

**FEDERAL COURT**

B E T W E E N

**GOLD LINE TELEMAGEMENT INC, CARD EXPRESS PRINTING INC,  
GLWIZ INC, and TELERESOLVE INC**

Applicants

– and –

**ATTORNEY GENERAL OF CANADA**

Respondent

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**NOTICE OF APPLICATION**

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**TO THE RESPONDENT:**

**A PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the applicants. The relief claimed by the applicants appear on the following page.

**THIS APPLICATION** will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the applicants. The applicants request that this application be heard at Toronto, Ontario.

**IF YOU WISH TO OPPOSE THIS APPLICATION**, to receive notice of any step in the application, or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the applicants' solicitor or, if the applicants are self-represented, on the applicants, **WITHIN 10 DAYS** after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court, and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (t. 613.992.4238) or at any local office.

**IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.**

Date:

Issued by: \_\_\_\_\_  
(Registry Officer)

Address of local office: 180 Queen Street West  
Suite 200  
Toronto, Ontario  
M5V 3L6

**TO: MINISTER OF NATIONAL REVENUE**

Department of Justice Canada  
Tax Law Services Section  
99 Bank Street, Suite 1100  
Ottawa, Ontario  
K1A 0H8

**AND TO: ATTORNEY GENERAL OF CANADA**

Department of Justice Canada  
Tax Law Services Section  
99 Bank Street, Suite 1100  
Ottawa, Ontario  
K1A 0H8

## APPLICATION

**THIS IS AN APPLICATION** for judicial review in respect of the Minister of National Revenue's unlawful seizure of funds from the Canadian Imperial Bank of Commerce ("CIBC") bank accounts of Gold Line Telemanagement Inc ("Gold Line"), Card Express Printing Inc, GLWIZ Inc and Teleresolve Inc (entities in the "Group of Gold Line") on July 31, 2024 and August 6, 2024.

### **THE APPLICANT MAKES THIS APPLICATION FOR:**

1. a judgment in the amounts of the funds unlawfully seized from the Group of Gold Line's CIBC bank accounts;
2. alternatively, an order compelling the Minister to return the funds that have been unlawfully seized from the Group of Gold Line's CIBC bank accounts;
3. costs of this application, on a solicitor-and-client basis; and
4. such further and other relief as counsel may advise and this Court may deem just.

### **THE GROUNDS FOR THE APPLICATION ARE:**

#### **Background**

5. Gold Line, the first entity in the Group of Gold Line, was founded in 1993;
6. since 1993, the Group of Gold Line has grown to include several entities, including Card Express Printing Inc, GLWIZ Inc, and Teleresolve Inc (collectively, the "Companies");
7. the Group of Gold Line is in the telecommunications business;
8. the Group of Gold Line employs a staff of about 110 people;

#### **The Minister's audit**

9. as part of Gold Line's business, it bought and sold wholesale Voice over Internet Protocol ("VoIP") termination;
10. in 2018, the Minister started conducting an audit of Gold Line's returns under the Part IX of the *Excise Tax Act*, RSC 1985, c E-15;

11. the audit was based on the Minister's pre-conceived notion that certain wholesale VoIP suppliers were bad actors;
12. the audit was based on a fundamental misunderstanding of the wholesale VoIP markets;
13. the Minister assumed that a significant portion of Gold Line's wholesale VoIP business was fake;
14. as a result of the audit, the Minister assessed Gold Line for additional tax and imposed gross negligence penalties and arrears interest ("**Gold Line Assessments**");
15. the Minister has also refused to process over \$10,000,000 in input tax credits claimed by Gold Line;
16. subsequent to the audit, Gold Line has been forced to significantly reduce its wholesale VoIP business and the Minister has been denying or withholding the Group of Gold Line's input tax credit claims;

#### **The lack of disclosure**

17. Gold Line made several requests during the audit and subsequent objection process to obtain information about the Minister's speculation that Gold Line was involved in a sham in furtherance of a carousel scheme;
18. the Minister objected to the disclosure of information on the basis that it was protected as confidential third-party information or internal procedures;

#### **The Appeal**

19. in December 2021, Gold Line appealed the Gold Line Assessments, by way of notice of appeal (the "**Appeal**");<sup>1</sup>
20. in August 2022, the Minister responded to Gold Line's notice of appeal, by way of a reply;

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<sup>1</sup> *Gold Line Telemanagement Inc v His Majesty the King*, 2021-3115(GST)G.

