CANADIAN INTERNATIONAL TRADE TRIBUNAL
TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR

Ottawa, Monday, February 26, 2001

Appeal Nos. AP-99-068 to AP-99-072

IN THE MATTER OF appeals heard on November 20, 2000, under section 81.19 of the *Excise Tax Act*, R.S.C. 1985, c. E-15;

AND IN THE MATTER OF decisions of the Minister of National Revenue dated July 20, August 30, September 23 and October 7, 1999, with respect to notices of objection served under section 81.17 of the *Excise Tax Act*.

BETWEEN

SHOPPERS DRUG MART INC. **Appellant**

AND

THE MINISTER OF NATIONAL REVENUE **Respondent**

DECISION OF THE TRIBUNAL

The appeals are dismissed.

Zdenek Kvarda
Zdenek Kvarda
Presiding Member

Pierre Gosselin
Pierre Gosselin
Member

Peter F. Thalheimer
Peter F. Thalheimer
Member

Michel P. Granger
Michel P. Granger
Secretary

333 Laurier Avenue West
Ottawa, Ontario K1A 0G7
(613) 990-2452 Fax (613) 990-2439

333, avenue Laurier ouest
Ottawa (Ontario) K1A 0G7
(613) 990-2452 Téléc. (613) 990-2439

CANADIAN INTERNATIONAL TRADE TRIBUNAL
TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR

UNOFFICIAL SUMMARY

Appeal Nos. AP-99-068 to AP-99-072

SHOPPERS DRUG MART INC. **Appellant**

AND

THE MINISTER OF NATIONAL REVENUE **Respondent**

These appeals, made pursuant to section 81.19 of the *Excise Tax Act* (the Act), raise the issue of whether the appellant is entitled, under section 68.2, to a refund of federal sales tax paid on new and unused imaged articles. The tax was paid in relation to the purchase of film and metal plates used to produce advertising flyers.

The appellant purchased film from Supreme Graphics Limited (Supreme) and paid tax. It then let two other suppliers, Transcontinental Printing Inc. (Transcontinental) and Web Press Graphics (Web Press), use the film to produce metal plates required in the production of flyers. The appellant purchased the metal plates from Transcontinental and Web Press, again paying tax on the purchase price. Transcontinental and Web Press then used the metal plates to print the flyers. Supreme, Transcontinental and Web Press, as licensed manufacturers, remitted the tax on these sales to the respondent, as required by the Act.

After these transactions were completed, the Federal Court of Appeal rendered its decision in *Minister of National Revenue (Customs and Excise)* v. *Baird (Tom) & Associates* (*Tom Baird*). As a result of that case, the respondent determined that the purchase of film by the appellant from Supreme and the purchase of metal plates by the appellant from Transcontinental and Web Press were tax exempt. As such, the respondent was of the view that Supreme, Transcontinental and Web Press, as licensed manufacturers that remitted the tax, were entitled to a refund pursuant to section 68 of the Act.

The appellant also applied for a refund of the tax paid in relation to these same transactions. The appellant referred to the fact that it had paid the tax when it purchased the film and metal plates and argued that it had also sold the film and metal plates to Transcontinental and Web Press. The appellant argued that it was, therefore, entitled to a refund in accordance with section 68.2 of the Act.

The respondent denied the appellant's refund claim. In these appeals, the respondent argued that the appellant was not entitled to a refund pursuant to section 68.2 of the Act , given that no sale of the film and plates to Transcontinental and Web Press had occurred. Further, the respondent argued that a refund to Supreme, Transcontinental and Web Press had been properly paid pursuant to section 68 and that no further refund was payable.

HELD: The appeals are dismissed.

Section 68.2 of the Act provides for a refund where tax is paid "under Part III or VI" of the Act, if those goods are subsequently sold to a purchaser in circumstances that would have been tax exempt, had such sale been made by the manufacturer to that purchaser directly. The evidence indicates that the film and metal plates were not sold to Transcontinental and Web Press. Therefore, the circumstances of this case do not dictate a refund under section 68.2.

