

Federal Court



Cour fédérale

Date: 20251219

Docket: T-2679-22

Citation: 2025 FC 2012

Ottawa, Ontario, December 19, 2025

PRESENT: The Honourable Madam Justice Saint-Fleur

BETWEEN:

MINISTER OF NATIONAL REVENUE

Applicant

and

BENJAMIN COHEN
9156-4096 QUÉBEC INC.
RCONGOLD SYSTEMS INC.
TRIAD MANAGEMENT SERVICES INC.
TRIAD REAL ESTATE SERVICES INC.
205 BRUNSWICK HOLDINGS INC.
TRIAD GESCO LTD.

Respondents

JUDGMENT AND REASONS

I. Overview

[1] The Minister of National Revenue [Applicant or Minister] has filed a summary application pursuant to section 231.7 of the *Income Tax Act*, RSC 1985, c 1 (5th Supp) as amended [ITA] ITA

seeking a compliance order, requiring Benjamin Cohen, [Respondent], and his related corporations 9156-4096 Quebec Inc, Triad Gesco Ltd, Triad Management Services Inc, Triad Real Estate Services Inc, 205 Brunswick Holding Inc, and Rcongold Systems Inc, [Respondents], to provide information to the Applicant pursuant to sections 231.1(1) and 231.2 of the *ITA*.

[2] In January 2021 and in August 2022, the Applicant served the Respondents with requests for information. The Minister has requested this material from the Respondents, Mr. Cohen and his related corporations, in order to determine whether they have complied with their duties and obligations under the *ITA* for the 2014 to 2019 taxation years.

[3] The Respondents have failed to provide complete documents and information as requested of them. The Applicant submits that the information required is not protected by solicitor-client privilege as per sections 231.1(1) and 231.7 of the *ITA*. The Respondents do not see what other information or documents could be provided or obtained with reasonable efforts to the Applicant in order to satisfy the request for information. It is the Respondents' position that the Applicant is not justified to be granted the issuance of a compliance order.

[4] The summary application for a compliance order is dismissed.

II. Background Facts

A. *The Audit*

[5] The Canada Revenue Agency [CRA] has conducted an audit to determine whether the Respondents complied with their duties and obligations under the *ITA* for the 2014 to 2019 taxation years. On January 21, 2021, requests for information were sent to the Respondents by the Auditor of the CRA, regarding the 2014 to 2019 taxation years. They were then also informed that the audit period was extended to 2014 to 2019 given the material transactions and the compliance risks identified in the tax year ends.

[6] Since the Respondents had not provided any of the information and documents requested in the requests for information dated January 21, 2021, on April 23, 2021, the CRA sought once again complete answers and documents through letters or demand served upon the Respondents. On various dates between May 31, 2021, and October 14, 2022, the Respondents delivered portions of the requested documents to the CRA. The letters requested, pursuant to subsection 231.1(1) of the *ITA*, that the Respondents provide the documents and information needed for the tax audits, within 30 days.

[7] On August 18, 2022, the Respondent in his quality of shareholder and administrator of all the other Respondents was personally required to provide the documents and information for himself and the other Respondents.

[8] According to the Applicant, this summary application is presented because, to date, although some information has been provided, and despite numerous reminders that they had obligations to comply with the requests, the Respondents have not fully complied with the requests for information.

B. *Documents Requested*

[9] The Applicant requested the following documents and information from the Respondents:

a) From Mr. Cohen:

- i. A list of all account numbers and statements (active or closed), opening and closing dates for deposit accounts, including savings, checking, U.S. funds accounts, and escrow accounts held within Canada and abroad for the period mentioned above;
- ii. A list of all account numbers and statements (active or closed), opening and closing dates for credit facilities (loans, lines of credit, and credit cards), GICs, term deposits, conventional mortgages, registered retirement savings plans (RRSPs), registered retirement income funds (RRIFs), loan agreements with third parties, and non-registered investment accounts held within Canada and abroad for the period mentioned above;
- iii. A list of all corporate/individual debts and receivables or any other form of debt or receivable listed in your or any related parties, not limited to due to Shareholder/related party accounts, as well as all source documentation for said debts and receivables, and calendar year end balances for the period mentioned above;
- iv. A list of all rental properties declared on your T1 Individual Income Tax Return for the period mentioned above, including all source documentation regarding revenues, expenses and any other claims for the period mentioned above (including, but not limited to, rental contracts, expense receipts and contracts);
- v. All source documents for the demolition and construction of the property located at 28 Devon St, Westmount, QC, H3Y 1A3 (including, but not limited to, all communications with the city of Westmount, billings from contractors, proof of payments and accounting documentation);