21. in August 2023, Gold Line responded to the Minister’s reply, by way of an answer;
22. in February 2023, the Minister brought an application to determine a question naming Gold Line and 15 others as respondents (“**Reference**”) and an alternative motion to consolidate Gold Line’s appeals with appeals of 5 other taxpayers;
23. the Reference has delayed the Appeal process for Gold Line and added significant costs;

### **The Companies**

24. the Companies only provide services to Gold Line;
25. each Company invoices Gold Line for the services it provides and charges Gold Line GST/HST on those services;
26. Gold Line is entitled to claim (and receive) input tax credits in respect of the GST/HST paid for these internal services;
27. the Minister has assessed the Companies for GST/HST owing in respect of these internal services provided to Gold Line (“**Other Assessments**”, and with Gold Line Assessments, “**Assessments**”);
28. the Minister has also refused to process input tax credits owed to Gold Line in respect of these internal services;

### **Imminent financial ruin**

29. the Assessments have resulted in the Minister claiming tax debts due from Gold Line of over \$65,000,000 and from the Companies of over \$2,000,000 (collectively, “**Tax Debts**”);
30. the Minister has refused to fully provide information to Gold Line relating to her speculation that Gold Line was involved in a carousel scheme or sham;
31. the Minister’s audit, Reassessments, denial of input tax credit claims, and allegations of wrongdoing have severely affected the Group of Gold Line’s ability to carry on business;

32. the Group of Gold Line has experienced a significant loss of revenue;
33. the Group of Gold Line has lost access to financing and cannot obtain new financing due to the Minister's audit, Reassessments, denial of input tax credit claims, and allegations of wrongdoing;
34. Gold Line has had to lay off over 50% of its staff, which has reduced its operational capacity and adversely affected its revenue-earning potential;
35. the Group of Gold Line has been applying funds available to it for payroll and to keep the business operational;
36. there are insufficient funds to keep the Group of Gold Line as a going concern for much longer;

**The Group of Gold Line's request**

37. on April 12, 2024, the Group of Gold Line's counsel wrote to the Minister to request that she postpone collection against them until the Appeal had been finally determined ("**Request**");
38. in support of the Request, the Group of Gold Line raised issues with the Minister's audit, Assessments, denial of input tax credit claims, lack of disclosure, Tax Debts, and obstruction of the Appeal process, which caused reputational damage to the Group of Gold Line and caused imminent financial harm to them;
39. on April 22, 2024, the Minister confirmed that no collection action was being taken against the Group of Gold Line and no collection action would be taken while her collection officer was on leave;
40. on June 14, 2024, the Minister sent a legal warning letter to the Companies;
41. on June 21, 2024, the Minister confirmed that no collection action was being taken against Gold Line, but she was considering the Companies' situation as they could no longer make payments on their tax debts;
42. on July 18, 2024, the Group of Gold Line's counsel wrote to the Minister:

- (a) to confirm their understanding that no collection action was being taken against Gold Line until the Appeal had been finally determined; and
  - (b) to request that she postpone collection against the Companies until the Appeal had been finally determined (“**Further Request**”);
43. in support of the Further Request, the Group of Gold Line explained that the Companies only provided services to Gold Line, denying input tax credits to the Group of Gold Line meant that the Minister was effectively collecting on Gold Line’s tax debt, which she agreed not to take collection action on, and the Group of Gold Line’s financial viability and profitability continued to decline as a result of the reasons given in the Request;
44. in the Further Request, the Group of Gold Line requested that:
- (a) the Minister refrain from taking any further collection action against them until the Appeal had been finally determined and if, however, she decided to take further action, she refrain from taking such action until after she contacted the Group of Gold Line’s counsel and she provided the Group of Gold Line with 72-hours notice; and
  - (b) the Minister’s collection officer meet with the Group of Gold Line and their counsel to discuss the matter;

**The collection action**

45. on July 19, 2024, unbeknownst to the Group of Gold Line and their counsel, the Minister issued a requirement to pay notice against CIBC (“**First Garnishment Order**”) on Gold Line’s CIBC bank accounts;
46. on July 24, 2024, unbeknownst to the Group of Gold Line and their counsel, the Minister issued requirement to pay notices against CIBC on GLWIZ Inc, Teleresolve Inc and Card Express Printing Inc’s CIBC bank accounts (“**Second Garnishment Orders**”, and together with the First Garnishment Orders, the “**Garnishment Orders**”);
47. on July 24, 2024, the Group of Gold Line became aware that the Minister intended to initiate collection action against them on the Tax Debts;

48. on July 25, 2024, the Minister's collection officer confirmed to the Group of Gold Line's counsel that the Minister intended to collect on Gold Line's tax debts that were the subject of the Appeal;
49. on July 26, 2024, the CIBC complied with the First Garnishment Order and froze Gold Line's CIBC account;
50. on July 26, 2024, the Group of Gold Line's counsel wrote to the Minister to request that:
  - (a) her delegates have an in-person meeting with the Group of Gold Line and their counsel, due to the complexity of the matter;
  - (b) she provide her reasons for the Decision;
  - (c) she cease collection action and withdraw all collection holds on the Group of Gold Line's accounts until the meeting, so that they could resume business operations; and
  - (d) she communicate with the Group of Gold Line's counsel on all GST/HST accounts;
51. on July 31, 2024, the Minister withdrew the following amounts from Gold Line's CIBC account ("**July Seizure**");
  - (a) \$3,601.31 CAD;
  - (b) \$395,568.87 CAD; and
  - (c) \$158,693.75 USD;
52. on or after July 31, 2024, the CIBC complied with the Second Garnishment Orders and froze GLWIZ Inc, Teleresolve Inc and Card Express Printing Inc's CIBC bank accounts;
53. on August 6, 2024, the Minister seized the following amounts from the Companies' CIBC accounts ("**August Seizure**" and with July Seizure, the "**Seizures**");
  - (a) \$4,8054.46 CAD from GLWIZ Inc's account;

