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Court File No.: T-

FEDERAL COURT

B E T W E E N:

BRIAN BUSBY and BRUCE BUCHARDT

Applicants

- and -

ATTORNEY GENERAL OF CANADA

Respondent

**NOTICE OF APPLICATION
(Section 18.1 of the *Federal Courts Act*)**

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the applicants. The relief claimed by the applicants appears 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 Ottawa.

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 where 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 (telephone 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: September 21, 2021

Issued by: _____
(Registry Officer)

Address of
local office: _____

TO: Attorney General of Canada

AND TO: Office of the Public Sector Integrity Commissioner
60 Queen Street, 4th Floor
Ottawa, ON K1P 5Y7

APPLICATION

This is an application for judicial review in respect of a decision of the Public Sector Integrity Commissioner (“PSIC” or “Commissioner”) dated August 19, 2021 and received by the Applicants on August 23, 2021 (PSIC File No.: PSIC-2019-D-0563). Both applicants made disclosures in respect of the same matters and the PSIC investigated them under this single file. By this decision, the Commissioner decided to cease investigating allegations of wrongdoing which had been made by the Applicants concerning unlawful and inappropriate activities within the Canada Revenue Agency (“CRA”). The Commissioner’s Office decided to cease the investigation on the basis that the subject matter of the allegations was being, or had been, dealt with pursuant to other processes. The Commissioner further concluded that, according to information obtained during the investigation, because results had been provided to CRA’s Chief Executive regarding these other investigations, continuing with the PSIC investigation would not fulfil the purpose of an investigation as set out in the Act.

THE APPLICANTS MAKE APPLICATION FOR AN ORDER:

- (a) Allowing this application for judicial review, with costs;
- (b) Setting aside the Commissioner’s decision;
- (c) Referring the matter back to the Commissioner’s Office with the direction that all of the allegations be fully investigated in accordance with the reasons of this Court, including any directions regarding compliance with natural justice or procedural fairness to the Applicants; and
- (d) Such further and other relief as counsel may request and this Honourable Court may permit.

THE GROUNDS FOR THE APPLICATION ARE:

- (a) The Commissioner arrived at his decision in violation of the principles of natural justice or procedural fairness insofar as:
 - i. The Applicants were unaware of the rationale to be relied upon by the Commissioner in deciding to cease the investigation;
 - ii. The Applicants were unaware of, or did not have access to, the documentation relied upon by the Commissioner in deciding to cease the investigation; and
 - iii. The Applicants did not have an opportunity to provide evidence or arguments regarding the basis for the decision of the Commissioner.
- (b) The Commissioner erred in law in concluding that there was a basis to cease investigating the Applicants' wrongdoing disclosure without arriving at a proper decision as to whether these other processes truly addressed the allegations raised by the Applicants' original disclosure;
- (c) The Commissioner erred in law in failing to have regard to the public interest in investigation allegations of wrongdoing, particularly where, as here, the organization (CRA) which is alleged to have engaged in wrongdoing conducts its own investigation, or causes an investigation, into the very issues it is accused of;
- (d) The Commissioner based his decision on erroneous findings of fact made in a perverse or capricious manner or without regard for the material before him; and
- (e) Such further and other grounds as counsel may advise and this Honourable Court may permit.

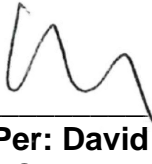
THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

- i. An Affidavit or affidavits respecting the record of the material that was before the Commissioner respecting the subject matter of this application; and
- ii. Such further and other material as counsel may advise and this Honourable Court may permit.

THE APPLICANTS REQUEST that, pursuant to Rule 317 of the *Federal Courts Rules*, the Commissioner send a certified copy of the following material that is not in the possession of the Applicants but is in the possession of the Commissioner to the Applicants and to the Registry:

- (a) The full record of all materials in the Commissioner's Office file, including all materials before the Commissioner or any of his staff respecting the Applicants' allegations of wrongdoing; and
- (b) Such further and other materials as counsel may advise and this Honourable Court may permit.

Dated at Ottawa this 21st day of September, 2021.



Per: David Yazbeck
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& YAZBECK LLP/s.r.l.
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Counsel for the Applicants

FEDERAL COURT

B E T W E E N:

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