Federal Court Cour fédérale

Date: 20250410

Docket: T-3231-24

Citation: 2025 FC 670

Toronto, Ontario, April 10, 2025

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

MINISTER OF NATIONAL REVENUE

Applicant

and

NE'EMAN FOUNDATION CANADA

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] The Ne'eman Foundation Canada [Foundation] was registered as a charity in March 2011, and established under the *Canada Not-for-profit Corporations Act*, SC 2009, c 23 in October 2013. The Foundation's main activity consisted of raising funds in Canada that were transferred to a network of agents in other countries to advance its charitable objectives.

[2] On July 2, 2024, the Minister of National Revenue [Minister] issued a Notice of Intention to revoke the Foundation's charitable registration. On July 31, 2024, the Foundation filed a Notice of Objection disputing the allegations contained in the Notice of Intention. On August 10, 2024, the Minister revoked the Foundation's charitable registration.

[3] The merits of the Foundation's Notice of Objection have yet to be determined.

[4] On November 25, 2024, the Minister moved *ex parte* for a "jeopardy order" to prevent the Foundation from dissipating its assets. Justice William Pentney granted the order on November 29, 2024. He amended the order on December 4, 2024 (*Canada (National Revenue) v Ne'eman Foundation Canada*, 2024 FC 1932 [Jeopardy Order]).

[5] The Foundation has brought a motion pursuant to s 225.2(8) of the *Income Tax Act*, RSC 1985, c-1 (5th Supp) [ITA] to set aside the Jeopardy Order.

II. Background

[6] Chaim Katz is the Chief Executive Officer [CEO], founder, president and treasurer of the Foundation. He is also its sole banking authority.

[7] On May 14, 2019, the Canada Revenue Agency [CRA] informed the Foundation that it would conduct an audit of its charitable activities for the period January 1, 2016 to December 31,

2017. On March 3, 2021, the Minister issued an administrative fairness letter to the Foundation with a summary of the audit's findings. These included the following:

(a) the Foundation was not operated exclusively for charitable purposes, because its resources were directed to unstated, collateral, non-charitable purposes;

(b) the Foundation conferred a private benefit upon Mr. Katz and a for-profit corporation that he founded, owns and operates in Israel;

(c) the Foundation failed to exercise direction and control over the use of its resources by its network of agents to ensure the funds were used exclusively for charitable purposes; and

(d) the Foundation failed to maintain adequate books and records, issue donation receipts, and file an information return as required by the ITA.

[8] The Foundation replied to the administrative fairness letter on August 10, 2021. The Foundation acknowledged that its record-keeping during the audit period was unsatisfactory, but disputed the remaining findings. The Foundation also maintained that it had improved its record-keeping practices.

[9] The audit report was completed on October 12, 2022. The report concluded that the Foundation had failed to meet the requirements for registration as a charity under the ITA, and recommended revocation of the Foundation's charitable registration.

[10] On August 13, 2024, the CRA commenced a review of a related charity, The Emunim Fund. The Emunim Fund was registered as a charity on April 18, 2024 under the name Maison Yeshaya 5756. Between July 30, 2024 and August 8, 2024, Maison Yeshaya 5756 changed its name to The Emunim Fund, changed the location of its registered office to the same address as the Foundation, and replaced all of its directors. These changes were brought about by Mr. Katz, who certified on the applicable forms that he had "relevant knowledge of the corporation" and was "authorized to sign" or was an "authorized officer" of The Emunim Fund.

[11] On August 23, 2024, the CRA sent an administrative fairness letter to The Emunim Fund, informing the Fund of its intention to suspend its authority to issue charitable receipts for a period of one year. The letter noted that Mr. Katz was an "ineligible individual", as defined in s 149.1(1) of the ITA, and his involvement with The Emunim Fund provided sufficient grounds to suspend the Fund's receipting privileges.

[12] In its response to the administrative fairness letter on September 3, 2024, counsel for The Emunim Fund and the Foundation disputed the CRA's characterization of Mr. Katz's role and the basis for suspension. Counsel indicated that the Foundation's intention was to transfer the entirety of its operations to The Emunim Fund, consistent with the ITA.

[13] On September 19, 2024, the Minister suspended The Emunim Fund's receipting privileges. As a result, The Emunim Fund became an ineligible donee, and could no longer receive the Foundation's assets in accordance with the ITA.

