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This is Exhibit G referred to in the  
affidavit of Brendan O'Grady  
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day of June, 2016

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A commissioner for taking affidavits

## Conacher brief impressive

# Juniors will turn pro if Ottawa has its say

By DONALD RAMSAY

Junior hockey in Canada should brace itself for a blast of cold air next February. Not from across the Canadian prairies but, rather, from Parliament Hill, where the federal Government is studying amateur hockey.

The study, called the Canadian Hockey Review, was initiated by Iona Campagnolo, the minister of state for fitness and amateur sport, and is being conducted by Mr. Justice John J. Urie of the Federal Court in Ottawa and former Los Angeles Kings' general manager Larry Regan. It will probably recommend that a full-scale inquiry be conducted into amateur hockey in Canada.

With a full investigation, junior hockey could cease to exist in its present form. Instead of its preferred amateur status, the Canadian Major Junior Hockey League would be classified as a minor professional league and amateur hockey as a whole would receive a massive facelift in this country.

A report last spring by a special Commons-Senate committee prompted Mrs. Campagnolo to establish the Canadian Hockey Review.

"Our study is progressing with respect to minor hockey in this country," Urie said. "We're re-examining the structure of amateur hockey and reviewing all applicable background material. We're leading up to junior hockey which is our ultimate objective.

"It's important that we don't pre-judge, though. In this type of inquiry we thought it important to start by ascertaining the problems prior to junior, to start with minor hockey."

### **Multi-faceted probe**

A checklist being circulated by the Canadian Hockey Review and obtained by The Globe and Mail, indicates an in-depth, multi-faceted probe into amateur hockey, including:

●Legal questions, including a look at the framework of playing cards in the Canadian Amateur Hockey Association; playing contracts in junior with re-

ing amateur hockey in Canada; parental interest and the obligation on parents whose children play amateur hockey; financial burden on parents and the public esteem of whether it's better for a player to play in a league in the public eye or to play in a school league.

●Educational questions, including arrangements for future education for hockey players either during or after their amateur involvement; scheduling versus education; alternatives to hockey — university education, trade schools, etc.

●Human rights questions, including the right for a player to choose his own team; the right of players with regard to trades, territorial rights and the various amateur drafts.

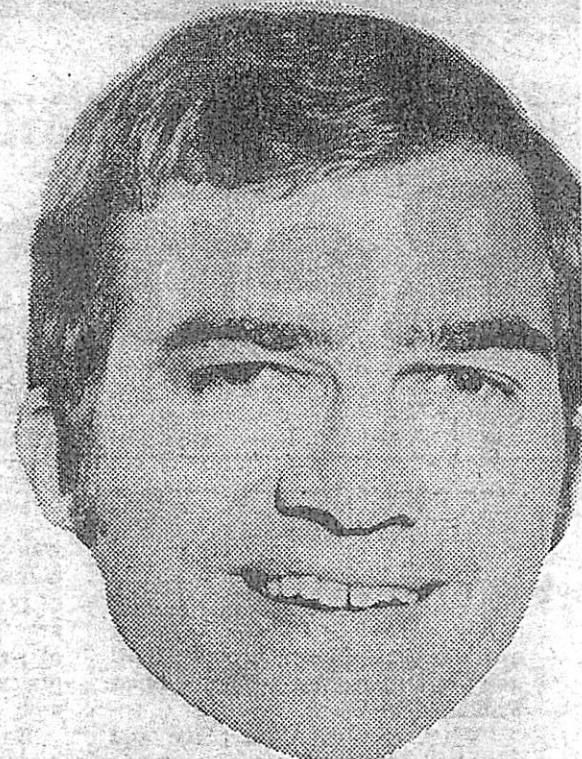
The study will also look at injuries, rules, the benefits of playing hockey and hockey violence. But it remains rather apparent that junior hockey will come under heavy scrutiny.

"I naturally look on junior hockey as a money-making operation and as head of amateur sport it is not my wish to intervene in big business," Mrs. Campagnolo said. "But there's no question junior hockey is run by a lot of private entrepreneurs. Therefore, something has to be determined regarding the difference between amateur and professional hockey.

"We're not pre-judging junior hockey, I must emphasize that. We are looking at moral, ethical and human rights questions involving all of hockey. We're accumulating evidence and data and will at a later date determine whether this evidence warrants a private inquiry into all areas of hockey."

Junior hockey has been embroiled in several troubles in recent years involving, among other things, under-age signings, lawsuits, friction with the National Hockey League and World Hockey Association, player-agent problems and development-fee controversies.

Urie, for one, is impressed with a brief submitted to the Canadian Hockey Review by Brian Conacher, a former NHLer who was general manager of the WHA Indianapolis Racers and Edmonton Oilers. Conacher's in-depth brief calls for a complete overhaul and



**Brian Conacher**

young men out of the area of "professional" influence longer, thus giving the "amateur" system more time to fulfil its educational, social and community objectives.

●Extending the maximum age to 22 to the loss of the present 16- and 17-year-olds, replacing them with 21- and 22-year-olds who currently go to a minor professional club in the United States or sit on the bench for some major professional club.

●"Amateur" junior hockey would continue to serve the present age limits of 16-20.

●A CMJHL team could then be composed of 11 types of players: 1) a minor professional, being a player who is under direct contract with a CMJHL club or 2) a major professional, under contract to a major professional club (NHL or WHA) but assigned to a CMJHL club.

Because every player must have reached the legal age of majority, Conacher maintains the league should be professional and every player should be signed to a professional contract before playing in the CMJHL.

### **One season maximum**

Conacher said the minor professional contract would be for a maximum of one season and would need to be renewed at the start of each playing season. A player with a major professional contract

ockey, including:

●Legal questions, including a look at the framework of playing cards in the Canadian Amateur Hockey Association; playing contracts in junior with respect to human rights; rights of player to appeal administrative decisions; inquiry into whether junior players have the right to go where they want in professional leagues and an inquiry into the relations between agents and players.

●Physiological questions, including relationship of players' sizes and ages in minor categories; the development of skills and the effect of a player's ability on where he plays.

●Sociological questions, including the cost of play-

the Canadian Hockey Review by Brian Conacher, a former NHLer who was general manager of the WHA Indianapolis Racers and Edmonton Oilers. Conacher's in-depth brief calls for a complete overhaul and reclassification of junior hockey.

Conacher recommends:

●The reclassification of the CMJHL from an "amateur" to "professional" league.

●Changing the CMJHL age limits of 16-20 year old (a maximum of five seasons) to 18-22 and a maximum of five seasons. Eighteen would be established as the minimum age limit because it is the legal age of majority in Canada. With the CMJHL out of amateur ranks and a minimum age of 18 in effect, it will keep

Conacher said the minor professional contract would be for a maximum of one season and would need to be renewed at the start of each playing season. A player with a major professional contract wouldn't sign a CMJHL minor professional contract and would be considered an "assigned professional" while playing in the CMJHL.

Conacher would protect CMJHL clubs from raids by major professional clubs. If a drafted CMJHL player doesn't sign a contract with a major professional club by Sept. 30 and then signs a CMJHL minor professional contract, the player would be unable to sign a major professional contract that season. Exceptions could be made with the permission of the CMJHL.

In addition, the CMJHL would no longer participate in the midget draft but all other amateur "junior" hockey could continue to do so. The CMJHL would hold a new and separate draft of all available 18-year-old amateurs who may be playing in amateur junior hockey.

"By removing the CMJHL from the controversial midget draft and by having the CMJHL not draft players until they are 18 it will give the amateur system time to fulfil its social, educational and community objectives," Conacher said.

A major professional draft could then be held and carried out in a similar manner to the present universal draft in June. To be eligible, a player must be 18 or going on 18 by Aug. 31 of that draft year. Any player drafted must be signed to a major professional contract prior to the next following draft (within one year). If a drafted player is not signed in this required time period his name shall be available for draft again and the "major" professional club forfeits a right to player unless it drafts the player again.

Conacher's brief also touches on the subsidization of the CMJHL through payments for major professional draft choices, development fees, and a check balance system designed to offset an undesirable pattern of major professional clubs drafting all available 18- and 19-year-olds.


"For the major professional operators," Conacher maintains, "the CMJHL will expand its role as the prime development area for major professional calibre prospects. It will also give the amateur governing bodies the opportunity to pursue the educational, social and community objectives of amateur hockey through a parallel system separated from professional influence."

Urie expects all research by the Canadian Hockey Review to be completed within three months and recommendations to be forwarded to Mrs. Campagnolo shortly thereafter.

"The Conacher brief is just one of many we will be studying but it is a very impressive document. I personally consider it a very good working document."

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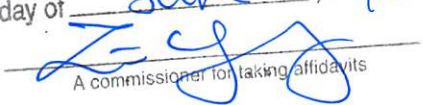
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# Canadian Hockey Review

This is Exhibit "H" referred to in the  
affidavit of Brendan O'Grady  
sworn before me, this 15<sup>th</sup>  
day of June, 2016  
  
A commissioner for taking affidavits

## INTERIM REPORT ON MINOR AMATEUR HOCKEY IN CANADA

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CHAPTER VI

CIVIL LIBERTIES

Two issues, players' rights and female participation, are a source of major concern in the literature, as well as in current practice.

A. PLAYERS' RIGHTS

The clearest and harshest condemnation of undue restrictions to hockey players' freedom comes from an inquiry for the Alberta government by L.W. Downey & Associates, Report of An Inquiry in the Rights of Individuals in Amateur Sports (Hockey), 1973. Downey's criticisms included the following topics.

1. the CAHA and Branches' claim to final, complete and monopolistic power as the "sole and supreme authority in the governance of minor hockey in Canada" (Downey, 1973:27).

They attempt to preclude any outside regulatory authority, including government and the legal system. Two factors appear to help insulate the CAHA and its Branches from legal intervention. First, they are voluntary associations and the courts are reluctant to render decisions which call their constitutions into question. (see Boduch v. Harper & OHA (1976)). Second, the restrictive practices by teams or leagues prohibited by the Combines Investigation Act under S.32.3 apply only to professional sports. John Barnes, Professor of Law, Carleton University is of the opinion that Major Junior hockey falls under the provisions of the Act (1978:194).

2. the lack of due process and tone of intimidation in the appeal procedures.

CAHA by-law 10(c) states that any dispute must go through the internal appeal route of League, Branch and CAHA Board of Directors. By-law 10(d) provides that "the decision of the Board of Directors on such matters...is absolutely final and binding...and there is no provision for further appeal from such a decision. Such decision



is not capable of being over-ruled except by further decision ...by the Board of Directors only, in its sole and absolute discretion". (emphasis added). By-law 10(g) denies recourse to the courts at any time during the appeal process. "Any recourse to the courts of any jurisdiction...before all the rights of appeal...and remedies of the Constitution shall have been exhausted, shall be deemed to be a violation and breach of these By-laws...and the Board of Directors' decisions, and shall result in the automatic, indefinite suspension of such member or individual from all CAHA and Branch-sponsored or organized activities and games".

By-law 10(g) goes even further by stating that if a player goes to court after having exhausted all internal appeals and then loses his case, he will remain suspended!

3. excessive discretionary power to owners of Junior teams through the Standard Form contract:

(a) players are subject to fines for violation of team rules which are not defined in the contract; (b) the option-to-renew clause assigns to the club the sole right, without negotiation with the player, to renew the contract for a second or third year; (c) seeking contracts with other clubs is prohibited without permission; (d) the club attempts to recover "development costs" for the period the player was in service either by selling or trading its rights of ownership or by claiming a portion of his first pro contract after leaving Junior hockey.

The validity of this contract was called into question in the case of Toronto Marlboro Major Junior Hockey et. al. v. Tonelli et. al. in which Mr. Justice Lerner stated:

it is my view that this contract was not for the benefit of the infant. It was a business transaction with unequal consequences that the Marlboros attempted to make binding and enforceable (as, I assume, have other clubs in this league) by overcoming with language the fact that infant hockey players could be indentured until age 20 within a closely woven structure.

The judgement was unsuccessfully appealed by the Marlboros. Reasons for judgement are as yet unreported.

4. informal agreements for protecting players amongst junior clubs.

In the WCJHL, players are placed on protected lists without their knowledge. This practice extends to teams below the junior level which are considered the 'territory' of specific junior teams, and denies the normal right of an individual to seek his own employer and negotiate the conditions of his employment.

Interviews with Branch officials confirm the existence of such arrangements.

5. limits on freedom of movement and choice of team (below junior level).

The cards players must sign in order to play take on the qualities of contracts in that players cannot transfer without 'releases' from the initial team.

The clause on the Player Registration Certificate reads

"....in consideration of the granting of this certificate to me with the privileges incident thereto, and by signing this certificate I have become subject to the rules, regulations and decisions of the CAHA, its Board of Directors, its Branches and/or Divisions which may be restrictive in some areas such as movement from team to team, conduct, etc., and I agree to abide by such rules, regulations and decisions of the CAHA, Board of Directors its Branches and/or Divisions".

The CAHA residency rule provides "no player shall be registered as a member of or compete for a team in any association match who has not been a bona fide resident of that community".

The residency rule encourages community-based participation, discourages 'stacking' of teams and disruption of families. However, a player can have valid personal reasons for wanting to play for a team of his choice, such as friendship, or the desire to play with a particular team under a coach who will better develop his skills.

The residency restriction has been challenged in the courts on several occasions, with mixed results:

Boduch v. Harper & OHA (1976) - the court did not grant an injunction giving Boduch a release from one team to play for another on the grounds that the OHA was a 'private and voluntary association'. Judge Zuber adopted a 'balance of convenience' argument, and held that a release to Boduch "forcing a departure from the rules that govern the activities of, I gather, some seventy thousand hockey players in the City of Toronto would seriously impair the organizational structure which presently exists".  
(1976) 10 OR 755

Gretzky v. OMHA (1976) - again the court did not grant an injunction allowing Gretzky a release, on the grounds that the internal appeal procedure had not been exhausted before going to the courts.  
(1976) 10 OR 759

McDonald v. Edmonton MHA (1970) - Justice Liberman ordered the EMHA to transfer and register McDonald with any team of his choice.

