



Canada Border  
Services Agency

Agence des services  
frontaliers du Canada

Recourse Directorate 1686 Woodward Dr.  
Ottawa, ON, K1A 0L8

Radu Sebastian Hociung  
226 Willowdale Ave.  
Waterloo, ON N2J 3M1

November 3, 2014

**Subject: Request for a Ministerial Decision CS-74472/4273-14-0724**

We have accepted your letter dated October 23, 2014 as a request for a ministerial review (appeal) under section 129 of the *Customs Act*.

In accordance with privacy legislation, we require written authorization from you confirming that we may correspond with Martin F. Mahlstedt of Giesbrecht Griffin Funk and Irvine LLP and release information relating to this matter. Until we receive such authorization, we will direct all correspondence relating to this request to you.

The Recourse Directorate of the Canada Border Services Agency (CBSA) has the mandate to conduct a full and impartial review of the decision taken by the officer who made the enforcement action. The Recourse Directorate is committed to making the redress process as transparent and timely as possible.

Please accept this letter as the written Notice of Reasons for Action required by section 130 of the *Act*. To assist you in understanding the decision-making process, I have attached a copy of the relevant sections of the *Act* outlining the various documents, timelines, and conditions. I have also attached a copy of the issuing officer's Narrative Report relating to the enforcement action for your review and consideration.

According to the report prepared by the issuing office, the enforcement action was taken because "the said goods (as per Statement of Goods Seized) are seized because they have been unlawfully imported by reason of Non-report" in contravention of section 12 of the *Customs Act*.

Briefly, these reports indicate that, on October 21, 2014, you presented yourself at the Queenston bridge port-of-entry in Niagara, Ontario. You declared to the primary officer having purchased two tires valued at \$500.00. The officer asked you whether you had bought or received anything other than the two tires and you replied "yes" you had purchased a bottle of Advil. The officer then proceeded to ask all the mandatory questions as outlined on the E-67 (Canada Border Services Agency Declaration Card) and you were referred for a secondary examination.

Upon examination of your vehicle were discovered undeclared gold and silver coins with a value of \$5,700.00 USD. These were seized for non-report and held for payment.

Under the provisions of section 12 of the *Customs Act*, all goods imported into Canada must be reported in accordance with the *Regulations Respecting the Reporting of Imported Goods*.

**Canada**

Under the provisions of the section 110 of the *Customs Act*, an officer may, where he believes on reasonable grounds that this Act or the regulations have been contravened in respect of goods, seize them as forfeit.

Your comments have been noted and are appreciated. You appealed this enforcement action stating:

- The silver eagle coins are US legal tender and IRA eligible investments.
- The coins are classified as financial instruments by Canada Revenue Agency.
- The combined value of all the coins which are thus monetary instruments is USD \$5,700.00 and as their value was below the \$10,000 CAD, you were not required to declare them, per CBSA regulations.
- You were not asked about cash or financial instruments you carried, which would have required you to disclose.

Please be advised that I will be thoroughly examining the merits of this enforcement action.

At this point in the review, I should explain that that all goods entering Canada, regardless of how obtained or for whatever reason being imported and whether used or new, must be reported to the CBSA and the onus to do so rests upon the individual bringing the goods into the country. The duty to report goods is not dependent on any questioning or prompting by an officer as to whether any goods are being brought into Canada.

Please note that *Customs Act* is contravened when an incorrect declaration is made by, or on behalf of, the importer even if that error was made with a lack of intent to mislead Customs. An inadvertent error in reporting imported goods does not affect the validity of a seizure of those goods.

Please be advised that the coins are classified as goods, as there is a tariff code for collectable coins. Further to this I should inform you that I have confirmed that under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, currency includes all foreign and domestic bank notes and "circulation coins". Based on the seizure, the silver and gold coins are considered as "uncirculated", they are not considered to be currency and consequently, the seized coins are classified as goods, which must be declared in accordance with section 12 of the *Customs Act*.

You may, within 30 days from the date of mailing of this letter, provide any additional information or documentation that you believe will assist us in coming to a decision. If we do not receive a response within this timeframe, we will assume that none is forthcoming and make the decision based on the evidence currently on file. When replying, please quote our file number (see the Subject line) and send your response to the address below:

**Canada Border Services Agency**  
**Recourse Directorate**  
**1686 Woodward Drive**  
**Ottawa ON K1A 0L8**

I can assure you that we will review and consider all documents and information before making a final decision. You will be notified by registered mail as soon as a decision is made.

Yours truly,

A handwritten signature in blue ink, appearing to read "Kendall".

