

RECEIVED MAY 30 1995

P.O. Box 638
10th Floor
West Arthur Place
Thunder Bay, Ontario
P7C 4W6

Phone: (807) 623-4000
Fax: (807) 623-7109
1-800-263-0578

May 25, 1995

Donald C. Robinson, Esquire
Kinsman Robinson Galleries
14 Hazelton Avenue
Toronto, ON
M5R 2E2

Dear Sir:

RE: Zelinski, Whent and Pustina and Revenue Canada

I am writing to you relating to your giving evidence as an expert on our behalf in relation to the above noted matter.

I am writing on behalf of Mr. Zelinski and Mr. Whent, as well, and I speak for them in the comments which I am making in this letter.

As Judge Mogan explained to you, although you were providing expert evidence on behalf of the Appellants, you were expected to provide assistance to the Court in the area in which you are expert.

Both our Counsel, Mr. Schultz, and we, were perturbed by the fact that Revenue Canada had served a subpoena upon you, requiring you to provide a substantial number of documents and business records for a period of several years prior to 1995. Both our Counsel and we felt that this was oppressive and unfair, and an attempt to intimidate you.

Notwithstanding this, you appeared and presented your evidence in a clear, concise, consistent, forthright, fair, and logical manner.

You were subjected to an inordinately lengthy cross-examination which was obviously unnecessary, unfair and intended to browbeat and wear you down.

Mr. Zelinski, who has had wide experience in trial work, characterized the cross-examination of you as "inhuman and inhumane" and Mr. Whent and I both agree with that assessment.

Don B. Carrol, Q.C.

Victoria J. Pustina, Q.C.

* Kristopher Kruttsen, Q.C.

Jack N.M. Jamison

Alexander W. Demee

W. Daniel Neefen

Roerlich W. Lohman

Bruce L. Latimer

** Roy B. Mitchell

Harris I. Holystich

Andrea D. Ashenfrenner

Mark I. Vant

* Kristopher Kruttsen, certified by the Law Society as a Specialist in Civil Litigation

** Don B. Mitchell, certificate restricted to Domain of Law

The cross-examination lasted for virtually three days and in that period of time you did not falter or vary in your evidence, retained your composure, and maintained your position.

Counsel for Revenue Canada delved into your personal business concerning financial pressures upon you in what we thought was an unfair and entirely unjustified manner, but this is simply how Revenue Canada has conducted itself throughout these proceedings. After almost three days of cross-examination, you had not altered or changed your opinions or position and were still consistent; you appeared almost unphased by the attack of Revenue Canada, although it was evident that a tremendous physical and mental strain was being placed upon you.

At the end of your examination, we were most appreciative of the manner in which you had conducted yourself and of the consistency, fairness, and clarity of the evidence which you had provided.


You acted as a gentleman throughout the proceedings and this certainly cannot be said for the conduct of Counsel for Revenue Canada which was markedly in contrast to your approach.

Your assistance to us and the professional demeanour you displayed throughout are greatly appreciated and we believe the Court would have to be impressed by your conduct and your evidence.

If you are called upon to give expert evidence at any time in the future, any one of us is quite prepared to provide you with the highest of recommendations.

It has been a pleasure to meet and to be associated with you and I trust the next time we meet it will be in much more pleasant circumstances.

Yours truly



NICHOLAS J. PUSTINA

NJP:clm