(Unreported)

These cases all involved transfers to teams within the same Branch. Inter-branch transfers have also been a source of dispute, notably because payments to the Branch granting the release are required. For example, MAHA appealed to the CAHA Board when the New Westminster Bruins failed to pay appropriate amounts for signing 4 players to one of their affiliate teams in British Columbia. According to a 1975 agreement (approved by the CAHA) between the Western Branches and the Western Canada Hockey League, "WCHL teams will pay \$1500 for the release of each player from teams in the Western Junior A Leagues". The MAHA's concern at the appeal focused not on the "right" to assign players to farm clubs and place them on protected lists, but on the fact that the Bruins had not paid the full compensation.

In 1975 changes were introduced in the Combines Investigation Act (S.32.3) dealing with unreasonable limitations on the freedom of players in professional sports. As amateur sport is specifically excluded from the Act (S.4.2) the CAHA's rules restricting player movement are not subject to this legislation. However, for purposes of the Act, Major Junior A hockey may be classed as professional sport. This would appear to be the reason that the CAHA dropped its player development agreement with the NHL concerning the Junior draft. As mentioned in the Finance chapter, the NHL now makes payments directly to Major Junior A owners through the CMJHL not the CAHA. Professor John Barnes, in his forthcoming book, expresses the opinion that the NHL rule requiring Juniors to be age 20 before being drafted is probably illegal under the revised Combines Investigation Act which prohibits "unreasonable limitations on a player's opportunity to participate". If his opinion is correct, there would be nothing to prevent the NHL from drafting 'under age' players as the WHA has done.

As part of the Downey study, a survey of 120 players age 16 to 20 was conducted. Five percent stated that they had been refused a transfer.

Discussions with Alberta government officials indicate that little follow-up action has been taken on the Downey Report. In particular, the government has not adopted the report's central recommendations of creating a hockey ombudsman or commission and enacting legislation to protect the rights of amateur players.

A review of the constitutions and regulations of other sports-governing bodies reveals that the Canadian Swimming Association (By-law 11) and the Canadian Amateur Basketball Association (Article 8) regulate player movement in a less restrictive manner than the CAHA.

B. THE RIGHTS OF FEMALES IN HOCKEY

Every male person who is an amateur in accordance with the association's definition thereof and who is not under suspension . . . shall be eligible for membership in a club or team in the association. (CAHA Minor Regulation H. 302).

The question of allowing girls to play competitive hockey within the structure of the CAHA has been hotly contested. Arguments for both sides have been presented before both Human Rights Commissions and the courts. Two of these cases have received a great deal of publicity.

1. Cummings vs. the Ontario Minor Hockey Association (OMHA)

In October, 1976 Gail Cummings was chosen for the position of goalie on the Huntsville Atom All-Star hockey team. She had played four games with the team when she was notified that her registration certificate had been rejected by the OMHA, solely on the grounds that she was not "a male person". Shortly thereafter, a complaint of discrimination was lodged with the Ontario Human Rights Commission (OHRC). A Board of Inquiry was convened and the case was heard in October, 1977.

The OMHA presented several arguments to the Board. They stated that boys were trained to respect girls and, therefore, could not compete with them. In addition, they argued that girls were not biologically strong enough to play. They alluded to the moral and social implications of integrated hockey.

....having boys and girls play hockey together would not be suitable....The harm to boys from losing to girls, the danger of future family stability if boys learned to roughhouse with girls and the physiological differences between boys and girls are so marked that playing hockey together would eliminate real opportunities for enjoyable and effective competition. (OMHA, quoted in Globe & Mail, October 28, 1978).

Girls are, in fact, allowed to participate with boys in hockey, but only at the Houseleague level where registration cards are not required.\* Thus, the OMHA appears to be saying that its arguments are valid only in the case of children with superior athletic talent and that they do not apply to the average child.

The OMHA's primary line of defence, however, rested on the contention that its organization was not public and, therefore, that the Human Rights legislation did not apply.

The OHRC ruled in favour of Cummings. It rejected the OMHA's argument that it was not a public organization on the grounds that it received provincial funding and that it utilized facilities largely supported by the public through taxation and ticket buying.

The OMHA appealed the decision to the Ontario Supreme Court. No new arguments were introduced. The Court overturned the decision, ruling that the service available was the dominant factor and not the place (i.e. the arena) where the activity was carried out. Thus, the services of the OMHA were not held to be public and the

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\*Children are required to register with the CAHA, only if they have the necessary talent to participate in competitive hockey.

Human Rights legislation was ruled to be applicable.

(Unreported)

2. Forbes vs. the Yarmouth Minor Hockey Association (YMHA)

The YMHA denied Tina Marie Forbes the opportunity to play hockey in their association. It was contended that, as a member of the Nova Scotia Minor Council, the YMHA was bound by charter to exclude girls. It was further argued that their organization was not public and, therefore, not subject to the provincial Human Rights Legislation.

The case was heard by Judge R.E. Kimball of the Nova Scotia Human Rights Commission. Both contentions were rejected. The Judge ruled that the YMHA was a public organization. Further, because the YMHA had not met all the basic membership requirements of the Nova Scotia Minor Hockey Council, it was technically not a member of the Council. The Council's charter, therefore, had no bearing on the case. The YMHA was ordered to process the girl's application "in the same manner as any other application for registration in the association". (Ottawa Citizen, October 31, 1978:38). There is no indication that the YMHA appealed the case.

(Unreported)

CONCLUSION

The applicability of the Human Rights legislation of the various provinces to the issue of females in hockey appears to hinge on whether or not the CAHA and its affiliates are public or private organizations. According to the Canadian Human

Rights Act, enacted March 1, 1978,

It is a discriminatory practice in the provision of goods, services, facilities or accommodation customarily available to the general public:

- (a) to deny, or deny access to any such good, service, facility or accommodation to any individual, or
- (b) to differentiate adversely in relation to any individual

on a prohibited ground of discrimination (i.e. race, national or ethnic origin, colour, religion, age, sex, marital status, pardoned convictions).

Although this Act applies only to matters under federal jurisdiction, each province has enacted legislation containing similar provisions. The position taken by the CAHA and its affiliates that such legislation is not applicable to their organizations seems somewhat incompatible with their acceptance of public funds and utilization of public facilities.

#### RECOMMENDATIONS

##### (A) Players' Rights

- (1) The CAHA should repeal those sections of its by-laws which revoke the playing rights of players who seek legal redress against associations' rulings;
- (2) The provincial governments should consider the necessity for adopting legislation spelling out the inherent rights to protection of minors who become participants in organized sports.

##### (B) Females' Rights

The provincial Human Rights Commissions should determine whether the CAHA, its Branches and local associations are practising discrimination in excluding females from competitive stream hockey.



CHAPTER XI

EDUCATION

In football and basketball, college is the only training ground for the pros, but in Canada, it is looked at as a detour en route to the N.H.L. . . . So now you have a boy 19 or 20 or 21, and he's been playing hockey since he was a pre-teen. He hasn't been to college. He's lucky, in fact, if he was graduated from high school. What is he fitted for? Hockey. (Eskenazi, 1972: 9)

Concerns regarding hockey's effect on education have been expressed for decades. The hockey community concedes the difficulty experienced by players attempting to combine scholastics and hockey. Clarence Campbell states: "The most gifted can combine the two. Others have trouble". (Globe & Mail, 1963) Eskenazi further illustrates this point with his finding that, of all professional athletes, hockey players have the lowest level of education. In 1967, 75% of NHL professionals had not graduated from high school. (1972:10)

Other authors point to the apparent conflict between hockey and the educational system. Thom reports that in 1975 the Metropolitan Toronto Hockey League scheduled tryouts in May and June during the traditional final examination period. (1978:5) During the 1975-76 season in Quebec, 52% of scheduled tournament time fell within school hours. (Néron, 1977: 313)

This concern has provided the focus for several studies. In each case, the researcher has attempted to determine whether participation in hockey enhances or detracts from educational performance. Because the results appear to be contradictory, this section is organized into (a) studies concluding that hockey participation is beneficial to educational performance, and (b) studies indicating that education suffers as a result of hockey participation.

A. POSITIVE STUDIES

1. Relationships Among Academic Achievement & Native Competition in Amateur Hockey: A CAHA Funded Project (R.H. Schutz, 1977)

Schutz compared a group of 443 British Columbia amateur hockey players with 41 non-hockey players in an attempt to assess the effect of hockey participation on academic achievement. Each subject's school records from Grade 1 until the time of the study, were examined. Data collected included such variables as average grades, IQ, and number of days absent from school.

Schutz observed no difference between the groups in either average grade or IQ. Subjects in the control (non-players) group, however, were found to miss twice as many days as did the hockey players. In addition, hockey players at the juvenile level or below attained slightly higher grades during the years they were involved in hockey, as compared with the years when they were not playing. Finally, Schutz's results showed no relationship between the number of years of hockey involvement and absenteeism, average grades or the probability of graduation. These results led Schutz to conclude that participation in amateur hockey was not detrimental and was, in fact, probably beneficial to academic achievement.

Unfortunately, there are several glaring methodological problems with Schutz's study. The complete lack of sampling information and the huge difference in the size of the groups renders any comparison suspect at best. Data regarding the ages of the subjects, the amount of time spent on hockey and the level of competition of each subject are not provided. Finally, Schutz bases some conclusions upon untested assumptions. For example, because the number of hockey-playing, low achievers declined, he concluded that they

withdrew from hockey. An equally valid conclusion is that they withdrew from school. This was not investigated.

In conclusion, Schutz's study provides no useful information with respect to the relationship between hockey participation and academic achievement. It is little more than a good example of misused statistical methodology and improper analysis.

2. Competition and the Young Hockey Player: Psychological Aspects\*  
(R. Deharnais, 1975)

Deharnais reviewed literature regarding sports participation and academic achievement. Based on his research, he concluded that the studies "proved" sports (including hockey) competition enhanced educational performance.(1975:5)

A close look at Deharnais' report reveals the selectivity with which he approached his subject. He examined, for the most part articles dealing with school-sponsored sports participation and completely neglected to report any major studies specifically related to hockey. In view of these limitations, his conclusions are of dubious value.

B. NEGATIVE STUDIES

1. The Hockey-Playing Student (King & Angi, 1965)

The authors compared 511 Junior hockey players with 25,331 non-hockey players. All subjects were enrolled in Ontario high schools during the course of the study (1963-65). Measures of achievement included average grades, educational and career aspirations, and results of standardized tests.

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\* Deharnais' report did not solely address itself to the educational issue, but rather included education as one of many areas of investigation.

They found that, for both groups, academic achievement declined as the number of inter-school transfers increased. Hockey players had significantly more of these transfers than non-hockey players.

At the Grade 9 level, there were few apparent differences between the groups. Hockey players achieved similar grades and had slightly higher academic and occupational aspirations than their non-playing counterparts. By Grade 12, however, this picture had changed. By this time, the hockey-playing population's grades were significantly lower and they had lowered both their academic and career goals. This trend became apparent as early as Grade 10.

They also observed that although fewer hockey players withdrew from school, their failure rate was higher than that of the non-players. In addition, only about half as many of the hockey-playing cohort successfully completed Grade 13.

Two major limitations are immediately apparent. First, the study was conducted prior to the 1967 NHL-CAHA agreement regarding the signing of players under the age of 20. Second, comparisons were strictly limited to Junior-level (i.e., highly competitive players). No attempt was made to assess the effect of school-sponsored or less competitive levels of hockey on academic achievement.

2. Hockey Participation as a Factor in the Secondary School Performance of Ontario Students: An Effects Study for Administrators (D. J. Thom, 1978)

Thom's Ph.D. dissertation provides the only systematic study of the relationship between educational achievement and different levels or types of hockey participation. He studied 825 Ontario males enrolled in Grades 9 through 13.

His sample included CAHA-sponsored players at the Allstar and Houseleague levels, school-sponsored players, recreational (parks-league) participants and non-participants.

Participants in Allstar or Houseleague hockey were found to have significantly lower grades, and a higher absenteeism rate than any of the other groups. Because of the amount of time spent playing hockey, this group participated in fewer extra-curricular activities. In contrast, school-sponsored and recreational players achieved higher grades and missed fewer school days than either the Allstar/Houseleague group or the non-players. Thus, Thom concluded that it was not participation in hockey, per se, but rather the type of participation that was detrimental to academic achievement.

Despite the apparent strength of his findings, Thom's dissertation has two major shortcomings. Previous research indicates that socio-economic status is a primary variable in determining educational aspirations and achievement (Porter, Porter & Blishen, 1973). Although he included all three variables in his model, Thom did not attempt to measure relationship between them.

Secondly, there are methodological problems involving Thom's use of the sophisticated statistical technique know as "path analysis". Fortunately his dissertation includes other techniques which lend credibility to his case.

C. CONCLUDING OBSERVATIONS

1. Source of Support

The two studies concluding that hockey participation is beneficial to educational performance were funded by groups

with vested interest in hockey. Schutz's study was financed by the CAHA, while Deharnais received assistance from the Hockey Development Council. Negative studies, on the other hand, were undertaken with the aid of the educational system. Thus, there appears to be a direct relationship between the conclusions of these studies and their sources of support.

2. Junior Age Transfers

The Ontario midget draft, the WCJHL "protected" list and other such agreements all lead to a similar, undesirable outcome. A fifteen or sixteen year old boy must often leave home, school and community if he is to be eligible to play Junior A hockey in Canada.