333 Laurier Avenue West
Ottawa, Ontario K1A 0G7
(613) 990-2452 Fax (613) 990-2439

333, avenue Laurier ouest
Ottawa (Ontario) K1A 0G7
(613) 990-2452 Téléc. (613) 990-2439

The Tribunal is of the view that the tax was paid and remitted in error with respect to the purchase of film from Supreme and metal plates from Transcontinental and Web Press, given the mistaken view that these transactions were not tax exempt according to the provisions of the Act. The Federal Court of Appeal in *Tom Baird* determined that these transactions were, in fact, tax exempt. The Tribunal is of the view that a refund of tax paid in such circumstances is available pursuant to section 68 of the Act.

The case law confirms that an amount representing federal sales tax paid by the purchaser of goods to the person obliged to pay such tax under the legislation is not considered a tax imposed under the Act. The appellant is not a licensed manufacturer and did not remit the tax itself, but instead paid an amount to Supreme, Transcontinental and Web Press as part of the purchase price of the film and plates. Accordingly, the appellant is not entitled to a refund pursuant to section 68 of the Act.

Place of Hearing:	Ottawa, Ontario
Date of Hearing:	November 20, 2000
Date of Decision:	February 26, 2001
Tribunal Members:	Zdenek Kvarda, Presiding Member Pierre Gosselin, Member Peter F. Thalheimer, Member
Counsel for the Tribunal:	John Dodsworth Marie-France Dagenais
Clerk of the Tribunal:	Anne Turcotte
Appearances:	David Eng, for the appellant Michael Roach, for the respondent

CANADIAN INTERNATIONAL TRADE TRIBUNAL
TRIBUNAL CANADIEN DU COMMERCE EXTÉRIEUR

Appeal Nos. AP-99-068 to AP-99-072

SHOPPERS DRUG MART INC. **Appellant**

AND

THE MINISTER OF NATIONAL REVENUE **Respondent**

TRIBUNAL: ZDENEK KVARDA, Presiding Member
PIERRE GOSSELIN, Member
PETER F. THALHEIMER, Member

REASONS FOR DECISION

These appeals, made pursuant to section 81.19 of the *Excise Tax Act*,[1] raise the issue of whether the appellant is entitled, under section 68.2, to a refund of federal sales tax paid on new and unused imaged articles. The appellant claimed the refund with respect to tax paid in respect of its purchases of primary imaged articles from suppliers. The articles in issue are film and metal plates used in the production of advertising flyers. The respondent denied the claim, given his view that the refund was owed, pursuant to section 68, to the appellant's suppliers that remitted the tax.

The relevant sections of the Act are as follows:

> 68. Where a person, otherwise than pursuant to an assessment, has paid any moneys in error, whether by reason of mistake of fact or law or otherwise, and the moneys have been taken into account as taxes, penalties, interest or other sums under this Act, an amount equal to the amount of those moneys shall, subject to this Part, be paid to that person if he applies therefor within two years after the payment of the moneys.
>
> 68.2 (1) Where tax under Part III or VI has been paid in respect of any goods and subsequently the goods are sold to a purchaser in circumstances that, by virtue of the nature of that purchaser or the use to which the goods are to be put or by virtue of both such nature and use, would have rendered the sale to that purchaser exempt or relieved from that tax under subsection 23(6), paragraph 23(8)(*b*) or subsection 50(5) or 51(1) had the goods been manufactured in Canada and sold to the purchaser by the manufacturer or producer thereof, an amount equal to the amount of that tax shall, subject to this Part, be paid to the person who sold the goods to that purchaser if the person who sold the goods applies therefor within two years after he sold the goods.

EVIDENCE

The appellant's witness was Mr. Peter Effer, Vice-President, Taxation, Shoppers Drug Mart. Mr. Effer testified regarding the manufacturing process of the advertising flyers in issue. He testified that the production of flyers was a four-part process. The first part of the process involved the initial design and layout of the flyer, which is undertaken internally by the appellant's advertising department. The second part involved the creation of film for the flyers that are necessary for the printing process, which was undertaken by Supreme Graphics Limited (Supreme). Mr. Effer testified that, while Supreme had the right to create the film, the appellant maintained ownership of the film. The next part involved transferring the film to Transcontinental Printing Inc. (Transcontinental) and Web Press Graphics (Web Press) for the production of

1. R.S.C. 1985, c. E-15 [hereinafter Act].

333 Laurier Avenue West
Ottawa, Ontario K1A 0G7
(613) 990-2452 Fax (613) 990-2439

333, avenue Laurier ouest
Ottawa (Ontario) K1A 0G7
(613) 990-2452 Téléc. (613) 990-2439

plates used in the printing process. The final part involved using the printing plates to print the flyers, which was done by Transcontinental and Web Press.