[14] On November 25, 2024, the Minister sent the Foundation a Notice of Reassessment, dated November 19, 2024, assessing the Foundation for $2,561,525 in federal taxes.

III. The Jeopardy Order

[15] In addition to the factual background summarized above, Justice Pentney's Jeopardy Order was premised on the following developments cited by the Minister (Jeopardy Order at para 13):

> - Electronic Funds Transfer searches (which report on transfers in excess of $10,000) done in August 2024 revealed a number of outgoing transfers from several of the Respondent's bank accounts over the past several years; many of these were transfers to the Ne'eman Foundation POB Israel. However, subsequent searches done in October and November 2024 indicated there had been no transfers since the previous search on August 28, 2024;
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> - Requirements for Information issued to TD Canada Trust in respect of the Respondent's accounts indicated that the balances in its four separate bank accounts had decreased by over $159,000 CAD by September 16, 2024, owing to withdrawals; this had significantly reduced the Respondent's most easily liquidated assets. However, the Minister also noted that the Respondent owns equities valued at over $1.3M CAD, and the total value of these holdings have increased by a modest amount, as of October 28, 2024;

- The Respondent has a TD Aeroplan Visa Business credit card, which appears to be used by Mr. Katz; purchases have been made using the credit card after the Respondent's charitable registration was revoked;

- There is no record of any real or other property owned by the Respondent in Canada.

[16] Justice Pentney noted that the Minister was relying on the Foundation's conduct prior to and during the audit and revocation process, as well as its more recent conduct (Jeopardy Order at para 14).

[17] Justice Pentney continued (Jeopardy Order at para 23):

> The most cogent evidence in support of the Minister's application is the transfers from the Respondent's bank accounts that have occurred since its charitable status was revoked. The bank accounts are the most easily accessible fungible assets of the Respondent, and the evidence shows that substantial sums have been transferred from the accounts in the period between the revocation in early August 2024 and the bank statements dated October 28, 2024, leaving a balance of only $77,868.87. The Minister filed evidence showing activity in the various accounts during 2024, and the trend is obvious: there has been a precipitous decline in the Ne'eman Foundation bank accounts during the course of the year, particularly in the latter portion of the year that coincides with the Notice of Intention to revoke its charitable status, followed by the actual revocation decision.

[18] Justice Pentney observed that Mr. Katz's involvement in The Emunim Fund and attempt to transfer the Foundation's assets to the Fund were not in compliance with the ITA, because he was an "ineligible individual" at the time (Jeopardy Order at para 28).

[19] Justice Pentney acknowledged several mitigating factors, including the substantial assets held by the Foundation as Canadian securities that had not been dissipated (Jeopardy Order at para 24); the Foundation's vigorous objection to the audit findings (Jeopardy Order at para 26); and the possibility that the funds transferred from the bank accounts were for purposes relating to the winding up of the Foundation's operations (Jeopardy Order at para 30).

[20] However, Mr. Katz's activities after the Minister indicated her intention to revoke the Foundation's charitable status were of particular concern (Jeopardy Order at paras 36-37):

> Furthermore, the activities of Mr. Katz in relation to the establishment of The Emunim Fund, and the efforts to transfer the Respondent's assets to that organization, demonstrate a continuation of the pattern of non-compliance with the *ITA*. The fact that Mr. Katz was an "ineligible person," who should have had no involvement in the Fund, is plain from a bare review of the relevant provisions of the *ITA*: see *ITA* s. 149.1(1). […]
>
> The fact that Mr. Katz maintains control over the Respondent's assets is a particularly relevant consideration. The salience of this is increased because the evidence shows that the Respondent's bank accounts have been significantly depleted and its credit card continues to be used after the revocation of its charitable status. It appears that Mr. Katz could easily liquidate the securities, which remain the primary asset of the Respondent.

IV. Issues

[21] The Foundation's motion to set aside the Jeopardy Order raises the following issues:

A. Should the Minister's evidence be given any weight?

B. Are there reasonable grounds to doubt that the Foundation's funds are in jeopardy?

C. Did the Minister make full and frank disclosure when applying for the Jeopardy Order?

V. Analysis

[22] The Court's review of the Jeopardy Order proceeds in two stages, and combines aspects of an appeal and a hearing *de novo* (*Canada (National Revenue) v Robarts*, 2010 FC 875 [*Robarts*] at paras 6-7):

> First, the taxpayer must provide evidence that there are reasonable grounds to doubt that the collection of all or any part of the amount assessed against him would be jeopardized by a delay in the collection of that amount. However, even where a taxpayer fails to meet their initial evidentiary burden, it remans open to the reviewing judge to set aside a jeopardy order where the Minister has not met the obligation to make a full and frank disclosure.
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> Where the taxpayer has met this initial threshold, the Minister then has the ultimate burden to show that the jeopardy order was justified. At that latter stage, the Court will review all the evidence on record and ask itself whether, on the whole of the evidence submitted by the parties, there are reasonable grounds to be believe that the collection of any part of the assessment amount would be jeopardized by delay.