The negative effects on his education because of transfers are compounded by the league schedule. Father M. Sheedy announcing the withdrawal of St. Michael's College School in Toronto from the OHA Junior A league stated:

The Junior A program as it is now constituted, with its long and demanding schedule, with its lengthy and drawn out playoff arrangements, militates against effective school work.

That Junior hockey and educational achievement are often incompatible has been established. The future of those Junior players who do not make a professional team, and those who drop out of or are dropped from Junior teams has, however, been overlooked. When the study of Junior hockey in Canada is undertaken, research in this area will be considered a priority.

3. Hockey Development

There is a growing concern that the present development route (i.e. via the CAHA) tends to interfere with education to a greater extent than does recreational or school-sponsored hockey. While there are indications that U.S. college hockey is gradually providing more recruits to the professional ranks, the CAHA-sponsored, Major Junior 'A' leagues continue to be the primary source of supply. With this in mind, several possible alternatives have been raised.

The most frequent proposal calls for Canadian post-secondary institutions to grant hockey scholarships to promising athletes. Study results, however, tend to cast doubt on whether many of the possible recipients would be able to meet entrance requirements, given the disruption of their high school education. Other authors suggest that the lower age-limit for Junior hockey should be raised from 16 to 18. This would allow young players to complete high school before deciding to enter either university, community college or Junior hockey. Because Junior hockey is a business enterprise, the feasibility of this suggestion is doubtful. Before a solution is found, educators and hockey personnel will have to identify some common goals and objectives.\*

4. Institutional Barriers

The suggestion is often made that Minor hockey should be brought under the aegis of the school system, similar to other school sports such as basketball or football. Certainly if it were internalized within the school system there would be less conflict in values and scheduling matters(e.g. games not interfering

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\*These points arise frequently in interviews held with hockey personnel.

with exams). Meagher (1971: 33) reports that survey results indicate that in the late 1960's less than 20% of schools in eastern Canada had interscholastic hockey, with very little existing in the west. Greater Montreal, however, apparently had a stronger school hockey program.

The prospect for greater integration has several barriers to overcome. The location of facilities presents logistical problems for the schools, and there is little chance that school boards would construct their own indoor arenas. In some localities there is co-operation between municipalities and school boards for the day-time use of municipal arenas but proximity often presents a problem, necessitating busing and displacing regular class schedules. Moreover, in the present climate of financial restraint, coupled with declining enrollments, school boards are not anxious to undertake costly new ventures. Additional school-sponsored hockey programs would not be paid for by transferring funds from the municipalities which, despite ice rental charges, already subsidize arena operations heavily. Municipalities also rely on strong involvement by volunteers to organize the current community hockey programs. Nonetheless with imagination more could undoubtedly be done to develop a co-ordinated approach between the schools and the community. This is an area which could justify further exploration in Phase Two.

##### 5. Neglected Considerations

Two major issues have not been explored in any of the literature. The first involves a lack of comparison between those who participate in competitive hockey through high school, and those who withdraw from hockey. Such a comparison might well reveal basic differences in such areas as socio-economic background, academic achievement, career aspirations, etc.



While many studies compare school-sponsored versus non-school-sponsored hockey, no attempt has been made to compare non-school-sponsored hockey with other extra-school activities. It appears to be a valid assumption that it is not the outside activity, per se, but rather it is the amount of time and energy invested in the activity, that interferes with scholastics.

### Conclusions

Competitive hockey, with its long and arduous schedule of games and practices often interferes with education. To a young athlete aspiring to play in the professional leagues, this may be of little consequence. But what of the player who is not drafted, or the athlete whose professional hockey career is finished? Too often, he is not trained for anything but hockey.

An evaluation of the situation is imperative. Should a teenaged player be forced to make the critical decision between hockey and education, given that his chances of playing with a professional team are less than one in 100?

RECOMMENDATIONS

- (1) The Minister of State, Fitness and Amateur Sport in consultation with the provinces and post-secondary institutions should consider establishing a college and university hockey scholarship fund. This would build upon the modest beginnings of Hockey Canada's scholarship and bursary program. Academic proficiency should be required to qualify for and retain scholarships. Future Olympic hockey teams could possibly be drawn, in part, from scholarship winners;
- (2) The CAHA Hockey Scholastic Council should undertake a feasibility study of ways of ensuring better cooperation between the school system and CAHA hockey programs;
- (3) Provincial ministries of education should encourage local school boards to cooperate more closely with municipalities in the use of community hockey facilities.

CHAPTER XII

RECOMMENDATIONS

This chapter is divided into two types of recommendations: (1) those for further work by the Canadian Hockey Review during Phase Two; and (2) those directed to the federal and provincial governments as well as the CAHA and its Branches.

A. CANADIAN HOCKEY REVIEW - PHASE TWO

Six separate activities are proposed for Phase Two as outlined below:

1. Inquiry into Junior Hockey

The original recommendations of the Buckwold Committee for a complete investigation of Junior Hockey will be undertaken. While a study of Junior Hockey, particularly Major Junior A, might best be conducted pursuant to the Inquiries Act to ensure full disclosure of all relevant information, such an inquiry is not recommended at this time. In the past, investigations such as the Hockey Study Committee of the National Advisory Council on Fitness & Amateur Sport chaired by William L'Heureux, experienced great difficulty in obtaining financial information from Junior team owners. However, due to the fact that many Junior hockey executives and owners appear to be genuinely interested in restoring the tarnished image of their sport and further, because there seems to be a general feeling in government as well as the public at large, including the media, that there should be a thorough airing of all aspects of Junior Hockey, the Canadian Hockey Review, with its present background knowledge, is in a position to conduct the necessary investigation and to obtain the necessary cooperation of all concerned, without resorting to the expensive procedure of a public inquiry pursuant to the Inquiries Act. If, after a period of time, the investigation is impeded by the lack

of cooperation of those concerned, consideration will be given to resorting to other means to ensure that full disclosure is obtained so that a meaningful report may be delivered on the status and functions of Junior Hockey in Canada. The following issues, among many, are of prime importance :

- (a) protected lists of players, territorial rights and related arrangements between Junior teams and Minor teams below them;
- (b) financial arrangements between the CMJHL and the CAHA, and between the WCHL, OMJHL, QMJHL and the provincial Branches. This is important with respect to the official amateur status of Junior Hockey and the influence that Junior representation on hockey-governing bodies has upon rules and organization of Minor Hockey;
- (c) draft payment arrangements between the professional leagues and the CMJHL and their effects. The role of Junior players' agents is also of concern;
- (d) transfers and releases between Junior teams and affiliates, including the movements necessitated by the Midget draft;
- (e) agreements controlling the allocation of Junior franchises which exclude their existence in some centres. The question of community ownership versus private ownership requires analysis;
- (f) the appropriate age limits for Junior Hockey, including the feasibility of raising the lower limit from 16 to 18 and the upper limit to 21 or 22 from 20;

- (g) fighting and unsportsmanlike play, especially in view of Junior Hockey's increasing reputation for violence;
- (h) education of Junior players, in particular the problems of those who drop out of high school but fail to make the professional leagues;
- (i) the question of the necessity for Junior Hockey to continue to function under the guise of amateur hockey.

2. Survey Research

Two surveys will be conducted by the Review in order to fill existing gaps in knowledge identified in the literature review and to verify or refute many of the subjective arguments so widely advanced. The two surveys should be:

- (1) a national public opinion survey; and
- (2) a survey of players and parents in Minor Hockey.

The national public opinion survey (2,000 respondents) will examine public participation and attitudes toward a number of issues in hockey including:

- (a) reasons for the apparent decline in participation
- (b) violence
- (c) the degree of competition
- (d) education
- (e) unaffiliated players and leagues

A survey of 500 players and 500 parents is proposed to collect information and assess attitudes concerning the following matters:

- (a) amount of time involved in playing
- (b) individual costs of participation
- (c) motivations for playing or deciding not to play or to continue to play
- (d) attitudes toward violence
- (e) conflicts with education
- (f) players' future aspirations
- (g) relations with hockey organizations

It is expected that results of the national survey will be evaluated and used to guide the formulation of the player and parent survey.

3. Coaching

As will have been seen from the foregoing chapters, there exists at present, a National Coaches Certification program, supported by numerous publications, films and other audio-visual aids. In Chapter VIII attention was drawn to the concerns which have been expressed by a substantial number of persons, knowledgeable of the Minor Hockey scene, regarding the value of the program as it exists, given the obvious deficiencies in it. It is unnecessary to reiterate those concerns here. Suffice it to say, that they identify the problems, or at least some of them, and they shed some light on the reasons for their existence. In other words, we know what the problems are; we have a reasonable understanding of why they exist but we do not know how they may be resolved. The recommendations which follow are made in an attempt to rectify this defect. The Canadian Hockey Review will:

- (a) conduct in-depth studies as to the adequacy, scope and effectiveness of existing coaching programs;

This is Exhibit I referred to in the  
affidavit of Brendan O'Grady  
sworn before me, this 15<sup>th</sup>  
day of June, 2016  
Z. C. J.  
A commissioner for taking affidavits

# The Law of Hockey

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Research Centre for Sport in Canadian Society  
School of Human Kinetics  
University of Ottawa



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**THE LONEY TRIAL AT CORNWALL.**—In cross-examining witnesses for the defence, Mr. James Dingwall, Crown Attorney, associated with Mr. French, K.C., for the prosecution, demonstrated the various ways in which the fatal blow might have been struck. His tall figure, long flowing beard and patriarchal appearance generally were truly impressive, but the contrast implied in the barrister's gown he wore and the hockey stick he brandished murderously above his head, excited much amusement.

*The Montreal Daily Star*, March 30, 1905, p. 5.



## A. COMPETITION ACT

### 1. General

The *Competition Act* seeks "to maintain and encourage competition in Canada in order to promote the efficiency and adaptability of the Canadian economy ... [and] provide consumers with competitive prices and product choices".<sup>6</sup> The Act preserves common law rights of action (see, s. 62), while creating criminal and civil remedies<sup>7</sup> and establishing the office of Commissioner of Competition. The Commissioner leads the Competition Bureau<sup>8</sup> and is responsible for the administration and enforcement of the Act (see, s. 7). Persons alleging non-compliance with the Act may apply to the Commissioner to inquire into the matter (see, s. 9). The Act also establishes an adjudicative process before the Competition Tribunal,<sup>9</sup> which may review market restrictions, refusals to deal and mergers likely to lessen competition (see, ss. 75-107). By sections 78-79,<sup>10</sup> the Tribunal may on application by the Commissioner issue prohibition orders in respect of "Abuse of Dominant Position" or an "anti-competitive act" where the Tribunal finds that,

- (a) one or more persons substantially or completely control, throughout Canada or any area thereof, a class or species of business,
- (b) that person or those persons have engaged in or are engaging in a practice of anti-competitive acts, and
- (c) the practice has had, is having or is likely to have the effect of preventing or lessening competition substantially in a market...<sup>11</sup>

<sup>6</sup> *Competition Act*, R.S.C. 1985, c. C-34, s. 1.1. See, B.A. Facey, D.H. Assaf & R.J. Roberts, *Competition and Antitrust Law: Canada and the United States*, 3d ed. (Markham, ON: LexisNexis, Butterworths, 2006).

<sup>7</sup> *Competition Act*, R.S.C. 1985, c. C-34, s. 36 (private action for damages by person suffering loss); *General Motors of Canada Ltd. v. City National Leasing Ltd.*, [1989] S.C.J. No. 28, [1989] 1 S.C.R. 641 (S.C.C.) (civil remedy is constitutionally valid). On sports-related actions, see: *R.D. Belanger & Associates Ltd. v. Stadium Corp. of Ontario Ltd.*, [1991] O.J. No. 1962, 5 O.R. (3d) 778 (Ont. C.A.) (Skybox licence agreements; cost of food and beverage services); *Oz Merchandising Inc. v. Canadian Professional Soccer League Inc.*, [2006] O.J. No. 2882, 150 A.C.W.S. (3d) 31 (Ont. S.C.J.) (action based on revocation of Ottawa Wizards' franchise; pleadings not specific or tenable).

<sup>8</sup> See online: <<http://www.competitionbureau.gc.ca>>. See, for example, "Enforcement Guidelines on the Abuse of Dominance Provisions" (July 2001).

<sup>9</sup> See, *Competition Tribunal Act*, R.S.C. 1985, c. 19 (2nd Supp.).

<sup>10</sup> See, in particular, *Competition Act*, R.S.C. 1985, c. C-34, s. 78(e), "pre-emption of scarce facilities or resources required by a competitor". Cf.: *International Boxing Club of N.Y. v. U.S.*, 358 U.S. 242 (1959) (monopoly control of boxing arenas); *Hecht v. Pro Football, Inc.*, 570 F.2d 982 (D.C. Cir., 1977) (restrictive covenant in stadium lease; stadium unavailable to franchise holder in rival league); *Fishman v. Wirtz Estate*, 807 F.2d 520 (7th Cir., 1986) (antitrust violation in denial of arena lease preventing purchase of Chicago Bulls).

<sup>11</sup> *Competition Act*, R.S.C. 1985, c. C-34, s. 79.

Part VI of the *Competition Act* includes various criminal conspiracy offences that may be prosecuted as an alternative<sup>12</sup> to the use of remedial orders issued by the Tribunal. Collective combinations of employees "for their own reasonable protection" are, however, specifically exempted from the prohibitions (see, s. 4(1)(a)).<sup>13</sup> Section 45 of the *Competition Act* creates the general offence of forming conspiracies or agreements that limit competition "unduly". Undue limitation refers to serious restraints that are detrimental to the public and that arise from a combination of behaviour and market power.<sup>14</sup> In proving that a restraint is undue it is not necessary to show that the object or effect was "to eliminate completely or virtually competition in the market" (see, s. 45(2)). The reference in section 45 to undue restrictions contrasts with the common-law restraint of trade doctrine that prohibits "unreasonable" limitations. In determining reasonableness, courts consider business interests or advantages of the parties as well as the public interest, and the restraint will be struck down only where it is wider than required.