Mr. Effer testified that the appellant purchased the film from Supreme and the printing plates from Transcontinental and Web Press and paid tax on each transaction. He further testified that the appellant maintained ownership of the film and plates, permitting Transcontinental and Web Press to use the film to produce the printing plates and the printing plates to produce the flyers. Mr. Effer testified that certificates of exemption were provided by Transcontinental and Web Press, which confirmed that imaged articles had first been used exclusively for printing.

On cross-examination, Mr. Effer testified that the appellant never took possession of the film produced by Supreme and that Supreme shipped the film directly to Transcontinental and Web Press to produce the plates. Mr. Effer stated that Supreme, Transcontinental and Web Press had remitted the tax to the Department of National Revenue (now the Canada Customs and Revenue Agency). Mr. Effer testified that there were no invoices regarding an "actual" sale of film or metal plates to Transcontinental and Web Press and that the $1 invoices, which were included in the appellant's brief, did not document an actual sale of the film or metal plates. Instead, these simply documented the right of Transcontinental and Web Press to use the film and plates.

ARGUMENT

The appellant argued that, when a licensed vendor sells a product for consideration, it transfers the title and tax content of the product to the purchaser. The appellant argued that the liability to remit tax is governed by section 50 of the Act, whereas the ownership of "tax content" is regulated by British Columbia's *Sale of Goods Act*.[2] Further, the wording, "Where tax under this Act has been paid", common to each of the refund provisions in sections 68 to 68.29 of the Act, is a reference to tax content.

The appellant described the relationship between a licensed vendor and a purchaser (which could be either a licensed or an unlicensed manufacturer). At the time of purchase, the licensed vendor receives consideration, while the purchaser receives title to the goods and the tax content to the goods. The licensed vendor incurs tax liability under section 50 of the Act and is obliged to remit the tax. The purchaser does not have any tax liability; however, according to the appellant, the purchaser thereby becomes entitled to a refund of the tax.

The appellant argued that a licensed vendor is entitled to a tax refund only with regard to the over- or under-payment of tax. Given that section 68 of the Act applies "otherwise than pursuant to an assessment", licensed vendors who are subject to assessment cannot apply for a refund pursuant to that section. Licensed vendors may obtain a refund only by way of the assessment process. Therefore, as licensed vendors, Supreme, Transcontinental and Web Press cannot use section 68 to apply for a refund.

The appellant argued that the facts in the Federal Court of Appeal decision in *Minister of National Revenue (Customs and Excise)* v. *Baird (Tom) & Associates*[3] are similar to the facts in these appeals. In that case, the defendant purchased imaged articles and let a manufacturer use them to produce the printed material. The major factual difference between *Tom Baird* and the present appeals, according to the appellant, is that the defendant was a licensed manufacturer under the Act, whereas the appellant in the

2. R.S.B.C. 1996, c. 410.
3. (1997), 221 N.R. 201 [hereinafter *Tom Baird*].

present case is not. The appellant pointed to the fact that the defendant was found by the Federal Court of Appeal to be entitled to a refund and, therefore, argued that it should also be entitled to a refund.

The appellant argued that it is a small manufacturer in that it is in control of the entire manufacturing process and is, therefore, entitled to a refund pursuant to section 68.28 of the Act.

The appellant argued that it is entitled to a refund pursuant to section 68.2 of the Act. The appellant noted that a refund is available pursuant to section 68.2 in circumstances in which tax is paid in respect of goods that are then sold to a purchaser in circumstances that would have rendered the initial sale tax exempt.

In this regard, the appellant referred to the fact that tax had been paid when the appellant purchased the film from Supreme and the metal plates from Transcontinental and Web Press. A sale occurred when it permitted Transcontinental and Web Press to use the film and metal plates. By delivering the film to Transcontinental and Web Press, a deemed sale occurred pursuant to section 45.1, subsection 50(2) or paragraph 52(3)(*a*) of the Act. Similarly, by allowing Transcontinental and Web Press to use the printing plates to produce the flyers, a deemed sale of the metal plates occurred pursuant to those sections. Therefore, the requirements of section 68.2 have been met and it is entitled to a refund pursuant to that section. The appellant also referred to the fact that the respondent had granted one of the refunds claims made by the appellant and suggested that this proved that the appellant was entitled to a refund.