- (b) \$43,890.13 USD from GLWIZ Inc's account;
  - (c) \$8,050.16 CAD from Teleresolve Inc's account; and
  - (d) \$8,599.11 CAD from Card Express Printing Inc's account.
54. the Minister is taking collection action on the Tax Debts (and seizing funds from the Group of Gold Line's CIBC accounts) before Gold Line has had a chance to have the correctness of the Assessments determined by way of the Appeal;
  55. the Minister is aware that the collection action (including the Seizures) will cause the destruction of the Group of Gold Line's business;
  56. the Group of Gold Line's banks have complied with the Garnishment Orders, depleting the funds from the Group of Gold Line's bank accounts;
  57. the Group of Gold Line's business is facing imminent financial ruin;
  58. the Group of Gold Line will be forced to shut down if the Minister continues taking collection action against them;
  59. the Minister has the discretion to postpone collection action under subsection 315(3) of the *Excise Tax Act*, RSC 1985, c E-15;
  60. the Minister has refused to postpone collection action against the Group of Gold Line;
  61. the Minister withdrew funds in the Group of Gold Line accounts, without regard to the extenuating circumstances;
  62. the Seizures are unlawful and unreasonable;
  63. the Minister has provided the Group of Gold Line with no reasons for the Seizures;
  64. the Seizures lack justification, transparency, and intelligibility;
  65. the Minister has initiated collection action against the Group of Gold Line to prevent Gold Line from pursuing the Appeal, vindicating its entitlement to input tax credit claims, and carrying on business;

66. the Minister has initiated collection action (including the Seizures) against the Group of Gold Line in bad faith;
67. the Group of Gold Line has been denied procedural fairness in their dealings with the Minister in respect of the Tax Debts;
68. the Minister is not at risk of suffering any prejudice from postponing collection action against the Group of Gold Line;

**The Seizures were unlawful**

69. the Minister must exercise her discretion to recover tax debts (including the alleged GST/HST debts owed by the applicants) in a rational, reasonable and cost-effective way;
70. the Minister has not exercised her statutory powers to recover tax debts in a rational or reasonable manner;
71. the Seizures constitute unlawful collection action by the Minister;
72. the funds withdrawn from the Group of Gold Line's CIBC accounts are not 'public money' under the *Financial Administration Act*, RSC 1985 c. F-11;
73. the Minister has been unjustly enriched, through the Seizures;
74. Parliament has explicitly authorized payments be made out of the Consolidated Revenue Fund of any money awarded by the judgment to any person against the Crown under the *Crown Liability and Proceedings Act*, RSC 1985 c C-50;

**Alternatively, the Minister should be compelled to return the funds**

75. the Minister has a duty to exercise her discretion to recover tax debts (including the alleged GST/HST debts owed by the applicants) in a rational, reasonable and cost-effective way;
76. the Minister has refused to postpone collection action (and has seized funds), despite several requests from the Group of Gold Line and their counsel;

77. in exercising her statutory powers to recover tax debts, the Minister has failed to take into account highly relevant considerations, including the Group of Gold Line's financial health;
78. there is no alternative adequate remedy elsewhere;
79. the order sought will return much-needed funds to the Group of Gold Line;
80. the balance of convenience favours *mandamus*;
81. this Court should direct the funds seized from the Group of Gold Line be returned, as remitting the matter back to the Minister for re-consideration threatens to bring the administration of justice into disrepute;

**Other grounds**

82. the following statutory provisions:
  - (a) sections 296, 313 to 315 and 317 of the *Excise Tax Act*, RSC 1985, c E-15;
  - (b) sections 18 to 18.4 of the *Federal Courts Act*, RSC 1985, c F-7;
  - (c) sections 317 to 318, 400 and 407 of the *Federal Courts Rules*, SOR/98-106;
  - (d) sections 2 and 26 of the *Financial Administration Act*, RSC 1985 c F-11;
  - (e) section 30 of the *Crown Liability and Proceedings Act*, RSC 1985 c C-50;and
83. such further and other grounds as counsel may advise and this Court may deem just.

**THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:**

84. the applicants' supporting affidavits and documentary exhibits; and
85. such further and other material as counsel may advise and this Court may deem just.

DATED at the City of Toronto, in the Province of Ontario, on August 29, 2024.



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KPMG Law LLP  
Bay Adelaide Centre  
333 Bay Street, Suite 4600  
Toronto, Ontario  
M5H 2S5

Justin Kutyan  
Kristen Duerhammer  
Shara Sullivan

t. 416.777.3266  
416.777.3568  
416.468.7896

e. [jkutyan@kpmg.ca](mailto:jkutyan@kpmg.ca)  
[kduerhammer@kpmg.ca](mailto:kduerhammer@kpmg.ca)  
[sharasullivan@kpmg.ca](mailto:sharasullivan@kpmg.ca)

f. 416.861.0624

Counsel for the applicants