Until 1976, the prohibitions in the *Competition Act* applied only to "articles" of commerce. In 1969, a report by the Economic Council of Canada noted the growing importance of business, professional and financial services and recommended that the Act cover both products and services; the report anticipated that "all recreational services, including professional sports"<sup>15</sup> would be subject to supervision. The early 1970s brought a series of abortive Bills as interest group lobbying delayed the reform process, but amendments dealing with services were eventually enacted in 1976.<sup>16</sup> At this time, a special section (now, s. 48) was introduced into the *Competition Act* relating to limitations in professional sport. This provision recognizes the peculiar economics of professional leagues, but was also a response to the critique of employment conditions in the National Hockey League and the concern about the NHL's control of amateur hockey.<sup>17</sup>

### 2. Sections 6 and 48

In earlier Bills,<sup>18</sup> the sports provisions in the *Competition Act* applied equally to amateur and professional organizations,<sup>19</sup> but the finally enacted

<sup>12</sup> *Competition Act*, R.S.C. 1985, c. C-34, ss. 45.1, 79(7) (proceedings under s. 45(1) as an alternative to an abuse of dominant position or merger order).

<sup>13</sup> On "labour exemptions", see further, Chapter 8, "Competition Law and Labour Law", sections A, 3; C, 3.

<sup>14</sup> *R. v. Nova Scotia Pharmaceutical Society*, [1992] S.C.J. No. 67, [1992] 2 S.C.R. 606 (S.C.C.) (s. 45(1)(c) "does not permit a full-blown discussion of the economic advantages and disadvantages of the agreement" at 650 per Gonthier J.).

<sup>15</sup> Economic Council of Canada, *Interim Report on Competition Policy* (Ottawa: Information Canada, 1969) at 148.

<sup>16</sup> See: C. Backhouse, "Labour Unions and Anti-Combines Policy" (1976) 14 Osgoode Hall L.J. 113; G. Kaiser, "The Stage I Amendments: An Overview" in R.J. Prichard et al. (eds.), *Canadian Competition Policy: Essays in Law and Economics* (Toronto: Butterworths, 1979) at 25; W.T. Stanbury, *Business Interests and the Reform of Canadian Competition Policy, 1971-1975* (Toronto: Carswell/Methuen, 1977).

<sup>17</sup> See Chapter 3, "Organizations and Regulations", section A.

<sup>18</sup> Bills: C-256 (1971); C-227 (1973); C-7 (March 1974); C-2 (October 1974).

version refers only to professional participation. Section 48 is a special exemption that declares in subsection 3 that the legality of certain internal arrangements made by teams or officers of professional leagues is to be determined by applying that section and not the ordinary conspiracy section (s. 45) of the *Competition Act*. Section 48 makes it an indictable offence:

1. to limit unreasonably the opportunities of a player to participate in professional sport or to impose unreasonable terms or conditions;
2. to limit unreasonably the opportunities of a competitor to participate in professional sport or to impose unreasonable terms or conditions;
3. to limit unreasonably opportunities to negotiate with and play for a team of the player's choice.

Section 48(3) also declares that the section "applies" to "the granting and operation of franchises in the league". In determining whether an arrangement violates subsection (1), courts are directed in section 48(2) to have regard to:

- (a) whether the sport in relation to which the contravention is alleged is organized on an international basis and, if so, whether any limitations, terms or conditions alleged should, for that reason, be accepted in Canada; and
- (b) the desirability of maintaining a reasonable balance among the teams or clubs participating in the same league.<sup>20</sup>

On its face, subsection (1) prohibits restrictive conspiracies by any party or individual. Subsection (3), however, indicates that the section applies only to arrangements between members of the "same league" that relate exclusively to playing or competitive opportunities or to franchise operations. Where an agreement is formed between separate organizations, involves non-league members or relates to other matters, section 45 is applicable. The Act gives no definition of "league", so that interpretative difficulties may occur where one organization operates through some affiliation with another body.

The main aim of section 48 is to protect freedom of employment for players; the provisions apply more naturally to the labour market, particularly with regard to the justificatory factors (internationalism and balance) in subsection (2). The use of the term "competitor" may, however, indicate that section 48 also applies to external business operators in the product market, so that it is an offence to maintain unreasonable anti-competitive arrangements that limit opportunities for rival organizations. A competing league might, for example, be hindered by lack of access to players or facilities held under monopoly control. However, the denial of a franchise to an outside applicant is probably not an offence under section 48(1) since subsection (3) distinguishes the matters in subsection (1) from the "granting

<sup>19</sup> J. Barnes, *Sports and the Law in Canada*, 2d ed. (Toronto: Butterworths, 1988) at 108-10.

<sup>20</sup> *Competition Act*, R.S.C. 1985, c. C-34, s. 48(2).

and operation of franchises". The offence is also for that reason inapplicable to restrictions on teams in the league.<sup>21</sup>

Section 6, which exempts amateur sport from the Act, is in the following terms:

- (1) This Act does not apply in respect of agreements or arrangements between or among teams, clubs and leagues pertaining to participation in amateur sport.
- (2) For the purposes of this section, "amateur sport" means sport in which the participants receive no remuneration for their services as participants.<sup>22</sup>

The exemption is limited therefore to agreements between teams or leagues and does not apply to restraints maintained by individuals; neither does it apply to agreements with amateur organizations for the supply of players to professional leagues. Under the definition of "amateur sport", it is clear that Major Junior hockey leagues are regarded as professional organizations.<sup>23</sup> Section 48 and other provisions of the *Competition Act* apply to any league in which there is widespread payment to players of salary for services.<sup>24</sup> This may now include the traditionally "amateur" sports organizations whose high-performance competitors receive various forms of payment.

Section 48(2)(a) directs the court to consider the international organization of the sport when assessing the legality of an arrangement. This provision recognizes that Canadian participation may depend on accepting an international regulation and recognizes that most professional franchises are located in the United States so that the major leagues are subject to American law. On one interpretation of section 48(2)(a), Canadian courts will automatically allow restraints that have been approved in the numerous American antitrust decisions.<sup>25</sup> The section does, however, merely direct the Canadian court to "have regard to" the international aspect, so that a limitation might still be disallowed. (American case law and commentary do, furthermore, show some lack of unanimity on leading issues.) Under section 48(2)(b), the court is directed to consider the "desirability of maintaining a reasonable balance among the teams". The need for parity has been the

<sup>21</sup> See further, Chapter 8, "Competition Law and Labour Law", section A, 4. The language of s. 48 distinguishes a "franchise" from a "competitor", so that it would seem that a team is not a competitor; but see further, Chapter 8, "Competition Law and Labour Law", section C, 4.

<sup>22</sup> *Competition Act*, R.S.C. 1985, c. C-34, s. 6.

<sup>23</sup> Senate Committee on Banking, Trade and Commerce, Issue no. 61 (November 19, 1975) at 18. See also, Chapter 3, "Organizations and Regulations", section B, 3; Chapter 7, "The Business of Hockey", section A, 2 (business aspects).

<sup>24</sup> Committee on Finance, Trade and Economic Affairs, Issue no. 39 (April 22, 1974) at 31-34.

<sup>25</sup> See, R.M. Sedgewick, "The Combines Investigation Act", replying to G.D. Finlayson, "Personal Service Contracts" in *Special Lectures of the Law Society of Upper Canada: Current Problems in the Law of Contracts* (Toronto: Richard De Boo, 1975) 383 at 385. See also, J.C.H. Jones & D.K. Davis, "Not Even Semitough: Professional Sport and Canadian Antitrust" (1978) 23 *The Antitrust Bulletin* 713 at 740.

standard management justification for market restrictions,<sup>26</sup> but courts need not accept that the traditional restraints are the only way to achieve it.<sup>27</sup>

### 3. Player Restraints

Section 48 refers to three types of limitation on players:

- i. Unreasonable limits on opportunities to participate (see, s. 48(1)(a)): This category would apply to the exclusion of a player through oppressive eligibility rules, refusals to deal, boycotts or blacklisting. It would be particularly relevant where a player has been suspended under an ill-defined disciplinary power<sup>28</sup> that is not clearly related to legitimate interests of the team or league. The category might also be used to impugn "protective" regulations of professional leagues such as those that require a minimum age<sup>29</sup> or period of amateur experience,<sup>30</sup> or the hockey rule that excludes players who have already lost one eye.<sup>31</sup>
- ii. Unreasonable terms or conditions imposed on participants (see, s. 48(1)(a)): This category would apply to contractual provisions, salary limitations and reservation systems as prescribed in league by-laws and the standard player contract and modified by collective bargaining. When section 48 was originally introduced in Bill C-227 of 1973, the accompanying memorandum noted that, "of particular concern are contracts imposed upon players which are self-repeating and bind a player indefinitely to any team to which he may be, from time to time, assigned". Similarly, "a contract which binds the individual to a single

<sup>26</sup> See Chapter 7, "The Business of Hockey", section C, 1.

<sup>27</sup> See, D.I. Shapiro, "The Professional Athlete: Liberty or Peonage?" (1975) 13 Alberta L. Rev. 212 at 231-34.

<sup>28</sup> Cf. *Willey v. McLaughlin*, [1976] B.C.J. No. 1018, 49 C.P.R. (2d) 86 (B.C.S.C.) (suspension by professional golfers' association; restraints on supply of equipment).

<sup>29</sup> *Goulet c. National Hockey League*, [1980] R.P. 122 (Que. S.C.) (no discrimination and no breach of the Act). In the context of American antitrust law, see: *Linseman v. World Hockey Assn.*, 439 F.Supp. 1315 (D. Conn., 1977) (age rule of 20 years contrary to antitrust law); *National Hockey League Players' Assn. v. Plymouth Whalers Hockey Club*, 325 F.3d 712 (6th Cir., 2003), *National Hockey League Players' Assn. v. Plymouth Whalers Hockey Club*, 419 F.3d 462 (6th Cir., 2005) (limit on "overage" players).

<sup>30</sup> In the context of American antitrust law, see: *Denver Rockets v. All-Pro Management, Inc.*, 325 F.Supp. 1049 (C.D.Cal., 1971); *Haywood v. National Basketball Assn.*, 401 U.S. 1204 (1971) (rule requiring four years since graduation from high school); *Clarett v. National Football League*, 369 F.3d 124 (2d Cir., 2004, revg 306 F.Supp 2d 379 (S.D.N.Y., 2004) (labour exemption applied).

<sup>31</sup> In the context of American antitrust law, see: *Neeld v. American Hockey League*, 439 F.Supp. 459 (W.D.N.Y., 1977); *Neeld v. National Hockey League*, 439 F.Supp. 446 (W.D.N.Y., 1977); *Neeld v. National Hockey League*, 594 F.(2d) 1297 (9th Cir., 1979) (no anticompetitive purpose); NHL By-Law 12.7.

club for a whole playing career"<sup>32</sup> would be unreasonable. Less extreme restraints on player movement may also be suspect. The one-year option clause has been held to be enforceable under the common-law restraint of trade doctrine,<sup>33</sup> but free agency may also be inhibited by collusive agreements or by compensation payable to a player's former team.

- iii. Unreasonable limits on the opportunity to negotiate with and play for the team of the player's choice (see, s. 48(1)(b)): This category would apply to amateur or free agent drafts or to waiver systems that give teams prior or exclusive negotiating rights to selected players. The entry draft operates by giving first claim on the best incoming amateur or junior player to the professional team that finished last during the previous season; selections in each draft round then continue in reverse order of league standing. The draft is widely defended as essential for spreading talent and maintaining competitive balance,<sup>34</sup> but in both its theory and practice it cannot achieve this: the first round is the only significant one<sup>35</sup> and the draft actually limits access by weaker teams to this pool; star amateurs may not excel in professional play; much depends on teams' skill in scouting, selecting and developing players; and teams vary the order of the draft by trading picks. A draft may be particularly unreasonable where it ties up rights to a large number of players and grants exclusive rights to draftees over a long period.

In the thirty years since enactment, there has been no criminal prosecution under section 48, but players have taken advantage of the possibility of civil remedies, including the right to bring action for damages under section 36. Restraints operating in Canada have also been the subject of investigation by the Competition Bureau and its predecessors, and section 48 is periodically cited in actions to prevent the enforcement of league regulations.<sup>36</sup> In the leading example, investigations and litigation persuaded the Canadian Football League ("CFL") to repeal a by-law that had originally been challenged by the CFL

<sup>32</sup> R.M. Sedgewick, "The Combines Investigation Act", replying to G.D. Finlayson, "Personal Service Contracts" in *Special Lectures of the Law Society of Upper Canada: Current Problems in the Law of Contract* (Toronto: Richard De Boo, 1975) at 385.

<sup>33</sup> *Detroit Football Co. v. Dublinski*, [1955] O.J. No. 619, 7 D.L.R. (2d) 9 (Ont. C.A.), revg [1956] O.J. No. 561, 4 D.L.R. (2d) 688 (Ont. H.C.J.). See also, *Watson v. Prager*, [1991] 3 All E.R. 487, [1991] 1 W.L.R. 726 (Ch. Div.) (three-year renewal option in boxer's management and promotion contract held to be unreasonable).

<sup>34</sup> *Greenlaw v. Ontario Major Junior Hockey League*, [1984] O.J. No. 3373, 48 O.R. (2d) 371 (Ont. H.C.J.) (need for OHL draft).