- vi. A list of all other assets held within Canada or abroad for the period mentioned above;
- vii. A list of all listed personal property that you held and disposed of for the period mentioned above;
- viii. An organizational chart outlining all, foreign or domestic, shareholdings in corporations, partnerships, trusts or ventures, including but not limited to respective holdings, dates of acquisitions/dispositions or any modifications to the adjusted cost base;
- ix. A detailed list of all nominee contracts: a. Where you or any related entities are acting on behalf of another individual or corporation, b. Where another individual or corporation is acting on behalf of you or any related entities.

b) From 9156-4096 Quebec Inc.:

- i. A list of all account numbers and statements (active or closed), opening and closing dates for deposit accounts, including savings, checking, U.S. funds accounts, and escrow accounts held within Canada and abroad for the period mentioned above;
- ii. A list of all account numbers and statements (active or closed), opening and closing dates for credit facilities (loans, lines of credit, and credit cards), GICs, term deposits, conventional mortgages, registered retirement savings plans (RRSPs), registered retirement income funds (RRIFs), and non-registered investment accounts held within Canada and abroad for the period mentioned above;
- iii. A list of all corporate/individual debts and receivables or any other form of debt or receivable listed in your or any related parties, not limited to due to shareholder/related party accounts, as well as all source documentation for said debts and receivables, and calendar year end balances for the period mentioned above;
- iv. A detailed list and all documentation regarding the Adjusted Cost Base of the construction, the contract for the proceeds of disposition, and any costs of disposition for the property located at 6500 TransCanada Hwy for the sale completed on March 26, 2014;
- v. A detailed list and all documentation regarding the Adjusted Cost Base of the construction, the contract for the proceeds of disposition, and any costs of disposition for the property located at 6500 TransCanada Hwy for the sale completed on December 18, 2017;

- vi. A detailed list of all tenants, contracts, and any other documentation that details the obligations of all parties involved (including but not limited to details of leasehold improvements, proof of payments) ;
- vii. All memos, communications, partnership reports/agreements and all other documentation between the CMHC and Benjamin Cohen regarding the property located at 6500, TransCanada Hwy;
- viii. All accounting data (including, but not limited to General Ledger, Trial Balances, Balance Sheets, etc.);
- ix. A list of all other assets held within Canada or abroad for the period mentioned above;
- x. An organizational chart outlining all, foreign or domestic, shareholdings in corporations, partnerships, trusts or ventures, including but not limited to respective holdings, dates of acquisitions/dispositions or any modifications to the adjusted cost base;
- xi. A detailed list of all nominee contracts.

c) From Rcongold Systems Inc:

- i. A list of all account numbers and statements (active or closed), opening and closing dates for deposit accounts, including savings, checking, U.S. funds accounts, and escrow accounts held within Canada and abroad for the period mentioned above;
- ii. A list of all account numbers and statements (active or closed), opening and closing dates for credit facilities (loans, lines of credit, and credit cards), GICs, term deposits, conventional mortgages, registered retirement savings plans (RRSPs), registered retirement income funds (RRIFs), and non-registered investment accounts held within Canada and abroad for the period mentioned above;
- iii. A list of all corporate/individual debts and receivables or any other form of debt or receivable listed in your or any related parties, not limited to due to shareholder/related party accounts, as well as all source documentation for said debts and receivables, and calendar year end balances for the period mentioned above;
- iv. A detailed list and all documentation regarding the Adjusted Cost Base of the construction, the contract for the proceeds of disposition, and any costs of disposition for the property located at 6500 TransCanada Hwy for the sale completed on March 26, 2014;

- v. A detailed list of all tenants, contracts, and any other documentation that details the obligations of all parties involved (including but not limited to details of leasehold improvements, proof of payments);
- vi. All memos, communications, partnership reports/agreements, preliminary negotiations and all other documentation between the CMHC and Benjamin Cohen regarding the property located at 6500 TransCanada Hwy;
- vii. All Shareholder Agreements for any and all issuances of Common and Preferred shares throughout the existence of the corporation;
- viii. All accounting data (including, but not limited to General Ledger, Trial Balances, Balance Sheets, etc.);
- ix. A list of all other assets held within Canada or abroad for the period mentioned above;
- x. An organizational chart outlining all, foreign or domestic, shareholdings in corporations, partnerships, trusts or ventures, including but not limited to respective holdings, dates of acquisitions/dispositions or any modifications to the adjusted cost base;
- xi. A detailed list of all nominee contracts: a. Where RCONGOLD Systems Inc. or any related entities are acting on behalf of another individual or corporation. b. Where another individual or corporation is acting on behalf of RCONGOLD Systems Inc. or any related entities.