The respondent argued that the onus is on the appellant to show that it is entitled to a refund and that the determinations under appeal are incorrect. The appellant also has the onus to prove that every condition necessary for a refund has been met.

The respondent argued that tax was paid in respect of the sale of film by Supreme to the appellant, given that the appellant was not licensed and given that the transaction occurred before the decision in *Tom Baird*. As such, the tax had been paid in error. The respondent submitted that the case law is clear that the refund should go to the person who remitted the tax. As it was Supreme, Transcontinental and Web Press that were licensed and that remitted the tax paid in respect of the sale of the film and plates, they are the ones entitled to the refund.

The respondent also argued that the appellant is not entitled to a refund pursuant to section 68.2 of the Act. In order to claim a refund under that section, tax must be paid in respect of the goods and the goods must be sold to a purchaser. The respondent argued that the appellant is not entitled to a refund under section 68.2 for three reasons. First, the refund should be paid to Supreme, Transcontinental and Web Press under section 68. The tax is a single incidence tax that is payable at the time of the first sale. Exemptions are also applicable at this time. In the present case, the tax was initially paid by the appellant on its purchase of the film from Supreme and the metal plates from Transcontinental and Web Press. However, in fact, this sale was tax exempt, such that Supreme was entitled to the refund. The respondent argued that the further sale of those imaged articles is irrelevant.

Second, the respondent argued that there was no legally effective sale of the imaged articles by the appellant to Transcontinental and Web Press. In this regard, the respondent pointed to the testimony of the appellant's witness, Mr. Effer, who specifically stated that no actual sale of the imaged articles occurred and that the appellant maintained ownership of the imaged articles. The respondent argued that the Tribunal should give little weight to the appellant's arguments concerning the $1 invoices that the appellant purported documented the sale of film and metal plates to Transcontinental and Web Press.

With respect to the appellant's arguments concerning the "deemed sale" of the imaged articles, the respondent argued that a sale for the purposes of section 68.2 of the Act does not include a deemed sale – there must be an actual legally effective sale. The respondent argued further that the "deemed sale" provision relied upon by the appellant does not apply to the refund provision. In the alternative, the respondent argued that, if the Tribunal finds that there was a "deemed sale", no deemed sale took place based on the facts of this case. The "deemed sale" provision, section 45.1, imposes liability for tax on a manufacturer where, pursuant to a contract for labour, an unlicensed manufacturer supplies the article or material from which goods are manufactured or produced. The transaction at issue is not a contract for labour, such that it does not fall under the deemed sale provisions.

The third reason for which the appellant is not entitled to a refund pursuant to section 68.2 of the Act, according to the respondent, is that the tax refund being sought by the appellant has already been remitted to Supreme, Transcontinental and Web Press. In order to obtain a refund pursuant to section 68.2, the tax must have been paid. Since a refund has already been paid to Supreme, no tax has been paid with respect to that purchase. The respondent argued that the two refund provisions were not intended to provide a refund of the same tax to two different persons.

With respect to the refund that was paid to the appellant pursuant to section 68 in relation to a transaction relating to the transactions under appeal, the respondent indicated that this refund was paid in error. The respondent stated that the fact that one refund was paid out in error does not determine entitlement to a refund with respect to the other claims. The respondent further refuted the appellant's argument that it was a manufacturer of the flyers, since the evidence was clear that the manufacturers were Supreme, Transcontinental and Web Press.

DECISION

The evidence shows that the advertising flyers were produced in a four-part process. The first part of the process involved the initial design and layout of the flyer, which was taken internally by the appellant's advertising department. The second part involved the creation of film for the flyers that is required for the printing process by Supreme. The third part involved transferring the film to Transcontinental and Web Press for the production of metal plates used in the printing process, which the appellant purchased from Transcontinental and Web Press. The fourth part involved using the printing plates to print the flyers. Further, the evidence shows that the appellant purchased the film from Supreme and the metal plates from Transcontinental and Web Press and maintained ownership of these imaged articles. Supreme, Transcontinental and Web Press each collected tax from the appellant in respect of these transactions and remitted the tax to the respondent.