[23] When reviewing a Jeopardy Order, "[t]he judge shall determine the question summarily and may confirm, set aside or vary the authorization and make such other order as the judge considered appropriate" (*Robarts* at para 4). In *Services ML Marengère Inc (Re)*, 1999 CanLII

9004 (FC), Justice François Lemieux reviewed the applicable jurisprudence and said the following about the conduct of Court's review (at para 63):

> From this jurisprudence, I take the following principles:
>
> (1) The perspective of the jeopardy collection provision goes to the matter of collection jeopardy by reason of delay normally attributable to the appeal process. The wording of the provision indicates that it is necessary to show that because of the passage of time involved in an appeal, the taxpayer would become less able to pay the amount assessed. In other words, the issue is not whether the collection per se is in jeopardy but rather whether the actual jeopardy arises from the likely delay in the collection.
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> (2) In terms of burden, an applicant under subsection 225.2(8) has the initial burden to show that there are reasonable grounds to doubt that the test required by subsection 225.2(2) has been met, that is, the collection of all or any part of the amounts assessed would be jeopardized by the delay in the collection. However, the ultimate burden is on the Crown to justify the jeopardy collection order granted on an *ex parte* basis.
>
> (3) The evidence must show, on a balance of probability, that it is more likely than not that collection would be jeopardized by delay. The test is not whether the evidence shows beyond all reasonable doubt that the time allowed to the taxpayer would jeopardize the Minister's debt.
>
> (4) The Minister may certainly act not only in cases of fraud or situations amounting to fraud, but also in cases where the taxpayer may waste, liquidate or otherwise transfer his property to escape the tax authorities: in short, to meet any situation in which the taxpayer's assets may vanish in thin air because of the passage of time. However, the mere suspicion or concern that delay may jeopardize collection is not sufficient per se. As Rouleau J. put it in *1853-9049 Quebec Inc.*, supra, the question is whether the Minister had reasonable grounds for believing that the taxpayer would waste, liquidate or otherwise transfer its assets, so jeopardizing the Minister's debt. What the Minister has to show is whether the taxpayer's assets can be liquidated in the meantime or be seized by other creditors and so not available to him.
>
> (5) An *ex parte* collection order is an extraordinary remedy. Revenue Canada must exercise utmost good faith and insure full and frank disclosure. On this point, Joyal J. in *Peter Laframboise*

> *v. The Queen*, 1986 CanLII 6887 (FC), [1986] 3 F.C. 521 at 528 said this:
>
> > The taxpayer's counsel might have an arguable point were the evidence before me limited exclusively to that particular affidavit. As Counsel for the Crown reminded me, however, I am entitled to look at all the evidence contained in the other affidavits. These affidavits might also be submitted to theological dissection by anyone who is dialectically inclined but I find on the whole that those essential elements in these affidavits and in the evidence which they contain pass the well-known tests and are sufficiently demonstrated to justify the Minister's action.
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> In *Duncan*, supra, Jerome A.C.J., after quoting Joyal J. in *Laframboise*, supra, viewed the level of disclosure required by the Minister as one of adequate (reasonable) disclosure.

A. *Should the Minister's evidence be given any weight?*

[24] The Foundation says that no weight should be given to the findings contained in the audit report concerning its charitable activities for the period January 1, 2016 to December 31, 2017. The Foundation maintains that the reports are the Minister's opinion regarding certain facts, and the Court should require direct evidence to support those findings.

[25] During the hearing of this motion, a question arose whether "reasonable grounds to believe" refers to the Court's belief or that of the Minister. This Court has previously ruled that a jeopardy order will issue only "if the evidence establishes to the satisfaction of the Court that the Minister has reasonable grounds to believe" that a delay will jeopardize collection (*Fiducie Dauphin (Re)*, 2010 FC 1144 at para 18, citing *Golbeck (D), Canada v*, 1990 CanLII 13568 (FCA), [1990] 2 CTC 438, 90 DTC 6575).