d) From Triad Management Service Inc.:

- i. A list of all account numbers and statements (active or closed), opening and closing dates for deposit accounts, including savings, checking, U.S. funds accounts, and escrow accounts held within Canada and abroad for the period mentioned above;
- ii. A list of all account numbers and statements (active or closed), opening and closing dates for credit facilities (loans, lines of credit, and credit cards), GICs, term deposits, conventional mortgages, registered retirement savings plans (RRSPs), registered retirement income funds (RRIFs), and non-registered investment accounts held within Canada and abroad for the period mentioned above;
- iii. A list of all corporate/individual debts and receivables or any other form of debt or receivable listed in your or any related parties, not limited to due to shareholder/related party accounts, as well as all source documentation for said debts and receivables, and calendar year end balances for the period mentioned above;

- iv. A detailed list of all tenants, contracts, and any other documentation that details the obligations of all parties involved (including but not limited to details of leasehold improvements, proof of payments);
- v. Detailed information regarding any acquisitions or dispositions of capital assets during the period mentioned above (including, but not limited to, source documents for the Adjusted Cost Base, contracts for proceeds of disposition and documents for any costs associated with disposal);
- vi. A complete copy of the minute book, including but not limited to all shareholder Agreements for any and all issuances/transfers of Common and Preferred shares throughout the existence of the corporation;
- vii. All accounting data (including, but not limited to General Ledger, Trial Balances, Balance Sheets, etc.);
- viii. A list of all other assets held within Canada or abroad for the period mentioned above;
- ix. An organizational chart outlining all, foreign or domestic, shareholdings in corporations, partnerships, trusts or ventures, including but not limited to respective holdings, dates of acquisitions/dispositions or any modifications to the adjusted cost base;
- x. A detailed list of all nominee contracts: a. Where Triad Management Services Inc. or any related entities are acting on behalf of another individual or corporation; b. Where another individual or corporation is acting on behalf of Triad management Services Inc. or any related entities.

e) From Triad Real Estate Services Inc.:

- i. A list of all account numbers and statements (active or closed), opening and closing dates for deposit accounts, including savings, checking, U.S. funds accounts, and escrow accounts held within Canada and abroad for the period mentioned above;
- ii. A list of all account numbers and statements (active or closed), opening and closing dates for credit facilities (loans, lines of credit, and credit cards), GICs, term deposits, conventional mortgages, registered retirement savings plans (RRSPs), registered retirement income funds (RRIFs), and non-registered investment accounts held within Canada and abroad for the period mentioned above;
- iii. A list of all corporate/individual debts and receivables or any other form of debt or receivable listed in your or any related parties, not limited to due to shareholder/related party accounts, as well as all source documentation for said debts and receivables, and calendar year end balances for the period mentioned above;

- iv. A detailed list and all documentation regarding the construction of the property located at 6500 TransCanada Hwy;
- v. A detailed calculation upon which the Equity Value of Triad Real Estate Services Inc. was established for the rollover completed under Section 85 of the Income Tax Act (including, but not limited to, a balance sheet at the valuation date and all source documentation to justify the amounts reported);
- vi. A detailed list of all tenants, contracts, and any other documentation that details the obligations of all parties involved (including but not limited to details of leasehold improvements);
- vii. All memos, communications, partnership reports/ agreements, preliminary negotiations and all other documentation between the CMHC and Benjamin Cohen regarding the property located at 6500 TransCanada Hwy;
- viii. All Shareholder Agreements for any and all issuances of Common and Preferred shares throughout the existence of the corporation;
- ix. All accounting data (including, but not limited to General Ledger, Trial Balances, Balance Sheets, etc.);
- x. A list of all other assets held within Canada or abroad for the period mentioned above;
- xi. An organizational chart outlining all, foreign or domestic, shareholdings in corporations, partnerships, trusts or ventures, including but- not limited to respective holdings, dates of acquisitions/dispositions or any modifications to the adjusted cost base;
- xii. A detailed list of all nominee contracts.

f) From 205 Brunswick Holdings Inc.:

- i. A list of all account numbers and statements (active or closed), opening and closing dates for deposit accounts, including savings, checking, U.S. funds accounts, and escrow accounts held within Canada and abroad for the period mentioned above;
- ii. A list of all account numbers and statements (active or closed), opening and closing dates for credit facilities (loans, lines of credit, and credit cards), GICs, term deposits, conventional mortgages, registered retirement savings plans (RRSPs), registered retirement income funds (RRIFs), and non-registered investment accounts held within Canada and abroad for the period mentioned above;

