

FEDERAL COURT

BETWEEN:

Radu Hociung

PLAINTIFF

and

Minister of Public Safety and Emergency Preparedness

DEFENDANT

WRITTEN EXAMINATION

TO: CBSA

The plaintiff has chosen to examine the CBSA for discovery.

You are required to answer the questions in the schedule by affidavit in Form 99B prescribed by the Federal Courts Rules.

The affidavit containing the answers is to be served on all other parties within 30 days from the date on which these questions are served on you.

Kindly send your response by Fax and email.

July 19, 2016



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SCHEDULE

1. Please provide a full list of items imported into Canada and exported from Canada under the 7108.20.00, 7118.90.00 and 7118.10.00 tariffs during each year between 2000 and 2015, including quantities, full descriptions, and date of importation/exportation. If data for the entire 2000-2015 time period is not available, provide all the data available in this period. Please provide the list in electronic format if possible.
2. Please provide a summary of items imported into Canada and exported from Canada under the 7108.20.00, 7118.90.00 and 7118.10.00 tariffs for each year from 2000 to 2015 inclusive, including totals in quantity of coins, total number of troy ounces, and total value in dollars.
3. Please provide a summary of gold and silver currency imported and exported from Canada during each year between 2000 and 2015 inclusive, which was reported on E-677 forms. Provide separate totals for gold and for silver coinage.
4. Please provide a list of all seizures pursuant PCMLTFA where gold or silver coins were seized between years 2000-2015 inclusive. Please include date of seizure, total value seized, value of gold seized, value of silver seized, number of the PCMLTFA article invoked, and whether or not the currency was eventually returned.
5. When was the policy that "gold and silver coins are not currency" first stated within CBSA. Include the document that first stated this policy and include complete references to legislation used to create the policy. Please include detailed accounts of how gold and silver coins were treated prior to this policy being created.
6. When was the policy that "gold and silver coins are not currency" first enforced within the CBSA, was it challenged, and what was the outcome? Include documentation.
7. When did Jeffrey Strickland first state or endorse the policy that "gold and silver coins are not currency"?
8. When did Jeffrey Strickland commence employment with the CBSA?
9. Has Jeffrey Strickland ever known gold and silver coins to be currency during his career with the CBSA? Please include written evidence of the same.
10. When did Joanne Lepage first state or endorse the policy that "gold and silver coins are not currency"?
11. When did Joanne Lepage commence employment with the CBSA?
12. Has Joanne Lepage ever known gold and silver coins to be currency during her career with the CBSA? Please include written evidence of the same.
13. How were gold coins issued by Canadian and foreign authorities of purity over 99.5% fine gold treated prior to the creation of the policy that they are not currency? Include any documentation available as proof.
14. Are there any gold or silver coins in existence in Canada or other countries that would qualify as domestic or foreign currency according to CBSA? Enumerate all the gold and

silver coins types that the CBSA has classified, in the year 2000 or afterwards, as currency for PCMLTFA and/or Customs Act purposes. Include issuing country, coin description and denomination.

15. Explain in detail how the seizing BSO came to have a copy of the plaintiff's citizenship card, given that he did not request it, according to his narrative report.
16. Is it true that officer Debski requested the plaintiff's passport and wallet, not his passport, drivers' license and [car] ownership as he claimed in his narrative report?
17. Did the seizing officer use the language "arrestable offense" when describing the "seriousness" of the offence he alleged in his narrative report?
18. Given the alleged behaviour clues from Radu Hociung (nervousness, pacing, raised voice), and officer Debski's conclusion that the coins were being "smuggled", would a conclusion that an arrestable offense may have occurred be appropriate according to CBSA officer's manual?
19. Why did officer Debski not report his verbal explanation of what "serious offense" means in terms of expected penalties?
20. Why did officer Debski not report asking the question "Where do you have so much money from?" and the answer he received, in his written report?
21. Is his inquiry as to the provenance of funds related to the PCMLTFA or to the Customs Act? Include the section of the officer manual that explains the purpose and relevance of this question.
22. Why did officer Debski not report generating an "online rating" for the coins, showing supposedly owed taxes? What was the purpose of producing this rating?
23. Explain in detail how the "online rating" came to show a 13% tax rate for the gold coins, while a call to CRA to clarify the same question yielded a conclusion that the gold and silver coins are tax exempt?
24. Did officer Debski intend to charge the plaintiff 13% of the value of the coins, as shown on the "online rating", had they been reported according to Customs Act section 12?
25. Is the 13% tax typically charged for all importations of gold and silver coins into Canada? Provide detail as to how the CBSA determines which coins are subject to this tax.
26. In his narrative report, the officer Debski quoted "only coins issued[...]". Include the complete reference to the document he is quoting, and the full text of the section quoted, and explain how he arrived at the conclusion that the stated criteria do not match the coins he seized as goods?
The criteria, as per his narrative report are:
 - minted with metals at the required purity levels
 - issued by a government authority
27. Why did the the seizing officer Debski feel he needed to consult the superintendent?

What questions did he ask the superintendent? Was it to confirm whether an arrest was appropriate? Please include the superintendent's officer notebook entries as evidence, and list all questions officer Debski asked the superintendent.

28. When did superintendent Kroeker commence employment with the CBSA?
29. When did officer Debski commence employment with the CBSA?
30. Is the superintendent's advice that gold coins that match the criteria in the document he referred to in question 26 incorrect according to CBSA's legal services unit? Explain in detail your reasoning why the superintendent was correct or incorrect.
31. Explain in detail how the CBSA "Online rating" software generates a tax rate as output. What inputs are used in the determination, and how are they processed to produce the output rating?
32. Please provide the video recording from security cameras or other recording sources within the CBSA control, showing the interaction between officer Christopher Debski and Radu Hociung on Oct 21, 2014 between the approximate times of 17:48 and 19:15, and the transcript of the conversation.
33. The seizing officer claimed that if the "terms of release" are paid, then no tax or duty are owed, not even the tax he claimed to be applicable as per his own online rating. Is this correct according to CBSA? Explain in detail, with complete references to applicable legislation, why the CBSA "terms of release" would absolve an importer from the obligation to pay taxes and duty. Does this policy apply only to gold and silver coins, or generally to any imported goods?
34. Is "Jeff" in John Dancause's Jan 29 letter the same as Jeff Strickland?
35. Who is the author of the Feb 12, 2015 memo to "M Lefebre" listed in the privileged documents?
36. Explain in detail why Jeffrey Strickland omitted to mention or consider John Dancause's letter of Jan 29, 2015, which is supported by direct references to the PCMLTFR and the Currency Act, including underlining of the relevant paragraphs, in his case synopsis.
37. Is John Dancause's Jan 29, 2015 recommendation that the coins are currency, wrong? Explain in detail your reasoning, whether the CBSA deems the conclusion correct or incorrect.
38. Is the Minister of Finance's sworn affidavit on April 15th, 1999, regarding Canadian gold and silver coins, incorrect, according to the CBSA? Explain in detail your reasoning.
39. Please include the full text of the legal opinion rendered by the Legal Services unit on

April 30, 2015, as claimed by Jeffrey Strickland. Also include the "statutory interpretation" he refers to in his case synopsis.

40. Please include the full text of the legal opinion rendered by the Legal Services Unit on Feb 26, 2015

SOR/2004-283, s. 35