[26] The audit report is therefore admissible as evidence of the basis for the Minister's belief. It nevertheless remains open to the Foundation to challenge the evidence supporting the findings contained in the audit report, which could in turn undermine the reasonableness of the Minister's belief.

[27] The Foundation also asks the Court to draw an adverse inference against the Minister due to the absence of evidence of persons having personal knowledge of material facts, pursuant to s 81(2) of the *Federal Courts Rules*, SOR/98-106. Affidavits on information and belief should provide an explanation as to why the best evidence is not available unless this is otherwise apparent. The failure to provide the best evidence is not a precondition to admissibility, but it may affect the weight or probative value of the affidavit (*Split Lake Cree First Nation v Sinclair*, 2007 FC 1107 [*Split Lake*] at para 26).

[28] *Split Lake* concerned a proceeding under the *Canada Labour Code*, RSC, 1985, c L-2. The Minister notes that an application for a jeopardy order and a subsequent review are governed by s 225.2 of the ITA. Subsection 225.2(4) provides that: "Statements contained in an affidavit filed in the context of an application under this section may be based on belief with the grounds therefor".

[29] Moreover, documents annexed to an affidavit of an officer of the CRA, who is familiar with the practices of the CRA and who has access to the appropriate records, may be taken as evidence of the nature and contents of the document (*Poulin v The Queen*, 2013 TCC 104 at para 20). Subsection 244(9) of the ITA states:

Proof of documents	**Preuve de documents**
(9) An affidavit of an officer of the Canada Revenue Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and that a document annexed to the affidavit is a document or true copy of a document, or a print-out of an electronic document, made by or on behalf of the Minister or a person exercising a power of the Minister or by or on behalf of a taxpayer, is evidence of the nature and contents of the document.	**(9)** L'affidavit d'un fonctionnaire de l'Agence du revenu du Canada — souscrit en présence d'un commissaire ou d'une autre personne autorisée à le recevoir — indiquant qu'il a la charge des registres pertinents et qu'un document qui y est annexé est un document, la copie conforme d'un document ou l'imprimé d'un document électronique, fait par ou pour le ministre ou une autre personne exerçant les pouvoirs de celui-ci, ou par ou pour un contribuable, fait preuve de la nature et du contenu du document.

[30] I therefore conclude that no adverse inference should be drawn against the Minister. The weight to be given to the audit report is a function of all the evidence adduced by the parties concerning whether collection of the amount assessed against the Foundation would be jeopardized by a delay in the collection of that amount.

B. *Are there reasonable grounds to doubt that the Foundation's funds are in jeopardy?*

[31] When the Minister issues a notice of intention to revoke a charity's registration, the charity enters a winding-up period (ITA, s 188(1.2)). The charity is liable to pay revocation tax for the taxation year, which is deemed to end on the date of the notice (ITA, ss 188(1.1) & 188(1)(a)).

[32] During the winding-up period, or in certain cases where the Minister assesses revocation tax in the year following the notice of intention, the charity may make charitable expenditures or transfers to eligible donees. If properly documented and in compliance with the ITA, these will have the effect of reducing the revocation tax payable (ITA, ss 188(1.1) & 189(6.2)).

[33] The Foundation maintains that its conduct has always complied with the ITA, and the Minister's concerns regarding the propriety of its expenditures are speculative. Specifically, the Foundation says that the depletion of its bank funds and ongoing credit card expenses have been for the sole purpose of reducing its revocation tax. The Foundation disputes the Minister's reasons for suspending The Emunim Fund's receipting privileges, and says that Justice Pentney should have examined the merits of the Foundation's objections more closely (citing *Robarts* at paras 67-68).

[34] Following the revocation of the Foundation's charitable status, Mr. Katz became an ineligible individual pursuant to s 149.1(1) of the ITA. Despite this, Mr. Katz completed paperwork to change the name of The Emunim Fund, its board of directors, and its registered office in his capacity as an "authorized officer". He was described on the Fund's website as its CEO before and after his resignation as an officer.

[35] Counsel for The Emunim Fund informed the Minister of the Foundation's intention to transfer its assets and operations to the Fund and "provide operational support". This caused the Minister to be concerned about the Foundation's intention to comply with the ITA in its efforts to reduce its revocation tax.