However, subsequent to the transactions at issue, the Federal Court of Appeal issued its decision in *Tom Baird*. The Federal Court of Appeal considered the scope of the exemption contained in paragraph 4 of Part XIII to Schedule III of the Act, which applied to exempt from tax the purchase of imaged articles for use exclusively in the manufacture of printed matter. The Federal Court of Appeal held that the exemption applied even in circumstances in which the manufacturer did not itself use the imaged articles in the manufacturing process, but instead let subcontractors use them for that purpose.

In the present case, the imaged articles (the film and metal plates) purchased by the appellant were to be used exclusively in the manufacture of printed matter. Given the Federal Court of Appeal in *Tom Baird*, the respondent determined that the purchase of film and metal plates by the appellant was in fact exempt from tax. The respondent therefore determined that Supreme, Transcontinental and Web Press were

entitled to a refund pursuant to section 68 of the Act. However, the appellant argued that it was entitled to the refund of this tax pursuant to section 68.2.

Section 68.2 of the Act provides for a refund where tax is paid "under Part III or VI" of the Act and the goods are subsequently sold to a purchaser under certain circumstances. The Tribunal is of the view that the appellant is not entitled to a refund pursuant to section 68.2, given that the evidence indicates that the appellant did not sell either the film or the metal plates to Transcontinental and Web Press. To the contrary, the appellant's own witness testified that the appellant maintained ownership of the film and metal plates throughout the period during which the transactions occurred. The appellant's witness testified that the $1 invoices, which were included in the appellant's brief, documented the right of Transcontinental and Web to use the film and plates.

Further, the Tribunal is not persuaded by the appellant's argument that, by permitting Transcontinental and Web Press to use the film and metal plates in the production of the flyers, a "deemed sale" occurred pursuant to section 45.1, subsection 50(2) or paragraph 52(3)(*a*) of the Act. The Tribunal is of the view that the sale referred to in section 68.2 must be an actual sale, not a "deemed sale". Section 68.2 would specifically state that a refund could be triggered in the event of a "deemed sale", if that had been intended.

In any case, none of the "deeming" provisions of the Act to which the appellant referred apply in the present circumstances. Section 45.1 of the Act imposes liability for tax on an unlicensed manufacturer where, pursuant to a contract for labour, the manufacturer supplies the article or material from which goods are manufactured or produced. The transactions at issue are not contracts for labour such that they do not fall under this deemed sale provision. Subsection 50(2) applies to a deemed sale in relation to deliveries of "gasoline" or "diesel fuel", clearly not at issue in the present appeals. Further, subsection 52(3) applies in circumstances in which the manufacturer leases or gives the right to use goods to a person. However, Transcontinental and Web Press used the film and metal plates in the manufacturing process itself, a situation which, in the Tribunal's view, is beyond the scope of this deeming provision.

Therefore, the Tribunal is of the view that the appellant did not sell the film or metal plates to Transcontinental or Web Press in the manner contemplated by section 68.2 of the Act. As such, the Tribunal is of the view that the appellant cannot claim a refund pursuant to section 68.2 in relation to the transactions at issue.

At the hearing, the appellant argued that it is a small manufacturer and, therefore, is also entitled to a refund pursuant to section 68.28 of the Act. However, the Tribunal is of the view that the appellant did not fully explain or provide evidence that would allow the Tribunal to determine whether it was entitled to a refund in accordance with the provisions of this section. In fact, the Tribunal cannot see how the appellant could be considered a small manufacturer for the purposes of section 68.28 as prescribed in the *Small Manufacturers or Producers Exemption Regulations*.[4] Therefore, the Tribunal is of the view that the appellant is not entitled to a refund pursuant to section 68.28.

In the Tribunal's view, Supreme, Transcontinental and Web Press remitted the tax in respect of the sale of the film and metal plates to the respondent in error, given a mistaken interpretation of the Act. The Federal Court of Appeal in *Tom Baird* clarified, subsequent to these transactions, that paragraph 4 of Part XIII to Schedule III of the Act applied, and that the transactions at issue were tax exempt. The Tribunal notes that section 68 of the Act clearly applies in circumstances in which tax has been paid in error, whether

4. S.O.R./82-498.

by reason of mistake of fact or law. Therefore, the Tribunal is of the view that section 68 applies in the circumstances of the present appeals.