<sup>35</sup> In a pure draft in a 20-team league, the chump takes players, 1, 21, 41, 61, etc., while the champ has numbers, 20, 40, 60, etc. There are few sports where one untried newcomer can transform the team.

<sup>36</sup> *Sheddon v. Ontario Major Junior Hockey League*, [1978] O.J. No. 3273, 19 O.R. (2d) 1, 83 D.L.R. (3d) 734 (Ont. H.C.J.) (injunction to allow transfer); *Goulet c. National Hockey League*, [1980] R.P. 122 (Que. S.C.).

Publications  
Committee Report

This is Exhibit J referred to in the Back

affidavit of Brendan O'Grady  
sworn before me, this 15<sup>th</sup>

## PART I: OVERVIEW AND COMMITTEE MANDATE

Sport exerts a growing influence on major areas of human activity, including the political, economic, social, and cultural arenas. Its presence can also be felt in the realm of education and health. Sport has infiltrated the great social institutions of family, school, municipality, and private enterprise, and it has also encroached upon all the major media to become one of the great social phenomena of the twentieth century.

A commissioner for taking affidavits

Gaston Marcotte and René Larouche, Coaching: A Profession in the Making, 1991

Sport touches most Canadians in various ways. From sandlot baseball to professional hockey, sport in Canada has become a cultural trademark. Few can deny the significance of sport in terms of participation, volunteer activity, entertainment and leisure, pride, health, community well-being and youth development. Over 78% of Canadians participate in sport as coaches, players or spectators, and 9.6 million Canadians regularly play some kind of organized sport (Statistics Canada, 1994). Sport and recreation account for the second highest proportion (18%) of all volunteers in Canada (Statistics Canada, 1998(a)). Canada is indeed a sporting nation and sport contributes in meaningful ways to defining us as Canadians.

The contribution of sport and physical activity to the areas noted above has been studied at great length and confirmed in various empirical and anecdotal reports. There have also been several wide-scale reviews of sport (primarily amateur sport) over the years which have contributed to public policy changes and the creation of new agencies or organizations (e.g. Task Force on Sport, 1970; Dubin Inquiry Report, 1990; Report of the Sub-Committee on Fitness and Amateur Sport, 1990; Sport, the Way Ahead, 1992). Until now, however, there has never been a concise review of the contribution of sport to the broader economy. This report examines the "industry of sport" in Canada. It provides an analysis of the various sectors of sport, describes the challenges these sectors face, and offers recommendations for the future.

The future of sport in Canada depends on strong leadership, partnerships and accountability. It is necessary to create stronger partnerships between the public and private sectors and between the various levels of government throughout this country. The recommendations presented in this report recognize the need for greater intergovernmental consultation, co-operation and partnership.

### MANDATE OF THE SUB-COMMITTEE

In November 1997, the House of Commons Standing Committee on Canadian Heritage authorized the creation of the Sub-Committee on the Study of Sport in Canada. The Sub-Committee identified the following areas of study for its work:

1. Measurement of the economic impact of sport on a national and regional basis.
2. The contribution of sport to the cultural sphere, particularly with a view to finding evidence of sport's impact on national unity and how this might be enhanced.
3. The potential scope of, and rationale for, federal involvement - or increased federal involvement - in the promotion of (and participation in) amateur sport in Canada.

The Sub-Committee invited comments from across the country to ensure that its findings would reflect as completely as possible the status of the sport industry in Canada and the interests of industry stakeholders. Representatives from every sport-related sector were asked to provide input for the Sub-Committee's consideration. The Sub-Committee collected its information in the following ways:

- testimony by invited groups or individuals (41 witnesses);
- responses to a detailed questionnaire sent to 215 sport organizations;
- briefs submitted by interested organizations, individuals and academics; and
- literature review and comparative analysis with sport systems in other countries.

## PART II: ROLE OF GOVERNMENT IN SPORT

It is interesting to speculate about the scholarly inattention to sports policy. In common parlance, sport falls under the rubrics of "play" and "games." If sports are merely play, they would seem less significant than matters of clearly instrumental concern, such as education, social welfare, or national defense. If sports are merely games, they would seem less worthy of concern than crime, public health, or environmental quality.

Yet ironically, the ways we conceive and implement sport may be fundamentally tied to those same policy concerns. The ways we construct sport programs are closely aligned to the ways we seek to educate and socialize our children. Sport has been used as a tool for nation-building and diplomacy. Sport can affect public health and the environment. Indeed, it has been shown that our sense of community has been determined, at least in part, by the nature of sports programs and opportunities that our policies afford. Thus the study of sports policies can tell us a great deal about our most instrumental policy concerns.

National Sport Policies - An International Handbook - Chalip, Johnson, Stachura, 1996

Government involvement in sport policy is a fairly recent phenomenon, having arisen primarily in the post-World War II era. Sport activity itself has been common-place in most countries of the world for many centuries. In fact, the Olympic Games can be traced back over 2000 years.

Governments around the world have put forward various justifications for their involvement in this area: from the traditional "physical culture" emphasis in the People's Republic of China, to the more recent (1971) "Ping Pong Diplomacy" from the nation building focus of the post-Revolution era in Russia, to the military and defense

Canadian manufacturing industries are very exposed to international trade, more so than is the average for the Canadian economy (Saint-Germain et al., 1998). Canada exported 48% of its total shipments in 1997, while 63% of sporting goods sold here were imported. Canadian exports increased at an annual rate of 21.9% between 1991 and 1997, while imports increased by 12.0% per year during the same period. The Canadian market increased at an average annual rate of 9.6% during that period, reaching \$1,677 million in 1997.

Canadian exports of sporting goods are mainly concentrated in swimming and wading pool kits and accessories (26.7%); gym and exercise equipment (25.9%); ice skates, protective headgear and ice hockey equipment (24.6%); in-line/roller skates (9.5%); snow ski and snowboard equipment (5.1%); and bicycles (3.1%). Canadian exports are shipped mainly to the United States (76.6%) and, to a lesser extent, to Western Europe (15.0%).

Canadian imports consist mainly of bicycles, parts and accessories (18.6%), gym and exercise equipment (18.7%), golf equipment (18.3%), skate and hockey equipment (11%), ski and snowboard equipment (7.1%), fishing equipment (5.3%) and racket equipment and accessories (1.3%). The United States, Asia and Western Europe account for 50.1%, 37.0% and 9.8% of total imports respectively.

As it is the case for Canada, international trade in sporting goods is very important globally; international trade accounts for about one-third of the world market. Generally, lower-cost products are sourced from low-wage countries in the Far East, while developed countries (including Taiwan) provide higher value-added items (Ouellet, 1998).

In 1997, the global value of sports equipment at the wholesale level was estimated at \$90 billion, a 5% increase since 1996. At the national level, there is a high degree of market concentration, with the top 10 countries estimated to represent more than 80% of the world market and 75% of international trade. However, the opposite is true at the supplier level, with industry estimates indicating the top 10 companies control less than 20% of the market. Although exact world-wide market figures are unavailable, industry estimates suggest that the U.S. has 30% of the sports equipment market, the European Community about 33%, Japan has 22%, Canada has 3%, and the rest of the world accounts for 12% (Ouellet, 1998).

Forecasts for the next decade suggest that annual growth will continue, although it may not reach the 8-10% annual growth witnessed in the 1980s. Moreover, in the future, sporting goods will make greater use of composites and new materials in place of traditional materials; this will improve sourcing opportunities and gain ready acceptance among consumers. The successful firms will be marketers with control over the brand name, distribution, service, and manufactured quality of the products rather than just manufacturing operations (Ouellet, 1998).

The North American Free Trade Agreement (NAFTA) is expected to have little impact on the sporting and recreational equipment sector. With the implementation of the agreement on January 1, 1994, nearly all Mexican tariffs were eliminated. The major exceptions are bicycles (tariffs to be eliminated January 1, 2003) and a few other sport and recreation products (tariffs to be eliminated January 1, 1999) (Van Zant, 1996).

### Section 3: Sport and Recreational Service Industries

Participation in a sport activity as either a competitor or a spectator creates a need for businesses and workers to provide services. For instance, golfers' need of golf clubs provides jobs and facilities to manufacture these. In the same way, attendance at a sport event requires workers to stage the event and provide support services for spectators.

The sport industry includes commercial spectator sports (professional sports clubs and horse race tracks) and sports and recreational clubs and services (golf courses; skiing facilities; boat rentals and marinas; and other amusement and recreational services). The economic activity related to the sport and recreational service industries has a broad impact on the economy.

Table 5 presents the number of firms primarily engaged in providing sport and recreational services from 1982 to 1994. In 1994, a total of 5,336 firms provided sport-related services producing \$3.1 billion in revenues. While only one out of four enterprises was operating in commercial spectator sports, these enterprises generated one out of every three dollars produced in the industry.

**Table 5**  
**Selected Sport and Recreational Service Industries, Canada, 1992 to 1994**

Type of Service	Number of Firms			Total revenue (\$ millions)		
	1982	1988	1994	1982	1988	1994
Commercial spectator sports	1,878	1,165	1,317	358	709	1,018
Professional sports clubs	88	96	149	89	262	527
Horse race tracks	722	758	626	235	371	382
Sports and recreation clubs and services	2,151	3,641	4,105	497	1,420	2,096
Golf courses	627	1,059	1,267	189	635	1,049
Curling clubs	78	122	133	7	19	25
Skiing facilities	165	221	248	109	297	420
Boat rental & marinas	619	883	932	79	199	244
Other sports and recreation clubs	662	1,356	1,525	112	271	359
Total	3,229	4,806	5,422	855	2,129	3,114

Source: Statistics Canada, CANSIM matrix 41 and 42.

Between 1982 and 1994, the number of firms engaged in the sport and recreation sector in Canada grew by 68%; however, most of the increase (55%) was before 1988. Professional sports clubs showed the most growth, increasing 69% to stand at 149 in 1994. Only the number of horse race tracks decreased in this period. Total revenue in all sectors grew in both current and constant dollars, with the biggest increase in professional sports clubs and the smallest increase in horse race tracks.

It is worth noting that the total revenues shown in Table 5 are only a fraction of all revenues in the sport and recreation service industries. The reason is that Table 5 presents numbers only for firms that are primarily engaged in this area, while Table 1 took into account total family expenditures on all sport-related services.

Moreover, amateur sport events make an important contribution to the economy by providing a service to local communities. A good example of an amateur sport event is a Canadian Hockey League (CHL) game. With its 47 franchises in Canada, the CHL had an attendance of 4.5 million spectators in 1997-98, more than any major league sport in Canada. The charts at the end of this section compare attendance at Canadian Hockey League events and at professional sport league events in Canada and shows the evolution of attendance at Canadian Hockey League games since the 1979-80 season. According to the Canadian Hockey League, the direct and indirect economic impact of its activities is estimated at \$135 million annually.

The next three sub-sections emphasize some particular aspects of the sport and recreation sector: groups the Sub-Committee heard specifically (professional sport clubs); factors not taken into account in the calculation of the sport industry GDP (major games hosted in Canada); and examples of how the sport and recreation sector contribute to the tourism industry.

### A. Professional Sport Clubs

Professional sport clubs have been in Canada for many years. The National Basketball Association (NBA) was present in Toronto 40 years ago, Montreal had professional baseball clubs in the 1950s, and football has over 100 years of history in Canada. Professional sport clubs provide high-level entertainment and give a very high profile to the sport industry. The employment and economic activity created through their operation are significant. Professional sport teams, in addition to the economic advantages they bring, focus North American attention on any city in which they play.

Canada has six National Hockey League (NHL) clubs, eight Canadian Football League (CFL) clubs, two Major League Baseball (MLB) clubs and two National Basketball Association (NBA) teams. There are also four professional soccer clubs and two professional lacrosse clubs. Canada also has four baseball farm teams and four hockey farm teams. The professional and semi-professional clubs also make an important contribution to Canada's economy. Statistics Canada (see Table 2) has estimated that professional sport clubs and the retailing of live sport spectacles have a total GDP (direct and indirect) value of \$608 million and account for 23,715 jobs.

The National Hockey League estimates that the six professional hockey clubs generate 8,689 full-time and part-time jobs in Canada as well as 3,039 indirect jobs. In terms of annual wages, this represents \$300.7 million directly and \$100.3 million indirectly. The total impact (direct and indirect) of the National Hockey League, in terms of GDP, is estimated to be \$437.6 million per year.

Major League Baseball (MLB) in Canada also has an important impact on the economy. A 1991 study shows that the Toronto Blue Jays and the SkyDome provide 2,700 direct jobs (part-time and full-time) and 500 indirect jobs. Moreover, the net GDP is estimated at \$97.3 million. The Montreal Expos estimate that they have a GDP of \$105.3 million, of which \$37.9 million comes from outside Montreal. In addition, it is estimated that the Montreal Expos create roughly 1,252 jobs, of which 451 are attributed to expenditures by individuals coming from outside the city.

The National Basketball Association teams in Vancouver and Toronto also have a very important economic impact. For basketball activity only (arena activities have already been covered for the Vancouver Canucks), the Grizzlies evaluate that they generate 375 full-year jobs and a GDP of \$43.9 million. The impact of the Toronto Raptors would be similar, though this has not been calculated.

Although there are no figures on the exact economic impact of the Canadian Football League, the league has over 1.8 million spectators a year and most revenues stay in Canada.

While the operation of these teams generates significant economic activity, there is also an enormous investment in infrastructure, which, in turn, has a great economic impact. Between 1995 and 2000, Canadian professional sport clubs in the National Hockey League and the National Basketball Association will have invested about \$1 billion of private money on facilities and related infrastructure. If the Montreal Expos proceed with plans for a new ballpark, there would be a private investment of almost \$100 million. The Toronto SkyDome has a private investment of about \$300 million. Such investments also generate economic activity. For instance, the Expos have estimated that the construction of a new ballpark (\$250 million) would generate 3,785 jobs a year and a total provincial GDP of \$181 million.