[36] The Foundation admitted that its record keeping practices, as described in the audit report, were deficient. The CRA was unable to determine whether the Foundation's financial transactions complied with the ITA's provisions regarding charitable expenditures.

[37] In *Canada (National Revenue) v Ben-Menashe*, 2023 FC 977 [*Ben-Menashe*], Justice Alan Diner confirmed that the moving party on a motion for review of a jeopardy order "has the initial burden of mustering evidence that there are reasonable grounds to doubt that the test required by subsection 225.2(2) of the ITA has been met. He must demonstrate through affidavits or cross-examination of the Minister's witnesses, that the evidence originally submitted by the Minister in the *ex parte* application, did not meet the s. 225 test". It is only if the moving party succeeds in the first step that the burden shifts to the Minister, who has the ultimate burden of showing that the *ex parte* issuance of the Order was justified (*Ben-Menashe* at para 10).

[38] Mr. Katz swore an affidavit in support of this motion to set aside the Jeopardy Order. He was cross-examined in writing. One of the questions asked of Mr. Katz (Question 13) was:

> Referring to paragraph 24 of the Affidavit ("The Foundation would only dispense funds as a reimbursement, after receiving receipts and a description of what was done to make sure the expenses were in compliance with the Income Tax Act"): Please provide copies of the receipts and descriptions of what was done for all charitable activities of Ne'eman Foundation Canada for 2024.

[39] Mr. Katz responded to Question 13 as follows:

> 13. In 2024, which includes the six months prior to the issuance of the revocation, the Foundation operated over 170 projects, and in operating its charitable projects it made 327 disbursements. While the Foundation made a serious attempt to gather this information and had 3 people working ten hours per day, it was not possible to organize the volume of data requested within the four-day timeframe allotted which included the Jewish Sabbath when the Foundation office closed. A non-exhaustive list of the descriptions of what was done for all charitable activities of the Foundation follows.
>
> a. Providing Food for the needy either directly or through prepaid food cards and other poverty relief programs
>
> b. Women's shelter for battered women and sexual assault crisis centre
>
> c. Vocational training for the un or under employed.
>
> d. Tuition aid for religious study.
>
> e. Programs to support religious observance such as the provision of ritual objects and classes.
>
> f. Programs for teens and children at risk.
>
> g. Aid for new immigrants.
>
> h. Therapy programs for those in need
>
> i. Educational programs such as economic lectures or programs that teach the holocaust.
>
> j. Medical research particularly into Alzheimers.

[40] The Foundation had the opportunity on this motion to demonstrate, through affidavits or cross-examination of the Minister's witnesses, that the evidence originally submitted by the Minister in support of the *ex parte* application before Justice Pentney did not meet the prescribed test. The Foundation, through Mr. Katz, offered only bald statements and conclusions, and

declined to provide the requested “receipts and descriptions of what was done for all charitable activities of Ne’eman Foundation Canada for 2024”.

[41] Shortly before this motion was scheduled to be heard, the Foundation submitted what it described as an “addendum” to Mr. Katz’s affidavit comprising a number of written agency agreements and untranslated documents in Hebrew. In the course of the hearing, counsel for the Foundation confirmed that they would not seek to adduce the additional documents into evidence.

[42] The Foundation says there was insufficient time to gather all of the information requested by the Minister in Question 13 of the written cross-examination. The Foundation also argues that it is not for this Court to determine whether the Foundation’s efforts to reduce its revocation tax in 2024 were legitimate or not. Be that as it may, the Foundation has failed to demonstrate that the evidence originally submitted by the Minister in support of the *ex parte* application before Justice Pentney did not meet the test prescribed by s 225.2 of the ITA.

[43] The Minister reasonably sought a Jeopardy Order based upon the Foundation’s history of non-compliance with the ITA, most recently Mr. Katz’s attempts to transfer the Foundation’s assets to The Emunim Fund while he was both an ineligible individual and an officer of the Fund. Mr. Katz completed this paperwork in August 2024.

C. *Did the Minister make full and frank disclosure when applying for the Jeopardy Order?*

[44] The Foundation says that the Minister failed to make full and frank disclosure on the *ex parte* application for the Jeopardy Order by neglecting to inform Justice Pentney of the Foundation's ability to reduce its revocation tax during the winding-up period.

[45] As discussed above, a former charity may reduce, and even eliminate, its tax debt in accordance with ss 188(1.1) and 189(6.2) of the ITA. According to the Foundation, a "precipitous decline" in the Foundation's bank accounts is exactly what one would expect following a notice of intention to revoke its charitable status.

