

CONFIDENTIAL

Court File No.: DES- 19 -24

FEDERAL COURT

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Applicant

– and –

COLIN SAWATZKY

~~RESPONDENT TO BE NAMED BY THE COURT PURSUANT
TO SUBSECTION 38.04(5) OF THE CANADA EVIDENCE ACT~~

Respondents

APPLICATION UNDER SUBSECTION 38.04(1) OF THE
CANADA EVIDENCE ACT

AMENDED NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Applicant. The relief claimed by the Applicant appears below.

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 Applicant. The Applicant requests 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 file a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the Applicant's solicitor WITHIN 10 DAYS after being served with this notice of application.

Copies of the *Federal Courts Rule*, 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: Oct 22 - 2024

Issued by:


(Registry Officer)

Amended: 24-Oct, 2024

TO: **Colin Sawatzky**
801-324 Laurier Avenue West
Ottawa, Ontario K1P 0A4

APPLICATION

THIS IS AN APPLICATION under ss. 38.04(1) of the *Canada Evidence Act*, RSC, 1985, c. C-5 (*CEA*), for an order regarding disclosure of information referred to in the notices given on February 23, 2024 and September 10, 2024, respectively, to the Attorney General of Canada (AGC) under ss. 38.01(1) of the *CEA*. In the Notices, Eric Boulton (formerly Shalom), counsel with the National Security Litigation Advisory Group with the Department of Justice Canada, advised that Canada was required to disclose sensitive or potentially injurious information in connection with a Judicial Review proceeding before the Federal Court in *Colin Sawatzky v AGC* (Court File Number T-2396-23).

THE APPLICANT MAKES APPLICATION FOR:

- (a) An order under ss. 38.06(3) of the *CEA* confirming the prohibition from disclosure of the information referred to in the notices, except as previously authorized by the AGC under ss. 38.03(1) of the *CEA*;
- (b) An order authorizing disclosure of the complete, unredacted Certified Tribunal Record to the judge seized with the Underlying Proceeding, if said judge is a designated judge; and
- (c) Such further and other relief as the Applicant may request and this Court deems just.

THE GROUNDS FOR THE APPLICATION ARE:

- (a) Colin Sawatzky filed an application for judicial review on November 14, 2023, challenging the decision of the Chief Security Officer of the Canadian Security Intelligence Service (CSIS or the Service) dated October 5, 2024, which was in turn communicated to Mr. Sawatzky on October 16, 2024. The decision denied Mr. Sawatzky Reliability status and administratively cancelled Mr. Sawatzky's application for an Enhanced Top Secret security clearance.

- (b) As part of his judicial review, Mr. Sawatzky seeks an Order setting aside or quashing the decision to deny Reliability status and an Order remitting the matter back to the person with the proper authority to reconsider the matters in accordance with the applicable standards, policies and guidelines;
- (c) On February 23, 2024, Eric Boulton gave notice to the AGC under ss. 38.01(1) of the *CEA* that he will be required to disclose sensitive or potentially injurious information in the above-mentioned proceeding;
- (d) On September 10, 2024, Eric Boulton gave a second notice to the AGC under ss.38.01(1) of the *CEA* that he will be required to disclose sensitive or potentially injurious information in the above-mentioned proceeding;
- (e) The AGC, through his delegate, did not authorize the disclosure of certain information contained in the documents subject to this application;
- (f) Disclosure of information covered by the notices would be injurious to national security;
- (g) The public interest in non-disclosure of the information outweighs the public interest in its disclosure;
- (h) Should the AGC receive additional notices under s. 38.01 of the *CEA*, the information covered by these notices will become part of this application;
- (i) Such further and other grounds as the Applicant may advise and this Court may permit.

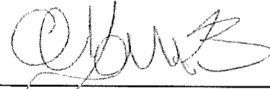
THE ATTORNEY GENERAL MAKES THE FOLLOWING REPRESENTATIONS UNDER SUBSECTION 38.04(5) OF THE *CEA*:

- (a) A public hearing may be necessary;
- (b) An *in camera ex parte* hearing will be necessary;
- (c) Colin Sawatzky is a party whose interests are affected by the disclosure of the information subject to this proceeding and shall be named the Respondent in this proceeding;
- (d) A copy of the Notice of Application, amended to include Colin Sawatzky as the Respondent, shall be served on the Respondent;
- (e) The Notice of Application should remain confidential until such time as it is amended to include the names of the Respondent in the style of cause and is served on the Respondent;
- (f) A hearing pursuant to paragraphs 38.04(5)(a) or (a.2) of the *CEA* is not required;
- (g) The next steps in these proceedings must be decided by the judge seized of the matter, including the naming of an *amicus curiae*, if necessary; and
- (h) Further and other representations as the Applicant may advise and this Court may permit.

THE APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

- (a) Affidavits and other material as counsel may advise and this Court may permit.

Date: October 24, 2024



ATTORNEY GENERAL OF CANADA

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