As indicated at the beginning of this chapter, the aforementioned data should not be interpreted as a net economic effect. They represent only the size of the professional sport industry in Canada. The dollars that spectators spend at the stadium are dollars that will not be spent in other sectors of the economy. It does not necessarily follow that the absence of professional sport clubs (unfortunate as this would be) would reduce GDP by the entire amount of the clubs' economic GDP, as expressed above. Part V, section 7, B(1) discusses the weaknesses and limitations of the economic impact evaluations that are generally presented by professional sport clubs in the United States in their attempts to get subsidies to finance their facilities.

### B. Major Game Events Hosted in Canada

Major games have been a critical factor in the very rapid development of Canadian sport since the passage of the Fitness and Amateur Sport Act and the advent of significant federal funding for sport in 1961. In addition, multi-sport events have proved to be a very effective means of leveraging major financial commitments from provincial governments, and national and international private sectors. The economic impact of the infusion of public and private funds in regions where games have been hosted has been considerable. Past achievements (such as the 1967 Pan-American Games, the 1976 Olympics, the 1978 Commonwealth Games, the 1983 World Student Games, the 1988 Calgary Olympics, the 1994 Commonwealth Games and over 16 editions of the Canada Games) are evidence of Canada's proud tradition of hosting major games. These events are generally regarded as having been highly successful and have enhanced Canada's reputation as a major sporting nation at home and abroad. As a result, several trends can be identified showing the economic and social benefits accruing to the host region and the nation.

From an economic perspective, the hosting of major events brings significant economic activity to local industry, in particular the construction and hospitality industries. This activity produces hundreds of full and part-time jobs and contributes substantial tax revenues to various levels of government. The hosting of the 1988 Calgary Winter Olympics created 28,000 person-years of employment and had a \$1.3 billion impact on the Canadian economy. Private and international sector investments in the form of television revenues and sponsorships stimulated by the hosting of the Calgary Games accounted for more revenue than the direct and indirect contribution of the three levels of government. The upcoming Pan-American Games (Winnipeg) are expected to generate \$178.9 million in direct and indirect gross expenditures and create 2,068 person-years of employment.

The economic impact studies published by proponents of bids for games are generally somewhat optimistic in attempts to garner public support. In most cases, public investment in hosting major games is only partially

marketing, quality venues, prime location necessary to attract the tourist spectator. Nonetheless, there is a positive interest and potential demand for these sports and they could become strong tourism spectator products; examples are soccer, rugby, cricket, NFL football and golf (Statistics Canada, 1998(b)).

Major multi-sport games are another example of how sport attracts tourism. Not only athletes, coaches, officials and delegations, but also visitors to the sporting event create important spinoffs for the local economy and increase public awareness of the host region.

In that sense, the 1988 Winter Olympic Games in Calgary are a tremendous example of tourism resulting from a major sport event. According to the Calgary Tourism and Convention Bureau Research Department, over 150,000 people arrived in Calgary during the month of February 1988 and 21% of games spectators stayed 13 or more nights. Moreover, almost 40% of spectators were visiting Calgary for the first time; 27% of them had never heard of Calgary prior to the Olympics. A Department of Canadian Heritage report by Terrence Cowl (1994) found that international tourist volume has grown significantly since the 1988 Olympics. Such tourism really makes an important contribution to the Canadian economy; first it brings in dollars from outside the country and, second, these travellers stay longer and spend more money. Canada has held, or will hold, other international major multi-sport events since the Calgary Games. The Commonwealth Games in Victoria attracted 133,000 visitors and the 200,000 visitors predicted for the Winnipeg Pan-American Games in 1999 are expected to spend about \$21.7 million.

The Canada Games, which are held every two years in a different city, are also an important source of tourism for the host area. The Manitoba Bureau of Statistics has estimated that the 1997 Summer Games in Brandon attracted 4,065 overnight visitors including 2,100 athletes and 1,965 support staff (including mission staff), technical officials, VIPs, broadcasters, media, parents and so forth. These 4,065 visitors were expected to spend about \$3 million, increasing Manitoba's GDP by \$2.4 million and providing 58 person-years of employment. These visitors' expenditures were expected to generate \$0.7 million for the three levels of government, not including the tourism generated during and after the events.

International professional single-sport events held once a year, such as the Canadian Tennis Open in Toronto and Montreal, the Grand Prix of Canada in Montreal, the Indy Race Car in Toronto and Vancouver, or an event like Canada Cup Hockey, held every four years, give tremendous visibility to Canada throughout the entire world. Not only are international visitors attracted to these events, but general awareness of Canada is raised and this has a major influence on people selecting a vacation destination.

The Montreal Grand Prix is broadcast in 130 countries and has a TV audience of 300 million people. Moreover, all major newspapers follow the event, which attracts more than 200,000 people yearly, about 20% of whom come from outside Canada, 14% from the United States, 4% from Europe and 2% from Asia. The 1997 event attracted 104,000 foreigners.

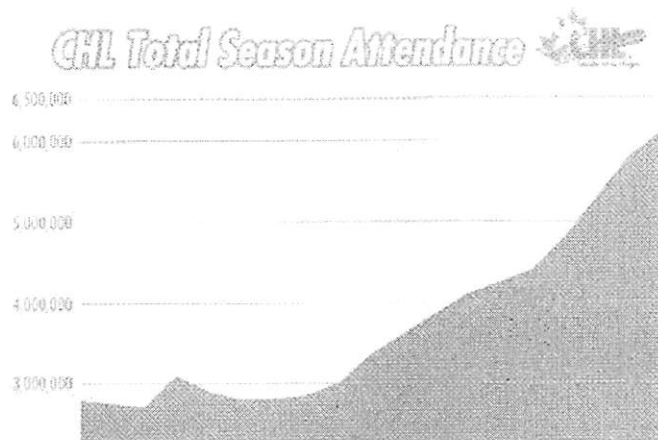
Professional teams in major leagues attract tourists from both Canada and the United States. For instance, the Toronto Blue Jays have estimated that they, and other SkyDome events, generated some \$39.4 million for the tourism industry in 1991, with multiplier effects representing \$91.9 million and the creation of 1,800 jobs. This represents half of the total economic impact of the Blue Jays for that year, with over 11% of Blue Jays patrons being visitors to Toronto. "Tourist spending augments local fan support and contributes to what is widely recognized as a valuable component of the Canadian economy. Studies conducted in the early 1990s indicate that the Blue Jays contribute more to tourism than any other Canadian sports franchise" (Blue Jays, Meeting No.18).

For the Montreal Expos, the situation is similar: "11% of fans attending Expos games are visitors from outside the Province of Quebec. For two thirds of these tourists, the primary reason for their visit to Montreal is baseball" (Expos, Meeting No. 14). According to the Expos, of the \$105.3 million the team contributed to the economy, \$22.6 million is from tourists from outside the Montreal region, representing 21% of the total impact. The media impact measure for the Expos shows that the team allows Montreal to receive over one billion impressions in newspapers valued at more than \$22 million yearly.

Orca Bay has estimated that overnight expenditures of visitors to the Vancouver Grizzlies at General Motors Place provide 55 full-year equivalent jobs and a GDP of \$1.6 million.

There are over 250,000 sport events hosted annually in Canada, each of which had an impact on the tourism industry. Despite its significance, sport's impact on tourism goes largely unnoticed. Nevertheless, it contributes roughly \$4 billion in tourism expenditures (SOAR International, brief). Sport activity is clearly a major way of attracting tourists to all regions of the country. Many world citizens now know Canada better because of the international sport events held here and because of internationally renowned Canadian athletes. Considering that tourism in Canada, in 1997, had an economic impact (GDP) of \$29.2 billion<sup>2</sup> (or 3.4% of the GDP) and generated 503,200 person-years of employment, the role that sport plays in attracting tourists is significant.

**Chart 2**  
**1997-98 Regular Season Attendance**  
**Canadian Teams**





Source: David Branch, CHL

**Chart 3**  
**CHL Total Season Attendance**

*1997-98 Regular Season Attendance,  
Canadian Teams*



Source: David Branch, CHL

## Section 4: National Sport Organizations

The national sport organization is the pivotal agency in each category of sport ... A national sport organization is generally made up of provincial/territorial sport organizations and various regional and local clubs and organizations which are affiliated to the national body through the provincial body.

Amateur Sport: Future Challenges. Second Report of the Standing Committee on Health and Welfare, Social Affairs, Seniors and the Status of Women (Dec. 1990)

National sport organizations are generally non-profit organizations that provide support for athletes and organized competitions, hold the sanctioning rights for international competitions, establish coaching certification standards, provide technical development programs, and prepare national teams. Sport Canada provides financing for 50 organizations (38 as single sport and 12 as multi-sport organizations) through the National Sport Organization Support Program, which is aimed at assisting the organizations to achieve sport objectives that complement those of the federal government. The program is open to national sport organizations that have qualified under the Sport Funding and Accountability Framework.

This Framework is a comprehensive, objective tool to ensure that federal funds are allocated to national sport organizations that contribute directly to federal sport objectives and priorities. It encompasses three main components: eligibility, funding determination and accountability. To be eligible for funding for the period covering 1996 to 2001, national sport organizations must have met established prerequisites and, following a detailed assessment by Sport Canada, achieve a high score above the eligibility threshold. Prerequisites include accepting national sport organization guidelines, responsible accounting, and adherence to Sport Canada policy with regard to gender accessibility, official languages, drug use and tobacco sponsorship. The assessment is based on evaluation criteria organized into three key categories: high performance, sport development, and management practices. Support provided to national sport organizations is targeted to priority areas such as national team programming and the development of coaches and officials. Assistance is also provided for staff and coaches' salaries along with the general operations of the national sport organization. Total federal funding to the organizations recognized by Sport Canada in 1997-98 amounted to \$26.5 million. These organizations, as reported in Table 2, generate a total of 331 jobs and add \$53.3 million to the GDP.

Not all sport organizations meet the criteria for Sport Canada funding, however. There are currently 10 Olympic sports that do not receive any Sport Canada funding and 10 others where funding was phased out in 1996-97; such sport organizations still provide services for high-level athletes, professional athletes or recreational athletes. They also organize competitions and provide support for the sport practitioner. The Sub-Committee consulted over 200 sport-related organizations, of which about 120 were directly related to national sport organizations. The 74 survey replies indicate that national sport organizations (funded or not by Sport Canada) generate approximately 10,000 jobs representing 2,000 full-time equivalent jobs and have operating budgets of about \$62 million. On average, most of their revenue (70%) comes from private donations or the sponsorship activities of the organizations.

## Section 5: Government and Public/Private Infrastructure

Governments at all levels play an active role in the provision of sporting infrastructure, organization, funding of provincial and national sport bodies, and support for provincial, national and international sport events. Table 2 shows the economic impact of government on the sports sector in terms of GDP and employment. The total economic impact (direct and indirect) on GDP is worth nearly \$1.1 billion and jobs are provided to 3,891 people. Most of GDP contribution (62%) by government is provided at the municipal level. However, the federal government makes the most important contribution on the employment side; 42% of jobs are created by that level of government.

Municipal infrastructure represents the backbone of the sport delivery system. According to a project report produced by KPMG Peat Marwick Stevenson and Kellogg, in Saskatchewan alone, there are a total of 3,141 non-private sporting facilities. Table 7 shows how these are split among different uses. According to the same



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## SUB-COMMITTEE ON THE STUDY OF SPORT IN CANADA OF THE STANDING COMMITTEE ON CANADIAN HERITAGE

### SOUS-COMITÉ SUR L'ÉTUDE DU SPORT AU CANADA DU COMITÉ PERMANENT DU PATRIMOINE CANADIEN

#### EVIDENCE

[Recorded by Electronic Apparatus]

Thursday, November 5, 1998

• 1529 ▶

[English]

**The Chairman (Mr. Dennis J. Mills (Broadview—Greenwood, Lib.)):** Ladies and gentlemen, before we ask our witnesses to begin, we welcome Mr. Edwards and Mr. Giguère, from Racetracks of Canada Inc. We appreciate your coming and we appreciate your brief.

The process this afternoon is that you will take the first 20 minutes or so to talk about your presentation, and then we'll go to questions from members. We usually don't begin these subcommittee meetings without Madam Tremblay. She was on her way and was to be here by 3.30, but because we have a tight schedule today, with the consent of the members I think we should proceed.

Mr. Edwards, we turn the floor over to you and Mr. Giguère.

• 1530 ▶

**Mr. Stephen Edwards (Executive Vice-President, Racetracks of Canada Inc.):** Thank you, Mr. Chairman and members.

Let me begin by thanking you for the honour of appearing here. We are delighted to be here. Our industry is pleased to be recognized and to appear before your committee, the work of which is well known in the country and which we all continue to read about.

It is ironic that coming into the room today my colleague, Yvon Giguère, noticed that the name of the room is the Railway Committee Room, and one could draw an analogy between the railway industry and our industry. They're both old industries. They're both facing extreme competition from all sources, but continue to survive even though the horns or the whistles aren't blowing at as many stops as they were in the past.

Before I get into any specifics, I would like to ask any members who are here who are also members of the appropriation committee that they can put their pens and pencils and chequebooks down. The one thing we are not here to do is to ask for any money or any subsidy.

**Some hon. members:** Hear, hear!

**The Chairman:** This meeting is adjourned.

**Mr. Stephen Edwards:** The government and government regulation are of course very important to our industry. And while in all seriousness we are not here to ask for money or subsidy, and don't expect to be asking either, there are many things that can be done between ourselves and the government to make the industry more successful.

I'm really pleased and flattered to see that Mr. Hec Clouthier has honoured us by joining us today. He knows more about racing than I'm sure anyone around this table. I've been pleased to see him at our hall of fame annual presentations and so forth and so on.