The Tribunal is not persuaded by the appellant's argument that the wording of section 68 of the Act precludes a licensed manufacturer from relying on the section to obtain a refund. The words "otherwise than pursuant to an assessment" contained in section 68 do not refer to the entity that may claim a refund pursuant to that section, but instead qualify that the section is not intended to provide for a refund of moneys paid in error pursuant to an assessment. The Tribunal is of the view that the words "otherwise than pursuant to an assessment" do not preclude a licensed manufacturer from being entitled to a refund pursuant to section 68.

The Tribunal also does not accept the appellant's argument that these appeals should be determined in accordance with the ownership of "tax content" in a product, as determined in accordance with British Columbia's *Sale of Goods Act*. In these appeals, the Tribunal must consider whether the appellant is entitled to a refund of tax paid pursuant to the refund provisions of the Act. In this regard, the Tribunal notes that the case law is clear that amounts for tax, paid at the time of purchase by the end user of the goods to the person who must remit the tax, are not considered to be taxes imposed by or under the Act.

In *The Queen* v. *M. Geller Incorporated*,[5] the vendor of dressed sheepskins had paid excise tax that was admitted to be not legally owing, but was itself barred from recovery by a two-year limitation period. The purchaser of the dressed sheepskins also sought recovery. Taschereau J. held:

> The person obliged to pay the tax is the dresser, and the person entitled to a refund is the dresser if the tax has been paid through mistake of law or fact. In the present case, the tax was paid by the dresser Nu-Way and it was the sole person entitled to a refund. This was denied by the Exchequer Court, and rightly in view of the terms of s.105, para. 6.
>
> The respondent has no legal right to claim. It is true that M. Geller Inc. reimbursed Nu-Way, but this payment does not give a right of action to the former, which the law denies.
>
> The arrangements made between Geller and Nu-Way are of no concern to the appellant. They are "res inter alios acta" and cannot affect the rights of the Crown.[6]

In *Saugeen Indian Band* v. *Canada*,[7] the Federal Court of Appeal considered whether the passing on of the federal sales tax to the end user of a commodity, as purchaser, is a matter of contract or of law. The appellant argued that the tax, although paid by the vendor, is in reality paid by the end user of the commodity to whom it is passed on by law as a tax. The Federal Court of Appeal applied the Supreme Court of Canada's decision in *Geller* and concluded:

> I would therefore conclude . . . that the appellant cannot be said to be taxed by the *Excise Tax Act*, even though the burden of the tax is undoubtedly passed on to it, as several of the invoices made explicit. What the appellant paid was not the tax as such, but commodity prices which included the tax. This is sufficient, for constitutional purposes, to make the tax indirect. But it is not enough, for tax purposes, to establish the appellant as the real taxpayer.[8]

5. [1963] S.C.R. 629 [hereinafter *Geller*].
6. *Ibid.* at 631.
7. [1990] 1 F.C. 403.
8. *Ibid.* at 413.

In *Mackay Family* v. *MNR*,[9] the Tribunal considered whether the appellant was entitled to a refund, pursuant to section 68 of the Act, of an amount, equal to the portion of the price paid to its supplier, that represented sales tax on equipment used by the appellant. The Tribunal stated:

> A condition to claiming a refund under section 68 of the Act is that monies, for which the claim was made, must have been taken into account as taxes imposed under the Act.
>
> The jurisprudence established by the Supreme Court of Canada in *The Queen v. M. Geller Incorporated* and by the Federal Court of Appeal in *Price (Nfld.) Pulp and Paper Limited v. The Queen*, and followed by the Tribunal in *Geocrude Energy Inc. v. The Minister of National Revenue*, . . . has consistently held that amounts representing federal sales tax paid by the purchaser of goods to the person obliged to pay such tax under the legislation are not considered as taxes imposed under the Act.[10]

The amounts paid by the appellant as part of the purchase price of the film and metal plates are, therefore, not amounts paid for the purposes of the Act. Consequently, the appellant is not entitled to a refund of tax paid with respect to these transactions pursuant to section 68 of the Act.

Consequently, the appeals are dismissed.

Zdenek Kvarda
Zdenek Kvarda
Presiding Member

Pierre Gosselin
Pierre Gosselin
Member

Peter F. Thalheimer
Peter F. Thalheimer
Member

9. (30 October 1992), AP-91-155 (CITT).
10. *Ibid.* at 2.