, a Transfer of Mortgage document indicating that a 37/1,800 interest in Zowtra Mortgage #1 was transferred to Mr. Stewart's RRSP trust with CWT as trustee, was registered at the Land Titles Office in exchange for \$37,000.
73. Mr. Stewart's RRSP trust acquired a 37/1,800 interest in the rights provided by the Zowtra Mortgage #1 document registered against the Zowtra Land at the Land Titles Office, as registered by the filed Transfer of Mortgage document.
74. On October 17, 2000, a Transfer of Mortgage document indicating that a 42.5/1,800 interest in Zowtra Mortgage #1 was transferred to Mrs. Stewart's RRSP trust with CWT as trustee, was registered at the Land Titles Office in exchange for \$42,500.
75. Mrs. Stewart's RRSP trust acquired a 42.5/1,800 interest in the rights provided by the Zowtra Mortgage #1 document registered against the Zowtra Land at the Land Titles Office, as registered by the filed Transfer of Mortgage document.
76. Mr. Stewart's self-directed RRSP statements of account recorded that his RRSP invested \$37,000 in a mortgage with Zowtra that would mature on December 15, 2004 at a rate of 12%.
77. Mrs. Stewart's self-directed RRSP statements of account recorded that her RRSP invested \$42,500 in a mortgage with Zowtra that would mature on December 15, 2004 at a rate of 12%.
78. Despite interest purportedly being payable on the investment to Mr. and Mrs. Stewart's RRSP trusts on December 15, 2000, no interest was paid to their RRSP trusts, and no share settlement was made to their trusts, then or ever.

Mr. and Mrs. Stewarts' 2000 income tax returns and additional facts

80. In March of 2000, the CRA posted a fact sheet online:
 - (a) warning owners of self-directed RRSPs to exercise caution, as some promoters of financing schemes promised RRSP owners that they could make tax-free withdrawals from their RRSPs; and
 - (b) suggesting that taxpayers should consult with knowledgeable tax advisors before taking part in any scheme that promised a tax-free withdrawal of RRSP funds.

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81. Mr. and Mrs. Stewart used Bruce Cavenaile of the accounting firm Cavenaile & Company in Fort. St. John, B.C., to assist with their year-end business accounting and prepare their various tax returns from around 1994 to 2002.
82. Mr. and Mrs. Stewart each had a history of contributing and deducting RRSP amounts, and reporting RRSP income, in their income tax returns during the period of 1987 to 2000.
83. Mr. and Mrs. Stewart had Cavenaile & Company prepare their 2000 income tax returns.
84. Mr. and Mrs. Stewart did not discuss the Zowtra investment with Mr. Cavenaile or anyone else at Cavenaile & Company.
85. On March 18, 2001, Mr. and Mrs. Stewart filed their 2000 income tax returns with the CRA.
86. Mr. and Mrs. Stewart did not report the amounts in issue as income in their returns.
87. At the time that he filed his 2000 return, Mr. Stewart understood that:
 - (a) RRSPs were tax-assisted savings plans;
 - (b) contributions could be made to an RRSP on a tax-deductible basis, within the specified limits;
 - (c) funds in an RRSP could only be invested in certain specific types of investments, referred to as qualified investments, which included an interest in a mortgage registered against land in Canada;
 - (d) investment income earned within the RRSP was not subject to tax until it was withdrawn from the RRSP or the RRSP matured; and
 - (e) amounts withdrawn from an RRSP during a particular tax year were generally subject to tax in that tax year.
88. At the time that she filed her 2000 return, Mrs. Stewart understood that RRSPs were retirement savings plans to which funds could be contributed on a tax-deductible basis, and within which investment income was not taxed until the funds were withdrawn.

89. On February 25, 2003, Freedom 39 Plus Tax Planners Inc. wrote to Mr. and Mrs. Stewart stating that Zowtra was proposing that their RRSPs' mortgage claims be settled with shares in a company called Alta Terra Ventures Inc.
90. In early 2005, Mr. and Mrs. Stewart retained lawyers, Marlin Moore and Leslie G. Morris, to seek recovery of some or all of their RRSP investments.