It's a delight to see you here, and I know that you'll correct me if I go wrong.


Racing is quite a large industry. The bets in Canada last year amounted to some \$1.8 billion, and that generated taxes of various kinds of about \$500 million; in our document we say \$517 million. The industry is respected around the world, as you would no doubt know. I'm sure that members of the committee will well remember the names Northern Dancer or perhaps Mr. E.P. Taylor, and certainly the name Cam Fella, whereby Canada has distinguished itself around the world. And although we have not sold any \$10 million horses in recent times, the breeding industry from Canada is still a tremendous export for the country and Canadian horses continue to be sold for good prices outside of the country and race all around the world.

In fact, one of our key horses running in the Breeders' Cup this Saturday, Chief Bearheart, is likely to run in the Japan Cup and will remain in Japan as a stallion. So the Canadian export of horses continues to be a very vigorous industry.


Our industry has faced since 1970, when it was perhaps the only form of legalized betting in the country, an onslaught of competition from other forms of gaming. A number of those gaming opportunities are controlled by governments; I refer specifically to items like lotteries, casinos, video operations, etc. We are not commenting in a critical way that they exist; we're merely stating that they do exist. But it is very interesting that our competitors are in many cases our regulators.

This is Exhibit "k" referred to in the affidavit of Brendan O'Grady sworn before me, this 15<sup>th</sup> day of June, 2016

[Signature]  
A commissioner for taking affidavits

- 1630 

[Editor's Note: Video presentation]

- 1635 

**The Chairman:** That's pretty impressive, Mr. Branch.

**Mr. David Branch:** We have, of course, distributed a copy of our brief to each of the members of the committee. We certainly do appreciate the opportunity to simply highlight, if we may, a couple of the key areas of the brief. As we understand the process, there will be a Q and A session following that, and we would be more than willing to attempt to answer any and all questions.

To just start off, we'll go through the brief and highlight a couple of areas. As was mentioned in the video, we will be celebrating our hundredth anniversary next season, which in itself is a true landmark. Our teams compete for the Memorial Cup, which has been up for competition since 1919. The first two teams to compete for the Memorial Cup were the University of Toronto Schools and the Regina Pats. It's interesting to note that the Pats still operate in Regina, of course, and are a very valued member of our league.

We have approximately 1,300 young men competing annually in our programs across the country. Directly involved as employees with teams and league offices, we have some 1,400 full-time and part-time staff.

What's interesting and I think important to note is that many of us in this room are old enough to remember or recall the old sponsorship days when the National Hockey League had total ownership of junior teams in this country. In 1967, of course, that was set aside in favour of the universal entry draft, so the sponsorship of junior teams was no longer permitted.

Since that time, junior teams have by and large been operated and funded through private individuals or community-based relationships, etc. There are a couple of instances in which NHL teams still continue to own and operate junior teams, but we're really only at about two there. That really has gone by the wayside, and it's not a factor in how we do our business. That allows us, of course, to legislate and regulate our area of the hockey industry as we see fit.

On the video, you also saw the attendance numbers, which are quite interesting. When you look at the 1990s, we in junior hockey consider it a renaissance in junior hockey. There has been a tremendous explosion that has not only added additional teams across the country, but has seen increased interest and awareness, live spectator support, and ability to market and promote ourselves to a much greater and better extent. We have a new national TV contract that we were able to secure through the new cable channel, CTV Sportsnet, which will see some 65 nationally televised games this year, including the entire Memorial Cup tournament.

The CHL is an interesting league in terms of its scope when you consider that we touch on eight provinces. We take up any number of different market sizes, from major centres like Toronto and Calgary, to provincial capitals and large centres like Halifax, Quebec, Ottawa and Regina. Intertwined with that, you have Cape Breton, Victoriaville, Owen Sound, Belleville and others. And when you look at the northern elements in various provinces, we're proud to have Rouyn-Noranda, Sault Ste. Marie, Prince Albert and Prince George, to name a few. So we're truly representative of every size, area and region of this great country.

Virtually every Canadian province has someone who has played or is playing in our league. In just a quick summary here, I think it's interesting to note just where some of the players come from. You have Jonathan Cheechoo, from Moose Factory. Yellowknife's Peter Bergman is now playing in Calgary. The list goes on, and it's quite a diverse representation of our country both geographically and in terms of its makeup.

We suggest to you that the Canadian Hockey League clearly promotes and supports national unity. In fact, of all the players in the Canadian Hockey League, 90% are Canadian.

- 1640 

The CHL is about young men experiencing people and places across the country. It is about being in a dressing room in Prince Albert with virtually every teammate representing all other western provinces and areas. It's about four teams representing all regions of our country coming together in May to compete for the Memorial Cup. It's about the top prospects' game, in which the top forty players from across the country come together to play. We intermingle them, so you might have a left-winger from Rimouski, a centreman who plays for Regina, and a right-winger who happens to be from Bathurst, New Brunswick.

It's a real interesting mix, a real opportunity for the country and the regions to come together in an environment known as hockey. These friendships and experiences will be remembered and cherished for the rest of their lives, and we suggest it provides the foundation for their character and their understanding of Canada's different cultural regions.

In terms of some of our future goals in this particular area, as touched on, we currently have a prospects' game that allows the three leagues to come together with forty players from the various areas of our country. We also have our national junior team program. The Canadian Hockey League supplies 95% of the players to that program. There's a summer camp, and there's an opportunity for the twenty successful candidates to represent our country during the Christmas period for three to four weeks of the year. This is a very important program for all of us, and we have taken great pride in the five consecutive world championships that we had in the last six years.

The Memorial Cup allows us to come together in May. As mentioned before, it consists of four club teams. What we would like to do is expand upon the number of times we have the ability to interact, interface, play against one another in terms of points to count. This would help to create that interest and, once again, bring our country together. We'd like to see regular season games where suddenly Drummondville could be playing in Kamloops on a weekend. We think there's tremendous opportunity to bring our country together. Great awareness would be created through the national TV exposure and the like.

We have plans for a bilingual kids' fan club, in which kids get involved in our game, through our game, in the power of sport, in the power of hockey. Through your proceedings, I'm sure the power of this whole area is something that has really made you feel something special as you've gone through your hearings. We would like to utilize this to get kids involved, to bring them to special events like the Memorial Cup, etc., to talk about the great game we have and what it means to them and to this country.

As well, we wish to encourage through this committee that the Prime Minister recognize our national champions. That may sound a little American, but we think there's merit to having the Memorial Cup champions brought annually to Parliament Hill to be recognized as true Canadian heroes.

[Translation]

**Mr. Gilles Courteau (Vice-President, Canadian Hockey League):** As you know, the Canadian Hockey League has, over the years, become the official supplier to the National Hockey League. Since 1996, that's the slogan that we use in the Canadian League: we define ourselves as the official supplier of clubs in the National Hockey League.

That slogan resulted in a long period of reflection. We contribute not only in terms of players, managers, trainers, coaches and club support staff for the National Hockey League but also, for several years now, we've been able to develop and provide referees and linesmen who work for the National Hockey League.

Over 65% of the players now in the National Hockey League come from the Canadian League. Nearly 70% of the managers and head coaches began as players or managers in a club that is a member of the Canadian Hockey League.

In 1998, during the last NHL draft in Buffalo, 21 of the 27 first-round selections were from the Canadian Hockey League, including Vincent Lecavalier, the top draft choice. Of the 259 players drafted, 138 were from the Canadian Hockey League. From the very start of the NHL entry draft, 70.8% of the players drafted in the first two rounds were from the Canadian Hockey League. And 53.9% of the players selected in all the NHL draft rounds since 1969 have been from the Canadian Hockey League.

• 1645 

At the international level, the Canadian Hockey League has achieved a great deal by working closely with the Canadian Hockey Association. Since 1978, we have put together the National Junior Team which competes in the World Junior Hockey Championships.

Since the inauguration of these championships, Canada has won 10 gold medals, more than any other country, even in the 1990s. Of the 212 players who represented the country on those championship teams, 191 came from Canadian Hockey League clubs. Seven of the ten head coaches of gold-winning national junior teams were Canadian Hockey League coaches. The other three coaches who were not directly associated with the CHL as head coaches gained their experience as players or became coaches in the CHL.

The members of the Executive Committee, made up of Dave Branch, Dev Dley and myself, sit on the Policy Committee of the Canadian Hockey Association. We make sure that the National Junior Team works well, establish guidelines and see to everything related to a group of 20 hockey players and their management and support team, so as to maintain our level of excellence and make sure we take our place on the highest step of the podium, that of the gold winners.

Fifteen of our CHL coaches have served as coaches at different levels of the National Junior Team. The support staff has also been a key element.

It is very important to note the sacrifice that the owners of Canadian junior clubs must make when asked to lend players for the World Junior Hockey Championships. These players, who are the star players of their clubs, are away from their club for one month. They may be away even longer because, when these players return from the World Junior Championships, their head coach and their junior club usually give them some time off.

For example, if Alex Tanguay of the Halifax Mooseheads were to be on the National Junior Team, he would be absent as a regular player from the Halifax Mooseheads Club for eight matches. If Brad Stewart of the Regina Pats were on the National Junior Team, he could miss up to nine of the matches scheduled for the Regina Pats.

I asked the New York Rangers if they would agree to giving up their star player Wayne Gretzky, for eight games so that he could defend Team Canada's colours in professional hockey.

All of this brings us to a third consideration. The Canadian Hockey League, as you saw a few minutes ago on the video and as indicated in the report that we handed out to you, is the league with the highest attendance figures of all sport leagues in Canada for 1997-98.

For the 13th straight year, CHL attendance has increased. What are the ingredients of this success? With 47 Canadian-based clubs, the CHL has more teams than any other professional or amateur league in the country. We are really what can be called a national league at the junior level.

In addition, the tickets are very affordable for families. For under \$50, a family of four can attend a junior game and have a lot of fun.

There's also a great deal of interest in the community. Ninety percent of the players are Canadian and generally are from the same city or town where the team plays. It's entertainment where you see a lot of enthusiasm, it's very intense, very emotional because the team plays to its fans night after night.

• 1650 

There's something else that should be noted. The players and managers display great loyalty to everything associated with them directly or indirectly.

Fans of NHL teams attend an average of 4.9 games. However, the average for CHL fans is 11.9 games, which is a very interesting finding. This is why we are pleased to say today that the Canadian Hockey League, over the years, has achieved a great deal by bringing together, at the outset, the three leagues from the West, Ontario and Quebec. It has been able to form a large family, a Canadian unit, and to train 16 to 19-year-olds for a future in the Canadian Hockey League.

[English]


**Mr. Dev Dley (Vice-President, Canadian Hockey League; Commissioner, Western Hockey League):** My colleagues have touched upon the growth and importance of the CHL within their respective communities and the magnitude this league has across this country. I think we should also always keep in mind that this is amateur hockey. When we speak of an amateur organization, we sometimes lose sight of the impact it has within its respective communities. We have covered this in detail in our brief. The economic impact that the respective teams have, and what the respective leagues contribute to the overall economy of this country, are set out commencing at page 12.

In spite of the fact that these are all amateur clubs, their average annual expenditures to operate are approximately \$1.3 million. The total direct economic spending that the teams have across this country exceeds \$62 million. The vast majority of revenue that sustains these hockey clubs comes from people who attend the hockey games. Some 85% of the revenue that's generated is through ticket sales. Those ticket sales are not restricted just to the immediate community within which a team sets up its residency. For example, a club in Halifax would draw from

the general Halifax region. Similarly, a very small community in the Western Hockey League, such as Swift Current, with a population less than 20,000, also draws from far-reaching areas around Swift Current. All of those people spend money not only to come into town to watch the hockey games, they spend their disposable income as well. The indirect contributions that are made within those economies exceeds \$73 million. That's a large sum of money as an injection into each particular region, each particular city.

In addition to those expenditures, all of the clubs form a partnership within their community. They become very much a part of the fabric, involved in the community in all sorts of ways: donating to charities; being involved in various fundraising events around the community; and, very specifically, being involved with respect to the development of minor hockey. During the course of any season, the total contributions that CHL teams make back to minor hockey associations, to the provincial amateur hockey associations, and to the Canadian Hockey Association total almost \$1 million. That's through direct contributions, through assessments, and through development assistance as well.

One area that's critical to many of these cities is the facility itself. In most cities the facility in the wintertime is the focal point of the community. Each of those facilities requires a major tenant. In most instances, the major tenant is in fact the CHL team. The disproportionate share paid—and willingly paid—by the CHL franchise assists other users of the facility. Take a city such as Kamloops, for example. It has a 5,500-seat arena. Without the major junior team being the major tenant and paying the bulk of the expenses associated with that facility, that city would not have the opportunity to attract other recreational events and other cultural events that enhance this particular community.

- 1655 

If you look at the city of Halifax, for example, 40% of the facility's ticket sales for the entire year are generated by the major junior club on the 35 dates that the team plays in that arena. Obviously that's reflected in the rent it pays to help to allow that facility to continue as a viable entity.

Along with the economic impact and included as some of the costs is a very material element of the CHL, and that is the commitment to education. Every player in the CHL is entitled, as a participant in the game, to post-secondary scholarship assistance. When you look at the numbers of players who go through the league, 98% of the players—and that includes players who come from Europe—have either completed high school or are attending post-secondary instruction. Every team makes it a point to schedule practices during off-school hours. Almost three-quarters of the games are played on weekends. These participants are very much student athletes.

Last year's Memorial Cup champions are an example of one team in particular that has been successful. In Portland, every single player was either attending high school or taking classes at a community college or university. That obviously takes money, and we would certainly ask for consideration as the years go on for assistance in establishing a foundation for scholarship assistance for all players. Perhaps one avenue that could be explored is the Prime Minister's millennium fund, because this, the education side, is a very critical component of being a major junior player.