- iii. A list of all corporate/individual debts and receivables or any other form of debt or receivable listed in your or any related parties, not limited to due to shareholder/related party accounts, as well as all source documentation for said debts and receivables, and calendar year end balances for the period mentioned above;
- iv. A detailed list of all tenants, contracts, and any other documentation that details the obligations of all parties involved (including but not limited to details of leasehold improvements, proof of payments);
- v. Detailed information regarding any acquisitions or dispositions of capital assets during the period mentioned above (including, but not limited to, source documents for the Adjusted Cost Base, contracts for proceeds of disposition and documents for any costs associated with disposal);
- vi. A complete copy of the minute book, including but not limited to, all shareholder Agreements for any and all issuances/transfers of Common and Preferred Shares throughout the existence of the corporation;
- vii. All accounting data (including, but not limited to General Ledger, Trial Balances, Balance Sheets, etc.);
- viii. A list of all other assets held within Canada or abroad for the period mentioned above;
- ix. An organizational chart outlining all, foreign or domestic, shareholdings in corporations, partnerships, trusts or ventures, including but not limited to respective holdings, dates of acquisitions/dispositions or any modifications to the adjusted cost base;
- x. A detailed list of all nominee contracts: a. Where 205 Brunswick Holdings Inc. or any related entities are acting on behalf of another individual or corporation; b. Where another individual or corporation is acting on behalf of 205 Brunswick Holdings Inc. or any related entities.

g) From Triad Gestco Ltd.:

- i. A list of all account numbers and statements (active or closed), opening and closing dates for deposit accounts, including savings, checking, U.S. funds accounts, and escrow accounts held within Canada and abroad for the period mentioned above;
- ii. A list of all account numbers and statements (active or closed), opening and closing dates for credit facilities (loans, lines of credit, and credit cards), GICs, term deposits, conventional mortgages, registered retirement savings plans (RRSPs), registered retirement income funds (RRIFs), and non-registered investment accounts held within Canada and abroad for the period mentioned above;

- iii. A list of all corporate/individual debts and receivables or any other form of debt or receivable listed in your or any related parties, not limited to due to shareholder/related party accounts, as well as all source documentation for said debts and receivables, and calendar year end balances for the period mentioned above;
- iv. A detailed list of all tenants, contracts, and any other documentation that details the obligations of all parties involved (including, but not limited to, details of leasehold improvements, proof of payments);
- v. Detailed information regarding any acquisitions or dispositions of capital assets during the period mentioned above (including, but not limited to, source documents for the Adjusted Cost Base, contracts for proceeds of disposition and documents for any costs associated with disposal);
- vi. A complete copy of the minute book, including but not limited to all shareholder Agreements for any and all issuances/transfers of Common and Preferred shares throughout the existence of the corporation;
- vii. All accounting data (including, but not limited to, General Ledger, Trial Balances, Balance Sheets, etc.);
- viii. A list of all other assets held within Canada or abroad for the period mentioned above;
- ix. An organizational chart outlining all, foreign or domestic, shareholdings in corporations, partnerships, trusts or ventures, including but not limited to respective holdings, dates of acquisitions/dispositions or any modifications to the adjusted cost base;
- x. A detailed list of all nominee contracts: a. Where Triad Gestco Ltd. or any related entities are acting on behalf of another individual or corporation; b. Where another individual or corporation is acting on behalf of Triad Gestco Ltd. or any related entities.

[10] The Respondents were afforded 30 days, from the second requirement letter on August 18, 2022, to provide all of the required material.

[11] The Applicant's summary application is supported by the affidavit of Jia Lun Liu, Auditor for the CRA. The Respondent has provided his own affidavit.

III. Relevant Provisions

[12] Section 231.7 of the *ITA* states:

231.7 (1) On summary application by the Minister, a judge may, notwithstanding subsection 238(2), order a person to provide any access, assistance, information or document sought by the Minister under section 231.1 or 231.2 if the judge is satisfied that

(a) the person was required under section 231.1 or 231.2 to provide the access, assistance, information or document and did not do so; and

(b) in the case of information or a document, the information or document is not protected from disclosure by solicitor-client privilege (within the meaning of subsection 232(1)).