ADMITTED DOCUMENTS

<u>Description</u>	<u>Date</u>
1. Copy of undated information package from Academy regarding "The Academy RRSP & RRIF Third Party Mortgage Program" (10 pages)	Undated
2. Copy of pamphlet entitled "RRSP Third-Party Mortgage Program" by Academy Financial Planners and Consultants Inc.	Undated
3. Copy of pamphlet entitled "The Academy Financial Assets Liberation Program" by Academy Financial Planners and Consultants Inc.	Undated
4. Copy of a blank Consulting Agreement with Academy Financial Planners and Consultants Inc. (2 pages)	Undated
5. Copy of the Land Titles Office transfer of land document, with attachments, respecting Zowtra's acquisition of the property from Orest Iwaschuk (6 pages)	December 17, 1999
6. Copy of the Land Titles Office mortgage document respecting Zowtra's \$1.8 million mortgage in favour of U-Have Credit (11 pages)	January 5, 2000
7. Copy of Reasons for Decision of the Alberta Securities Commission in the matter of Rusnak et al.	February 15, 2000
8. CRA's Fact sheet on self-directed RRSPs	March 8, 2000

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| 9. | Copy of Order of the Alberta Securities Commission in the matter of Rusnak et al. | March 31, 2000 |
| 10. | Copy of Mr. Stewart's self-directed RSP application form | June 14, 2000 |
| 11. | Copy of Mrs. Stewart's self-directed RSP application form | June 14, 2000 |
| 12. | Copy of Mr. Stewart's transfer authorization form | June 15, 2000 |
| 13. | Copy of Mrs. Stewart's transfer authorization form | June 15, 2000 |
| 14. | Copy of fax cover letter from Herb DeMars to Mr. Stewart referring to an attached package of investment documents to be completed | October 6, 2000 |
| 15. | Copy of undated cover sheet to "Attention Sherry" from Mr. Stewart | Undated |
| 16. | Copy of Mr. Stewart's Instructions to Solicitor re faxing a request for funding | Undated |
| 17. | Copy of Mr. Stewart's Consulting Agreement for Financial Services with Academy | October 6, 2000 |
| 18. | Copy of Mr. Stewart's incomplete Application and Agreement For Private Mortgage Loan Investment | October 6, 2000 |
| 19. | Copy of Mr. Stewart's incomplete Instructions to Solicitor re drawing a mortgage | October 6, 2000 |
| 20. | Copy of Mr. Stewart's incomplete authorization letter and declaration | October 6, 2000 |
| 21. | Copy of Mr. Stewart's authorization letter and declaration | October 6, 2000 |
| 22. | Copy of Mrs. Stewart's Consulting Agreement for Financial Services with Academy | October 6, 2000 |
| 23. | Copy of Mrs. Stewart's incomplete Application and Agreement For Private Mortgage Loan Investment | October 6, 2000 |
| 24. | Copy of Mrs. Stewart's incomplete Instructions to Solicitor re drawing a mortgage | October 6, 2000 |

25. Copy of Mrs. Stewart's incomplete authorization letter and declaration October 6, 2000
26. Copy of Mrs. Stewart's authorization letter and declaration October 6, 2000
27. Copy of the Land Titles Office transfer of mortgage document respecting U-Have Credit's transfer of 37/1,800 of its mortgage interest to Mr. Stewart's RRSP trust (3 pages) October 17, 2000
28. Copy of the Land Titles Office transfer of mortgage document respecting U-Have Credit's transfer of 42.5/1,800 of its mortgage interest to Mrs. Stewart's RRSP trust (3 pages) October 17, 2000
29. Copy of the Land Titles Office mortgage document respecting Zowtra's \$2.4 million mortgage in favour of U-Have Credit (11 pages) October 20, 2000
30. Copy of the Land Titles Office mortgage document respecting Zowtra's \$2.8 million mortgage in favour of U-Have Credit (11 pages) December 6, 2000
31. Copy of the Land Titles Office title search respecting the property owned by Zowtra (6 pages) March 1, 2001
32. Copy of Mr. Stewart's RRSP statement May 31, 2001
33. Copy of Mrs. Stewart's RRSP statement May 31, 2001
34. Copy of a blank letter to the Alberta Securities Commission June 29, 2001
35. Copy of a letter to Zowtra investors from Academy re Status of Current Developments, with various enclosures (8 pages) July 3, 2001
36. Copy of a letter Zowtra investors from Academy re Status of Current Developments, with various enclosures (24 pages) July 3, 2001
37. Copy of a letter to Zowtra investors from Academy re New Income Tax Recovery Program (2 pages) July 3, 2001
38. Copy of a blank Mortgage Amending Agreement (2 pages) July 5, 2001

