

Ottawa, Thursday, July 12, 2001

**Appeal Nos. AP-91-071 and AP-91-072**

IN THE MATTER OF two appeals filed under section 81.22 of the *Excise Tax Act*, R.S.C. 1985, c. E-15;

AND IN THE MATTER OF a letter dated May 8, 2001, from the Canadian International Trade Tribunal directing Johnston & Beaudry Advertising & Design Inc. to show cause why the above-noted appeals should not be dismissed pursuant to paragraph 29(c) of the *Canadian International Trade Tribunal Rules*.

**BETWEEN**

**JOHNSTON & BEAUDRY ADVERTISING & DESIGN INC.**

**Appellant**

**AND**

**THE MINISTER OF NATIONAL REVENUE**

**Respondent**

**ORDER OF THE TRIBUNAL**

WHEREAS, the above-noted appeals were filed by the appellant under section 81.22 of the *Excise Tax Act*, on June 17, 1991, and were held in abeyance for a number of years pending a decision by the Federal Court of Appeal in the matter of *Minister of National Revenue (Customs and Excise) v. Baird (Tom) & Associates*;<sup>1</sup>

WHEREAS, the appellant was represented on the appeals by Mr. E.R. Reid of Revenue West;

WHEREAS, the Federal Court of Appeal rendered a decision in the matter of *Tom Baird* on November 18, 1997;

WHEREAS, on March 2, 2000, counsel for the respondent wrote to the Canadian International Trade Tribunal (the Tribunal) requesting that a hearing date be set for the above-noted appeals;

WHEREAS, on March 8, 2000, the Tribunal wrote to Revenue West, asking for the appellant's availability in order to set a hearing date, and the Tribunal did not receive a response;

WHEREAS, the Tribunal made a number of efforts to reach Revenue West by personal service and by telephone, and those efforts failed;

WHEREAS, on June 29 and September 11, 2000, the Tribunal wrote to the appellant at its last known address, asking whether the appellant intended to proceed with the appeals and, in the event that the

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1. (1997), 221 N.R. 201 [hereinafter *Tom Baird*].

appellant wished to withdraw the appeals, instructing the appellant to file a Notice of Discontinuance with the Tribunal;

WHEREAS, the Tribunal received no reply from the appellant to the above letters;

WHEREAS, by letter dated May 8, 2001, the Tribunal directed the appellant to show cause by May 11, 2001, as to why the appeals should not be dismissed, and informed the appellant that failure to show cause might result in the appeals being dismissed without any further proceedings;

WHEREAS, the Tribunal received no reply to the letter dated May 8, 2001;

WHEREAS, the Tribunal's letters to the appellant have not been returned by Canada Post Corporation with an "unknown", "return to sender" or equivalent marking; and

GIVEN that the Tribunal has concluded that the appellant has failed to comply with the Tribunal's direction to show cause why the appeals should not be dismissed;

THEREFORE, the Tribunal hereby orders that the above-noted appeals be dismissed pursuant to paragraph 29(c) of the *Canadian International Trade Tribunal Rules*.<sup>2</sup>

Pierre Gosselin  
Pierre Gosselin  
Presiding Member

Patricia M. Close  
Patricia M. Close  
Member

Richard Lafontaine  
Richard Lafontaine  
Member

Michel P. Granger  
Michel P. Granger  
Secretary

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2. S.O.R./91-499.