[13] Subsections 231.1(1) and 231.2(1) of the *ITA* provide as follows:

Information Gathering

231.1 (1) An authorized person may, at all reasonable times, for any purpose related to the administration or enforcement of this Act,

(a) inspect, audit or examine any document, including books and records, of a taxpayer or any other person that may be relevant in determining the obligations or entitlements of the taxpayer or any other person under this Act;

(b) examine any property or process of, or matter relating to, a taxpayer or any other person, an examination of which may assist the authorized person in determining the obligations or entitlements of the taxpayer or any other person under this Act;

(c) enter any premises or place where any business is carried on, any property is kept, anything is done in connection with any business or any books or records are or should be kept, except that, if the premises or place is a dwelling-house, the authorized person may enter the dwelling-house without the consent of the occupant only under the authority of a warrant under subsection (3);

(d) require a taxpayer or any other person to give the authorized person all reasonable assistance, to answer all proper questions relating to the administration or enforcement of this Act and

(i) to attend with the authorized person, at a place designated by the authorized person, or by video-conference or by another form of electronic communication, and to answer the questions orally, and

(ii) to answer the questions in writing, in any form specified by the authorized person; and

(e) require a taxpayer or any other person to give the authorized person all reasonable assistance with anything the authorized person is authorized to do under this Act.

Requirement to provide documents or information

231.2 (1) Notwithstanding any other provision of this Act, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of this Act (including the collection of any amount payable under this Act by any person), of a listed international agreement or, for greater certainty, of a tax treaty with another country, by notice sent or served in accordance with subsection (1.1), require that any person provide, within such reasonable time as is stipulated in the notice,

(a) any information or additional information, including a return of income or a supplementary return; or

(b) any document.

IV. Issues

[14] The primary issue underlying this application is whether the Applicant is entitled to a compliance order under subsection 231.7(1) of the *ITA* compelling the Respondents to provide the outstanding required material. The Court must examine whether the following conditions for the issuance of a Court order against the Respondents to comply with the requests for information, has been satisfied.

[15] On an application under 231.7 of the *ITA* the Court must be satisfied that:

- a) The person against whom the order is sought was required under section 231.1 or 231.2 of the *ITA* to provide the access, assistance, information or documents sought by the Minister;
- b) Although the person was required to provide the information or documents sought by the Minister, he or she did not do so;
- c) The documents or information sought is not protected from disclosure by solicitor-client privilege as defined within the act.

V. Analysis

A. *The Applicant's Submissions*

[16] The Applicant sets out the underlying principle that the tax system in Canada is a self-reporting system and certain individuals take advantage of this system in order to avoid paying their full share of the tax burden. Thus, Parliament enacted several provisions giving the Minister broad power to audit taxpayers. The Applicant cites the following cases in support of this proposition: *R v McKinlay Transport Ltd.*, [1990] 1 SCR 627, at paragraphs 15-17 and 35.; *eBay Canada v M.N.R.*, 2008 FCA 348 at paragraphs 2 and 34; *AGC v Chad*, 2018 FC 556, at paragraph 57).

[17] The Applicant then lays out the purpose of subsection 231.1 of the *ITA* stating that it allows the Minister unencumbered and immediate access to a registrant's books and records (*MNR v Cameco Corporation*, 2019 FCA 67, at para 27 [*Cameco*]). Specifically, the Minister may inspect, audit, or examine the documents, property, or processes of a person that may be relevant to determine their obligations under the *ITA* (Subsection 231.1(1) of the *ITA*).

[18] The Applicant asserts that the requirements of section 231.7 are satisfied and that the demand was issued for a proper purpose: to audit the Respondents for the 2014 to 2019 taxation years and determine whether they complied with their duties and obligations under the *ITA*. The information and documents have been requested for more than two years. The documents and information are sought for the purpose related to the administration and enforcement of the *ITA*.

[19] Regarding the first part of the test, on whether the Respondents were required to provide the information or documents set out in the requests for information they received under section 231.1 or 231.2 of the *ITA*, the Applicant submits that the Respondents were required to provide documents and information.

[20] The Applicant points out that CRA auditors are persons authorized by the Minister to require information under section 231.1 of the *ITA*. By letters dated January 21, 2021, Jia Lun Liu, CRA auditor, required that the Respondents provide certain documents and information. For the Applicant, the Respondent was personally required to provide the documents and information for himself as well as for all the other Respondents, his related companies, by a specific request for the said information and documents dated August 18, 2022, served to him on August 25, 2022. The auditor's discretion is wide and has no statutory time limit as he has no way of knowing whether certain records are relevant until he or she has had an opportunity to examine them (*R v McKinlay Transport Ltd.*, [1990] 1 SCR 627, at para 33, *Shokouhi v AGC*, 2021 FC 1340, at para 31; *Tower v MNR*, 2003 FCA 307, at para 32; *MNR v Stankovic*, 2018 FC 462, at para 34).

[21] Second, the Applicant submits that the Respondents failed to provide the documents and information requested.

