

Court file number: T-1450-15

FEDERAL COURT OF CANADA

BETWEEN:

RADU HOCIUNG

Plaintiff

and

MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Defendant

STATEMENT OF DEFENCE

1. The defendant does not admit any of the allegations contained in the statement of claim.
2. The defendant denies the allegations contained in paragraphs 1 and 2 of the statement of claim.
3. The defendant has no knowledge of the allegations contained in paragraphs ____ of the statement of claim: n/a.
4. The defendant states that the plaintiff presented himself to the Canadian Border Services Agency (CBSA) at the Queenston Bridge in Niagara-on-the-Lake, Ontario on Oct. 21, 2014.

5. The defendant further states that the plaintiff failed to declare the importation of United States gold and silver coins which he had purchased earlier that day in the United States at a value of \$5,700.00 USD.

6. The defendant further states that the gold coins in question are Buffalo Gold Bullion Coins and are collector items not intended for circulation as currency. The silver coins in question are also collector items not intended for circulation as currency.

7. The defendant further states that these collector coins are not "cash" or "currency" but rather goods for the purpose of the *Customs Act*. The exemption from declaring cash or currency in an amount below \$10,000.00 CAD has no application to these types of collector coins.

8. The defendant further states that the plaintiff's failure to declare the collector coins constitutes a violation of section 12 of the *Customs Act*.

9. The defendant further states that the onus to declare goods entering Canada, including collector coins, falls on the individual bringing the goods into the country, whether or not prompted by a CBSA officer.

10. The defendant further states that as a result of the violation, CBSA officers lawfully seized the collector coins and advised the plaintiff that the collector coins would be released to him on payment of \$1,606.97 CAD.

11. The defendant denies the plaintiff's allegations in the statement of claim that CBSA officers threatened the plaintiff with violence or told him that the collector coins would be destroyed, and puts him to the strict proof thereof.

12. The defendant further states that the plaintiff appealed CBSA's enforcement action to the Minister of Public Safety and Emergency Preparedness.

13. The Minister denied the appeal on the basis that the collector coins are not cash or currency but rather goods for the purpose of the *Customs Act*. The Minister decided that the collector coins may be released to the plaintiff upon payment of the reduced amount of \$321.39 to better reflect the circumstances of this enforcement action.

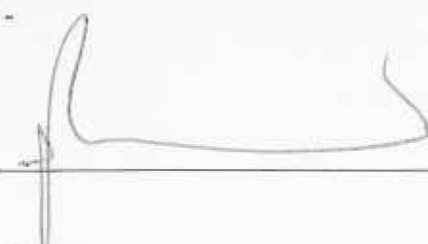
14. With respect to the plaintiff's claim for damages, which damages are not admitted but expressly denied, the defendant states that pursuant to section 106 of the *Customs Act*, the plaintiff may not seek damages herein but must bring a separate action for damages.

15. The defendant states that as a result of the foregoing, the plaintiff is not entitled to any of the relief sought in the statement of claim.

16. The defendant asks that the plaintiff's claim be dismissed with costs payable to the defendant.

17. The defendant asks that this action be tried at Toronto.

DATE: September 29, 2015



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