[46] A jeopardy order potentially frustrates the purpose of the deduction provisions, which is to keep donations in the charitable sphere. The Foundation acknowledges that there may be circumstances where a jeopardy order against a former charity is warranted, but says that in this case the alleged dissipation of assets was a normal part of the winding-up process.

[47] The Foundation complains that the Minister failed to explain to Justice Pentney the full implications of issuing a jeopardy order while the winding-up process was ongoing. Indeed, the Foundation says that counsel for the Minister wrongly informed Justice Pentney that the winding-up period had come to an end.

[48] There can be no serious question that Justice Pentney was aware of the Foundation's former status as a charity. Justice Pentney acknowledged at paragraph 30 of the Jeopardy Order the possibility that the funds transferred from the bank accounts were for purposes relating to the winding up of the Foundation's operations.

[49] Justice Pentney nevertheless concluded that the Jeopardy Order was justified, considering: (a) the Foundation's history of non-compliance with the ITA; (b) the precipitous decline in the Foundation's bank accounts; and (c) most importantly, the efforts of Mr. Katz, an ineligible individual, to transfer the Foundation's operations to The Eminum Fund while actively involved as an officer. All of these concerns were valid, regardless of whether or not the winding-up period was ongoing or the Foundation could still potentially transfer its assets to eligible donees under the ITA.

[50] As the Minister states in her written representations (at para 4):

> […] The inability for the Respondent to utilize its remaining assets as it would want to do is the exact result the Minister seeks to achieve. The Minister has lost confidence that the Respondent will be able to account for its purported "charitable expenditures". Contrary to the Respondent's position, the jeopardy provisions are consistent with the scheme of Part V of the ITA and play an important role in protecting the public purse.

[51] The principal effect of the Jeopardy Order is to authorize the Minister to immediately take the actions described in ss 225.1(1)(a) to (g) of the ITA with respect to the amounts assessed against the Foundation. Counsel for both parties agreed in oral argument that this does not necessarily prevent the Foundation from transferring its remaining assets to eligible donees in accordance with the ITA, with the approval and under the supervision of the Minister.

[52] Counsel for the Foundation did not elaborate in oral argument on the alternative argument that the Minister should have drawn Justice Pentney's attention to s 188(2) of the ITA, which authorizes the Minister to assess third-party transferees to recoup unpaid revocation tax. I

agree with the Minister that it may not be feasible for her to recoup funds from ineligible donees, some of whom may be domiciled abroad. Furthermore, it is not for this Court to tell the Minister how she should recover the amount of the tax debt, or what particular means of collection she should favour (*Canada (National Revenue) v Izmirlian*, 2019 FC 63 at para 30).

[53] The Minister satisfied her obligation to make full and frank disclosure when seeking the *ex parte* Jeopardy Order.

VI. Conclusion

[54] The Foundation has not met its burden of demonstrating that (a) there are reasonable grounds to doubt that the collection of all or any part of the amount assessed against it would be jeopardized by a delay in the collection of that amount, or (b) the Minister did not make full and frank disclosure when applying for the Jeopardy Order.

[55] By agreement of the parties, the Foundation's arguments respecting the constitutionality of s 225.2 of the ITA as it relates to charities will be addressed at a later date. The parties may communicate informally with the Court regarding the scheduling of a further special sitting to hear arguments respecting the remaining issues in this motion, including costs.

[56] Given the ongoing dispute between the parties regarding the duration of the winding-up period, and the possibility that the Foundation may still be able to transfer its remaining assets to

eligible donees, this decision is being issued in English only pursuant to s 20(2)(b) of the *Official Languages Act*, RSC, 1985, c 31. A French translation will follow.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The Ne'eman Foundation Canada [Foundation] has not met its burden of demonstrating that (a) there are reasonable grounds to doubt that the collection of all or any part of the amount assessed against it would be jeopardized by a delay in the collection of that amount, or (b) the Minister did not make full and frank disclosure when applying for the Jeopardy Order.

2. The Foundation's arguments respecting the constitutionality of s 225.2 of the *Income Tax Act* as it relates to charities will be addressed at a later date. The parties may communicate informally with the Court regarding the scheduling of a further special sitting to hear arguments respecting the remaining issues in this motion, including costs.

"Simon Fothergill"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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