[22] It is the Applicant's position that the Respondents, without proof of impossibility or legitimate excuse, have not shown reasonable efforts to provide the access, the support and all of the information or documents sought in the requests for information although they were required to do so under subsection 231.1 of the *ITA*. If the Respondent cannot dictate how the CRA conducts an audit, he can certainly not refuse to provide information on a particular subject in an attempt to restrict the scope of such audit (*Chi v MNR*, 2018 CF 897, at paras 15, 20, 35, 45, *Miller v MNR* 2022 FCA 183, at para 59).

[23] Third, the Applicant argues that the required documents are not protected from disclosure by solicitor-client privilege. In accordance with section 231.7(1)(b) of the *ITA*, the Applicant states that privilege only attaches to communications between a solicitor and client, which were intended to be confidential for the purposes of seeking or providing legal advice. The Applicant asserts that this is not the case here, as the outstanding material consists of business and financial information. The Respondent has not made any claim of solicitor-client privilege.

[24] The Applicant requests that an Order be granted to compel the Respondents to provide the documents and information sought by the Minister because the conditions set out in section 231.7 of the *ITA* have been satisfied. The Respondents should be ordered to provide them within 30 days from the date of the present order to be made under this Court file number.

B. *The Respondent's Submissions*

[25] The Respondent asserts that when a person has been required under section 231.1 or 231.2 of the *ITA* to provide access, assistance, information or documents sought by the Minister, and it did provide partial collaboration to satisfy with the requirements, an order in virtue of 231.7 of the *ITA* should not be issued considering that second condition of 231.7 of the *ITA* is then not met and the severe consequences that can arise from such an order (*MNR v SML*, 2003 FC 868, at para 21).

[26] The Respondent, Mr. Cohen, cites the following main reasons for not having provided the documents. First, he indicates that the process to locate, obtain and sometimes convert in electronic format the information and documents to respond to the CRA's demand was long and harsh since not all the information and documents needed were already in electronic format. He claims some information and documents were archived, some may have been lost or forgotten considering the time elapsed between the taxation years under audit and the time when the response was provided. The Respondent also explains that the corporate respondents had limited resources to devote to finding and making available to the CRA the information requested. According to the Respondent, many of the information and documents identified as "Outstanding issue, noncompliance" would have already been obtained by the CRA from third-parties who responded to the request for information sent by the CRA in the course of its audit. Furthermore, the Respondent affirms that he does preserve a copy of the cheques he issues in payment of personal expenses which are personal once they have been issued. The Respondent also declares that the corporate Respondents do not preserve a copy of the cheques they issue in payment of expenses they incur once they have been issued and the only cheques available would be the copies provided by the financial

institutions where the accounts are held and when they were joined with the monthly reconciliation of the accounts.

[27] The Respondent submits that, considering the information and documents already provided to the Applicant by the Respondents, and the information and documents already obtained by the Applicant from the Quebec Revenue Agency and the third-party, the Applicant should be able to be more targeted in its requests and no order should be issued until and unless the Applicant: a) refines its requests for information and identify the elements of response that would still be left unanswered; b) the Respondents have been provided a reasonable delay to respond to the refined request for information and c) a meeting in person is organized between the representatives of the Applicant and the Respondents to overview the requests for information and address any issue that may still be outstanding (*Cameco* at para 39).

[28] The Respondents confirm that they have provided not only access to but copies of 766 electronic files to the Applicant in order to satisfy the request for information. To this date, the Respondents do not see what other information or documents could be provided or obtained with reasonable efforts in order to satisfy the request for information, furthermore, considering that the Applicant obtained information and documents from the Quebec Revenue Agency and the third party in the course of its audit (*MNR v Amdocs Canadian Managed Services Inc.*, 2015 FC 1234, at para 58, 62 [*Amdocs*]).

[29] The Respondents explain that a meeting with the Auditor was most likely the most efficient way to respond to the Applicant's demand for documents and information, however, no such

meeting has been held or even offered by the Applicant since the issuance of the request for information. A meeting with the Auditor to address the points in issue or an on-site audit would be a more efficient way to proceed (*Saipem Luxembourg v The Canada Custom and Revenue Agency*, 2005 FCA 218, at paras 35, 36, 37; *MNR v Black Sun Rising Inc.*, 2013 FC 773, at paras 24, 25, 35, 36).

[30] For the Respondents, by not updating the request for information in light of the information and documents already obtained, the Applicant sets the Respondents in a position where they should self-audit themselves, which, according to the Respondent renders the request for information unreasonable and unfair to the Respondents.

[31] The Respondent contends that the Auditor is not targeting the information or documents that are relevant to the application and enforcement of the *ITA*. He states that as an audit is ongoing, and as the Auditor pursues its plan of audit, his questions should become more targeted, and he should be in a better position to identify the information and documents needed for the purpose of the administration and enforcement of *ITA* (*Cameco* at para 39).