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| 39. | Copy of various of Mr. Stewart's RRSP statements (6 pages) | May 31, 2002 to December 31, 2003 |
| 40. | Copy of various of Mrs. Stewart's RRSP statements (5 pages) | May 31, 2002 to December 31, 2003 |
| 41. | Copy of Mr. Stewart's RRSP statement | September 30, 2002 |
| 42. | Copy of Mrs. Stewart's RRSP statement | September 30, 2002 |
| 43. | Copy of a letter from Academy to Mr. Stewart re dealing with questions from a CCRA auditor | January 5, 2003 |
| 44. | Copy of letter from the CRA to David Knight requesting documents re Zowtra Investments Inc. | January 31, 2003 |
| 45. | Copy of a letter from Freedom 39 Plus Tax Planners Inc. to Mr. Stewart | February 25, 2003 |
| 46. | Copy of a letter from Freedom 39 Plus Tax Planners Inc. to Mrs. Stewart | February 25, 2003 |
| 47. | Copy of Notice of Suspension from the Law Society of Alberta to David Knight | April 4, 2003 |
| 48. | CRA's summary working paper respecting U-Have Credit (Canada)'s Royal Bank account #XXX-433-2 (2 pages) | Undated |
| 49. | Copy of a letter from Mohamed Shariff, CRA, to Mr. Stewart, with enclosed questionnaire (5 pages) | December 11, 2003 |
| 50. | Copy of a letter from Mohamed Shariff, CRA, to Mrs. Stewart, with enclosed questionnaire (5 pages) | December 11, 2003 |
| 51. | Copy of a fax cover sheet and letter from Academy/Alta Terra Ventures Corp. to Mr. Stewart re dealing with questions from a CCRA auditor (2 pages) | January 6, 2004 |
| 52. | Copy of a letter from Mohamed Shariff, CRA, to Mr. Stewart (6 pages) | February 6, 2004 |
| 53. | Copy of a letter from Mohamed Shariff, CRA, to Mrs. Stewart (6 pages) | February 6, 2004 |
| 54. | CRA audit report respecting Mr. Stewart (4 pages) | March 24, 2004 |

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| 55. | CRA penalty recommendation report respecting Mr. Stewart (5 pages) | March 24, 2004 |
| 56. | CRA audit report respecting Mrs. Stewart (4 pages) | March 24, 2004 |
| 57. | CRA penalty recommendation report respecting Mrs. Stewart (5 pages) | March 24, 2004 |
| 58. | Copy of a letter from Mohamed Shariff, CRA, to Mr. Stewart | March 31, 2004 |
| 59. | Copy of a letter from Mohamed Shariff, CRA, to Mrs. Stewart | March 31, 2004 |
| 60. | CRA's electronic printout respecting Mr. Stewart's 2000 income amounts as reported in his income tax return | March 31, 2004 |
| 61. | CRA's electronic printout respecting Mrs. Stewart's 2000 income amounts as reported in her income tax return | March 31, 2004 |
| 62. | CRA's Global Prosperity position paper | May 5, 2004 |
| 63. | Copy of Mr. Stewart's Statement of Claim filed in <i>Alan Lorne Stewart et al. v. David D. Knight et al.</i> , Action No. 0501-01356 in the Alberta Court of Queen's Bench in the Calgary Judicial District (20 pages) | April 11, 2005 |
| 64. | Copy of a Demand for Particulars filed in <i>Alan Lorne Stewart et al. v. David D. Knight et al.</i> , Action No. 0501-01356 in the Alberta Court of Queen's Bench in the Calgary Judicial District (3 pages) | May 14, 2005 |
| 65. | Copy of Mr. Stewart's Reply to the Demand for Particulars filed in <i>Alan Lorne Stewart et al. v. David D. Knight et al.</i> , Action No. 0501-01356 in the Alberta Court of Queen's Bench in the Calgary Judicial District (3 pages) | June 21, 2005 |
| 66. | CRA position paper respecting Zowtra Investments Inc. (22 pages) | October 4, 2005 |
| 67. | Fax from Gail Harding, Canadian Western Trust, to Bill Nakano, CRA | December 15, 2006 |

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| 68. | Copy of Press Release of the Alberta Securities Commission in the matter of Rusnak et al. | November 20, 2007 |
| 69. | Copy of Press Release of the Alberta Securities Commission in the matter of Rusnak et al. | December 6, 2007 |
| 70. | CRA objection report respecting Mr. Stewart (14 pages) | August 9, 2010 |
| 71. | CRA objection report respecting Mrs. Stewart (14 pages) | August 9, 2010 |
| 72. | CRA's electronic printout respecting Mr. Stewart's 2000 income amounts after the April 7, 2004 reassessment (2 pages) | December 9, 2010 |
| 73. | CRA's electronic printout respecting Mrs. Stewart's 2000 income amounts after the April 7, 2004 reassessment (2 pages) | December 9, 2010 |

CITATION: 2019 TCC 22

COURT FILE NOS.: 2010-3524(IT)G
2010-3525(IT)G

STYLE OF CAUSE: CINDY STEWART v. HER MAJESTY
THE QUEEN

ALAN STEWART v. HER MAJESTY
THE QUEEN

PLACE OF HEARING: Calgary, Alberta

DATE OF HEARING: April 25 and 26, 2018

REASONS FOR JUDGMENT BY: The Honourable Justice Steven K. D'Arcy

DATE OF JUDGMENT: January 22, 2019

APPEARANCES:

Counsel for the Appellant: Douglas E. Roberts
Counsel for the Respondent: Ron D. F. Wilhelm

COUNSEL OF RECORD:

For the Appellant:

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