A. Kendall

Adjudicator

Recourse Directorate

***For the President of the Canada Border Services Agency***

Tel. No.: (613) 960-5051

Fax No.: (613) 960-5129

Attachments



NARRATIVE REPORT / RAPPORT NARRATIF

SEIZURE NUMBER/NUMÉRO DE SAISIE: 4273-14-0724 REPORT DATE/DATE DU RAPPORT: 2014/10/21  
REPORT TYPE/TYPE DU RAPPORT: Primary  
OFFICER NAME/NOM DE L'AGENT: STEWART, Allan  
WLOC NAME/WLOC NOM: Queenston Bridge - Traffic  
BADGE NO./Nº. D'INSIGNE: 17188

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I, Allan STEWART employed by the Canada Border Services Agency as a uniformed Border Services Officer and assigned to the Queenston Bridge Port of Entry, Traffic Operations in Niagara-On-The-Lake, ON will testify to the following:

On October 21st, 2014 I was scheduled on duty between the hours of 10:00-22:00. At approximately 17:48 Hours while at my post in the designated Primary Inspection area, booth number 6, I observed a 2004, BMW 545, Ontario TAG: DRMPEG pull up and stop. The conveyance was occupied by one Male.

One subject in the vehicle:

S1 Driver:

Subject: HOCIUNG, Radu

D.O.B.: 1973/12/06

Address: 226 Willowdale Av, Waterloo, Ontario Canada

I.D: Ontario D/L H6052-63807-31206

HOCIUNG stated that he travelled to the United States to buy tires and stated that they were \$500, I asked HOCIUNG if that was \$500 per tire and HOCIUNG replied that he only purchased two tires and that was the total for both of them. I asked HOCIUNG if he bought or received anything other than two tires and HOCIUNG replied yes, a bottle of Advil. I then asked HOCIUNG if he bought or received anything other than two tires and one bottle of Advil and HOCIUNG replied "no nothing else" I asked all mandatory questions of HOCIUNG as outlined on the E-67 (Canadian Border Service Agency Declaration Card) and referred said subject into secondary based on these indicators:

HOCIUNG would not maintain eye contact, HOCIUNG shifted his weight from side to side in his car seat while being questioned. HOCIUNG had a tight grip on the steering wheel and when asked if he bought or received anything other than tires and a bottle of Advil, HOCIUNG displayed a sudden change in posture and movements from the normal patterns displayed while answering other questions asked of him. (Sat still and looked me in the eyes)

I marked the E-67

1 Resident

Length of absence: TD

Goods declared: \$500

Currency: No\*1

Commercial goods: No\*1

Firearms/weapons: No\*1





NARRATIVE REPORT / RAPPORT NARRATIF

SEIZURE NUMBER/NUMÉRO DE SAISIE: 4273-14-0724      REPORT DATE/DATE DU RAPPORT: 2014/10/21  
REPORT TYPE/TYPE DU RAPPORT: Primary  
OFFICER NAME/NOM DE L'AGENT: STEWART, Allan  
WLOC NAME/WLOC NOM: Queenston Bridge - Traffic  
BADGE NO./N°. D'INSIGNE: 17188

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Gifts: No\*1

Duty free shop purchases: No\*1

Remarks: \$500 NAT (No alcohol or tobacco)

Selective

Mandatory

Officer: 17188

Lane: P6

Time 17:48

License DR MPEG (Ontario)

Please note that all times, weights and physical descriptions used throughout this report remain approximate.

\*\*\* This report was written from my notes and independent recollection of the said event.

Allan STEWART

Badge 17188

Canada Border Services Agency, Traffic Operations

Queenston Bridge Traffic



**NARRATIVE REPORT / RAPPORT NARRATIF**

**SEIZURE NUMBER/NUMÉRO DE SAISIE:** 4273-14-0724      **REPORT DATE/DATE DU RAPPORT:** 2014/10/21  
**REPORT TYPE/TYPE DU RAPPORT:** Seizing  
**OFFICER NAME/NOM DE L'AGENT:** DEBSKI, Christopher  
**WLOC NAME/WLOC NOM:** Queenston Bridge - Traffic  
**BADGE NO./Nº. D'INSIGNE:** 11276

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I, Christopher Debski am employed by the Canada Border Services Agency as a designated Border Services Officer, and have been employed as such since November, 2010. I am presently stationed at Queenston Bridge - Traffic Operations, Niagara-on-the-Lake, Ontario.

On October 21st 2014, I was scheduled to work the 0700 to 1900 hour shift.

During the time of 1800 to 1900 hours, I was working the secondary inspection area. At 1748 hours, a dark blue BMW 545 with Ontario marker DRMPEG was referred from primary lane 6 by 17188 for a B15 to pay taxes and also a selective examination to verify the declaration.

The occupant of the BMW had completed paying his taxes and there was a radio transmission that a selective examination was coming out of the office area. I approached the driver, greeted him and asked him for the E-67 referral slip.

The driver became known to me as:

Driver: HOCIUNG, Radu  
DOB: 06DEC1973

The E67 Read:

- 1 resident
- length of absence: TD; (today)
- goods declared: \$500
- currency: no
- commercial goods: no
- gifts: no
- firearms/weapons: no
- food, plants and animals: no
- duty free shop: no
- remarks: \$500 NAT
- marked mandatory
- marked selective
- time of referral: 1748
- licence: DRMPEG
- province: ON
- BSO: 17188
- lane: P6