[32] The Respondent asserts that when the Auditor does not update his queries and requests to the taxpayer in the course of its audit, further to information already obtained either from the taxpayer or from a third party, the Auditor, and therefore the Minister, impose to the taxpayer to practically perform an audit upon himself to assess what would be missing to satisfy the requests of the Minister, which is an unfair and unsustainable burden for the taxpayer.

[33] According to the Respondent, in the context of a request under section 231.1 of 231.2 the *ITA*, the burden of the person being the subject of the request is to provide access, assistance, information or documents sought by the Minister that exist and are in the possession of the person or can be obtained by the person with reasonable efforts. It does not extend to creating documents or information that are not in the possession of the person or cannot be obtained by the person being the subject of the order with reasonable efforts (*Amdocs*, at paras 49, 52, 53, 73-76). It would be unfair and result in an injustice by placing the Respondents in a situation where they could simply not satisfy the order while being exposed to serious consequences (*MNR v Développements Béarence*, 2019 CF 22, at para 14).

C. *Analysis*

(1) The Respondents are required to provide the documents and information

[34] Justice McVeigh in *Canada (National Revenue) v Schreiber*, 2024 FC 729 completed a thorough overview of the state of the law with respect to audits under section 231.1 of the *ITA*. Her overview is partly reproduced below for context.

[35] In *Redeemer Foundation v Canada (National Revenue)*, 2008 SCC 46 [*Redeemer*] at paragraph 13, the Supreme Court noted that “[...] s. 231.1(1) is broadly worded.”

- (2) Section 231.1 is titled “information gathering,” and has five parts which specify the various means by which an authorized person can gather information.

[36] On this basis, it is clear that section 231.1(1) is wide in scope, and it is not limited to inspecting documents. Rather, it provides expansive powers for gathering information, allowing the CRA to conduct examinations, access premises, question taxpayers or persons, and require all reasonable assistance for any purposes related to the administration or enforcement of the *ITA*.

[37] In *Redeemer*, at paragraph 15, the Supreme Court acknowledged that, “Statutory provisions must be interpreted in a textual, contextual and purposive way, and all sections of a related group of provisions should be given coherent meaning if possible.” For this application, the two relevant provisions are sections 231.2 and 231.6.

[38] Under section 231.2(1), the Minister may require a person to provide information or documentation for any purpose related to the administration or enforcement of the *ITA*, of a listed international agreement, or of a tax treaty with another country. Under subsection 231.2(2), the Minister cannot impose a requirement under 231.2(1) relating to one or more unnamed person without the authorization of a judge.

[39] In *Redeemer*, the Supreme Court of Canada discussed the interaction between sections 231.1 and 231.2. In that decision, the appellant argued that section 231.1 could not be read to allow the Minister to obtain information about unnamed persons, as section 231.2 would serve no purpose otherwise. At paragraph 15, the majority of the Court rejected this approach, stating that:

But we do not accept the argument that s. 231.2 serves no purpose if s. 231.1 is read as authorizing the Minister to obtain information on unnamed third parties during the audit of a taxpayer. The Minister may well need to obtain information about one or more taxpayers outside the context of a formal audit. Section 231.2 responds to this need, subject to a requirement for judicial authorization if the Minister is seeking information relating to unnamed persons from a third-party record holder. It follows that the argument that s. 231.1(1) should be read down to avoid redundancy fails.

[40] At paragraph 22 of *Redeemer*, the Court clarified that section 231.2(2) applies in specific circumstances, noting that it “should not apply to situations in which the requested information is required in order to verify the compliance of the taxpayer being audited... the CRA should be able to obtain information it would otherwise have the ability to see in the course of an audit.”

[41] Accordingly, *Redeemer* confines the scope of section 231.2 while confirming that 231.1 confers the CRA with broad powers during the course of a formal audit.

[42] Thus, the Supreme Court of Canada, the Federal Court of Appeal, and this Court have all confirmed that subsection 231.1(1) of the *ITA* allows the Minister to request information and/or documentation from a taxpayer, registrant, or person when the Minister is seeking to verify that taxpayer’s, registrant’s, or person’s compliance with the *ITA*.

[43] Accordingly, I find that the Respondent and his related corporations against whom the compliance order is sought were required to provide the access, assistance, information or documents sought by the Applicant.

- (3) The Respondents did not fail to provide the documents and information sought by the Minister

[44] Regarding the second part of the test, the parties dispute whether the Respondents provided the requested information. The Applicant argues that the Respondents has failed to provide any of the outstanding required material, which was necessary to verify their compliance with the *ITA* while the Respondent asserts that he made reasonable efforts to obtain the documentation requested from him and the other Respondents.

[45] It is true that pursuant to *Amdocs*, the Minister cannot a require a person to produce documents which do not exist to be produced. It is also true that pursuant to subsection 231.5(2) of the *ITA*, a person must do everything they are required to do by sections 231.1 and 231.2 of the *ITA* “unless the person is unable to do so”. Thus, the said person must demonstrate reasonable efforts to satisfy the Court on a balance of probabilities that they are unable to produce the information (*Amdocs*, at paras 49, 52, 53, 73-76).

[46] In *Canada (National Revenue) v Dominelli*, 2022 FC 1418 [*Dominelli*], the Court referred to this issue at paragraph 36, stating:

In *Amdocs*, the Court refused to issue a compliance order when the taxpayer demonstrated both that (i) it was not in the possession of the information, and (ii) that it was not available to the taxpayer (at para 75). In that case, the taxpayer satisfied the Court that the evidence demonstrated, on a balance of probabilities, an inability to produce the information. Conversely, when the taxpayer has failed to demonstrate either the first element of non-possession, or the second element of non-availability, the Court should grant the Order sought (see: *Blue Bridge Trust Company Inc v Canada (National Revenue)*, 2020 FC 893 at para 120; *Miller* including paras 31, 33, 37, 48-50, 63, 75-76, 82-83).

[Emphasis added.]

[47] Based on the evidence in this application, I am satisfied, on a balance of probabilities, that the Respondent has made reasonable efforts to satisfy this requirement. The Respondent has persuaded me that he does not possess and cannot access the documents and information. In considering whether an individual is unable to comply with the requirements under section 231.5, the courts have determined that the taxpayer must exercise “reasonable efforts” to acquire the information (*Dominelli* at para 31, citing *Canada (National Revenue) v Miller*, 2021 FC 851 at para 50). Reasonableness depends greatly on the context.

[48] Here, the Respondent has provided a detailed list of all the documents and information provided by him and by the other Respondents respecting each item requested in the requests for information by the CRA. When an item was not delivered, the Respondent provided detailed justification and explanation of effort as to why it has not been delivered. Furthermore, the Respondents have provided not only access to but copies of 766 electronic files to the Applicant. The Respondents have shown reasonable efforts to provide access to the information or documents sought in the requests for information although they were required to do so under subsection 231.1 of the *ITA*.

[49] Considering the above and in light of the seriousness of the consequences for non-compliance which includes fines and/or imprisonment under subsection 238(1) of the *ITA*, I am unable to conclude that the Respondents were uncooperative. As a result, I am not satisfied that the second condition has been met.

(4) *Solicitor-Client Privilege*

[50] With regard to the third condition, the Applicant submits that the documents and information in the possession of the Respondent are not covered by solicitor-client privilege or common interest privilege. The Respondents have not advanced any argument regarding whether the documents are protected by privilege. They have not adduced any evidence that the documents and information in their possession are protected by privilege. In light of the Respondents' position, I am unable to determine whether the documents requested are protected from disclosure by solicitor-client privilege or whether common interest privilege applies in the present case.

[51] However, given that I am not satisfied that the second condition has been met, I do not need to address the third condition. Consequently, this application is dismissed with costs.

VI. Conclusion

[52] For these reasons, I am not satisfied that this is a case in which I should exercise my discretion to issue a compliance order for the production of the information and documents sought by the Applicant.

JUDGMENT in T-2679-22

THIS COURT'S JUDGMENT is that:

1. The summary application for a compliance order concerning Benjamin Cohen, 9156-4096 Quebec Inc, Triad Gesco Ltd, Triad Management Services Inc, Triad Real Estate Services Inc, 205 Brunswick Holding Inc, and Rcongold Systems Inc is dismissed with costs in favour of the Respondents.

"L. Saint-Fleur"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-2679-22

STYLE OF CAUSE: MINISTER OF NATIONAL REVENUE v BENJAMIN COHEN, ET AL.

PLACE OF HEARING: MONTRÉAL (QUÉBEC)

DATE OF HEARING: JUNE 10, 2025

JUDGMENT AND REASONS: SAINT-FLEUR J.

DATED: DECEMBER 19, 2025

APPEARANCES:

Me Gilles Robert
Me Mathilde Romano

FOR THE APPLICANT

Me Lissia Vathi

FOR THE RESPONDENTS

SOLICITORS OF RECORD:

Attorney General of Canada
Montréal (Québec)

FOR THE APPLICANT

SPIEGEL RYAN S.E.N.C.R.L.
Barristers and Solicitors
Montréal (Québec)

FOR THE RESPONDENTS