One of the other issues that faces us involves lifestyle issues. All teams have programs in place in which there is a very close working relationship with local authorities, police departments and local counsellors in order to deal with issues of drug and alcohol abuse. In turn, the players then go out into the community to speak with various groups, to speak with school children, giving those participants within the community that kind of education.

Two years ago we were confronted with the Graham James revelations as they pertained to the issues of abuse. Since that knowledge came to our attention, the CHL has commissioned and adopted the *Players First* report written by Gordon Kirke. The result of that report is that every player who plays in the CHL is provided with counselling, provided with education, provided with awareness, and also provided with a cost-free analysis of what abuse is and how to deal with it. The resources are made available to the players, and they're made available with the hope and expectation that those in hockey will never have to be faced with that kind of situation again.

The reality is that the teams make a point of being partners within their community. It's not a situation in which the teams come into a community, take the benefits, and leave. The owners, the businessmen and the fans all intertwine themselves with the hockey club. The reality is that within their franchise cities, the players are very prominent. In many cases, those players will be the closest contact that local people have with an NHL player or someone who may potentially go on to be a professional player.

We view the players and the fans as the most important participants in the game. With respect to those young men who provide the entertainment, they're not only players, they're also students and citizens, and they become the community leaders.

- 1700 

**Mr. David Branch:** The Canadian Hockey League is proud to be entrenched in communities across this country as a vital part of their cultural activities in many respects. At the focal point, as Mr. Dley outlined in terms of the facilities, teams are certainly an important and integral part of the economy in those communities and surrounding areas.

We would also suggest that the Canadian Hockey League represents a huge part of the future of this country in terms of being responsible for developing so many of tomorrow's leaders, whether that development takes place in a hockey arena, in a boardroom, or in some other activity that puts back into the community and serves our country. As we have seen, through the power of sport, high-performance people—which these young men we are blessed to have in our leagues tend to be—go on to contribute and give things back.

We would appreciate any support and consideration so that together with you we can work toward supporting the interests of the educational foundation that we would ideally like to structure for the benefit of the players so that we can continue to support their educational needs. We hope you will explore the Prime Minister's millennium trust fund in this regard, as Mr. Dley pointed out. We also hope you can assist in supporting in any way the lifestyle programs that we provide and must continue to provide, and which only enhance drug and alcohol programs, other lifestyle issues, and abuse issues.

As well, we would appreciate any support that you may provide in the interlocking portion of our plans for a schedule. We're a little different from professional leagues in terms of interlocking schedules. Teams in professional leagues can go on a swing out west and spend three to six days on the road. We're dealing with student athletes. The reality is that if our goal is to be realized to send Rimouski to Medicine Hat, the team must leave on a Friday and come back on a Sunday in order to support, accommodate, and serve the needs of their educational interests. A short stay like that, in which they would play one or two games, just does not generate the necessary resources for us to move forward with that undertaking at this time.

We are very grateful for the opportunity to appear before you, and we thank you for your time.

**The Chairman:** Thank you, Mr. Branch.

Before I go to Madam Tremblay, who will be our first questioner, I was asked by the Liberal whip of the House to give you his regards. Mr. Bob Kilger is a graduate of the Canadian Hockey League, and he very much wanted to be here, but he could not make it because the House is active today.

[Translation]


Ms. Tremblay.

**Ms. Suzanne Tremblay:** There were certainly many subjects of discussion in the presentation you have just made. I thank you for this presentation and for the quality of the documents that you are providing to us. We will probably run out of time. Every one around the table probably would like to ask questions.

There's one thing that I am very concerned about, and that's violence in hockey. Since the beginning of this season, we have seen Eric Lindros in the NHL—I was glad to see it was the helmet he knocked off and not the head—get away with a hit that had someone carried out on a stretcher. It was in all the headlines. We read that, by the end of the season, 80 NHL players will have suffered a concussion.

A number of these players come from your league. In late August or early September, the newspapers were full of talk about the make up of certain junior teams. We read that a certain player didn't have much talent, but that he had been signed up for boxing lessons and that this kind of player was needed as an enforcer on the ice.

It's true that, in places like Rimouski, the arena is full and I'm not complaining. There are a lot in Gaspésie to, and on the North Shore, they're doing well.

• 1705 

Things are going well almost everywhere, and there are still some young people who are developing their talents, who are playing hockey and who are perhaps heading for a quite interesting career, but we are also turning out Alexandre Daigles, young people who go up too fast to the NHL. We have seen the pressure put on the young Vincent Lecavalier. His every move was followed. After playing four games, he hadn't even made a pass. It was becoming a dreadful spectacle. People wondered whether he had enough talent to play in the NHL. One day, they said: "Look, he scored his first goal." He was very happy to have scored while his parents were watching. Everyone is watching it and it doesn't look easy.

Do you not think that the quality of hockey is not as good as it used to be? When the European teams arrived here we told ourselves that we would finally see players who knew how to skate gracefully. We thought that NHL players would learn how to play, but it's the Europeans who learned how to fight so that they could come and play in the leagues that paid money instead of staying in their own country.

There is something that worries me. Yesterday, I learned the results of a study. It showed that hockey ranked sixth in importance for men; for women, it was so far down the list that there wasn't even a number for it. That was in the test group. In the control group, hockey ranked 21st in importance for men and 19th for women.

The importance of hockey is on the decline. Attendance is dropping everywhere. Fox network has trouble keeping its ratings up. What are you, the bigwigs of hockey, going to do to save the sport? I am talking about the kind of hockey we watched when I was young, the kind of hockey that drew us to the sport. That kind of hockey no longer exists. There aren't any more players like Béliveau, Richard, Gordie Howe. Those people knew how to play hockey and how to pass the puck. There are a few left.

**An Hon. Member:** Coumoyer.

**Ms. Suzanne Tremblay:** He wasn't the scrappiest of the lot. Léo Labine was perhaps worse. I am talking about people who knew how to play hockey with elegance, how to pass the puck, and put themselves in the right place. There aren't any more like that. That is not what we see. We see people who shoot the puck any old place, who get rid of it as soon as they get it. They rush into the corners. Hockey is no longer an elegant game. It seems like people are playing hockey without using their heads. That's the impression I have. In football, players play intelligently. What are you going to do to save hockey? To start with, it has to be interesting, there has to be good hockey.

[English]

**The Chairman:** Your answer must be less than thirty seconds long.


**Some hon. members:** Oh, oh!

**The Chairman:** Just before you begin your answer, Mr. Branch, very rarely does the chair challenge Madame Tremblay, but I think I'm going to have to challenge her today. I have watched Vincent Lecavalier play hockey, and he'd be a pretty graceful hockey player from where I come from. I think everybody should also know that Monsieur Lecavalier comes from Madame Tremblay's riding, so you forgot to talk about him.

Go ahead.

**Mr. David Branch:** I think Madame Tremblay illustrates the passion so many of us have for our game. I think there are a number of statements she has made with which we would agree.

Recently we had a most unfortunate incident in Ontario. A young man clearly violated what I think we all would agree would be proper deportment on the ice, and he has been banished for the balance of his junior career. That's because we clearly accept the burden and understand that the value system must be such that in the Canadian Hockey League, which is the number one development league in the world, we must provide an atmosphere in which players may develop their skills to play the game as you described, without fear of injury and other needless acts. We do that, and we'll continue to do that to the best of our ability.

• 1710 

There has been a tremendous evolution in our game. Without question, hockey has become a universal game, and I think we should share our game with great pride. However, we must continue to work even more diligently to maintain our position as the number one hockey-playing nation in the world. Working along with Canadian Hockey—Bob Nicholson and his organization—we have a number of outstanding programs under way, in place, that we are all involved in for the benefit of skills development: strength and conditioning, nutrition, all the latest ways and means in which players should train, coaching programs, referee programs, athletic therapist programs. All of these things are out in the field. They've been generated and they're working. But yes, we can do better; and yes, we will do better.

On some of the situations you described, I went with great pride to Bathurst, New Brunswick—which happens to be my hometown—and watched the opening game of the Acadie-Bathurst Titan. It was an outstanding evening and a great hockey game. I commended Mr. Courteau on the quality, style, and level of play.

We have the benefit of going around and watching these young people play, and I think there comes a time when we ask ourselves if it's right or fair that players like Vincent Lecavalier or Alexandre Daigle or Chad Kilger should leave at the age of 18, when they haven't fully developed. We wonder if they will ever reach their potential. There is a lot of evidence to suggest that it's not good, but that's out of our hands, out of our control. We'd love to have these players come back to our program to continue to foster their own development and to help the development of others that they play with and against.

I think there is a much more enlightened approach to the game, and we will continue to take strides to serve what we feel are the best needs for our game.

[Translation]

**Ms. Suzanne Tremblay:** You've touched on a very important point. Who could set the stage so that young players are eligible for the draft at age 18 but remain in the junior leagues until they are 20? Why can't you reach that kind of agreement? Physically, a young man undergoes a lot of changes between the age of 18 and 20.

[English]

**Mr. David Branch:** Well, possibly through support from this committee and from the federal Government of Canada, we could go together to the National Hockey League and speak about that issue once again. In the past there have been challenges to the idea of a person of the age of 18 having the ability to work for a living. There was the Ken Linseman case back in the 1970s, and it was upheld. The National Hockey League had to change their entry draft rules so as to provide the opportunity for players of the age of 18 to go forward. But if you were to ask the NHL people themselves, Madame, they'd love to see a 20-year-old draft, because they would then have a better sense of who's going to be good, who's going to be ready, who's going to meet their needs.

Dev, is there anything else that you might want to add to that by way of your—

**Mr. Dev Dley:** No, I think you've covered it.

**The Chairman:** Mr. Mark.

**Mr. Inky Mark:** Thank you, Mr. Chair. I just have a short question following on the same topic of player development.


I've asked this of other delegations here regarding the sport of hockey, which is our national game, obviously. Regarding the whole area of development from the perspective of the Americans, they've taken a high school or college route versus the junior hockey we have in this country—and we have many tiers of hockey. Certainly where I come from, it's tier two hockey, but we're also very proud of the Brandon Wheat Kings. It's unfortunate that a province of the size of Manitoba doesn't have more than one Canadian Hockey League team.

What's your answer when people ask you if this is the right approach in the long term? I understand you're producing a lot of good hockey players at this time, but in the long term, say twenty years down the road, should we be switching somewhere, midstream?

**Mr. David Branch:** Do you mean the system in terms of where our players—

**Mr. Inky Mark:** In terms of the system of development.

**Mr. David Branch:** Not unlike any other industry or walk of life, you must continue to look at what is best, what you can do to work towards the future. Two summers ago I was asked to go down to speak to a gathering of the United States Amateur Hockey Association general assembly in Boston. What became apparent is that there is a very strong movement and there are very definite and specific results they are attempting to achieve. They are attempting to move their hockey development program out of the educational system and into club team programs known as that animal, junior hockey.

• 1715 

In the last two years we have seen the involvement of two junior leagues in the United States, and now there's a third. They have clearly said that in order for them to compete at the level we're at in Canada, to compete internationally, to compete in terms of the number of players going on to the NHL, we've come to realize that the best way to develop these young men is through having them playing in a program that's very demanding.

We are on the ice virtually every day of the week, and we get top-level coaching and top competition in order to meet the needs of high standards. In fact the Americans have taken it a step forward and now have a program in place in Ann Arbor, Michigan. They bring the top forty players from across their country into an intensive training program period. In speaking to Jeff Jackson, who runs that program on behalf of U.S.A. Hockey, I asked him if he was worried that this may even take away development opportunities in those areas from which a player is taken away—say, the top player from Edina, Minnesota—and what about those players left back there. He said I was right, but that what they're trying to do is initially create a spark that will show Americans they can compete with us damn Canadians at a high level. Once they establish a better mindset, they will then push them all back to their club team programs.

So in consideration of that, in looking at what's happening around the world, we have virtually—and I guess I have to be careful what I say before a parliamentary committee—put a program in place that limits the number of Europeans who wish to come here to play. In our opinion, that's to serve and to protect the best interests of Canadians in order to develop their skills.

I think people from all over the world regard our system as being the best system to develop hockey players. To pick up on what Madame Tremblay said, that's not to say we can't do better work to improve some individual skills, and we're seeing a huge change back to that. Hockey goes through cycles. I think the National Hockey League is starting to set a better example in this area, and all of us can work together for the betterment of the game.

**The Chairman:** Thank you, Mr. Mark.

[Translation]

Mr. Coderre.

**Mr. Denis Coderre:** First of all, I would like to welcome Mr. Courteau. I know that he has been convalescing. You are looking very well and we are happy to have you with us.

I am going to nuance what Ms. Tremblay said. I remember some games between the Trois-Rivières Draveurs and the Shawinigan Cataractes, where there were some all-out brawls. They gave each other dirty looks before the game started and they battled it out.

During the 1980s, there were a huge number of brawls and the numbers have dropped off slightly. We have teams like the Val-d'Or Foreurs with Lionel Brochu, who has done extraordinary work, and the quality of Huskies' game. We are sad however to have lost the Granby Prédateurs because they did win the Memorial Cup. And it's more or less from that perspective that I'd like to talk to you.

I would like to thank you for the figures you have given us, because that is exactly what the committee requires under its mandate. We see the economic impact a franchise has on a region and on a province.

Mr. Courteau, I want to talk to you about the future. A new team is being set up, the Montreal Rockets, and it will be managed by Serge Savard's son. Has the contract been signed? And that leads me to a question about the cost of franchises. We've seen that with respect to operations, the budget is \$1.3 million, but if I remember correctly, a franchise costs \$850,000. Is that accurate? How are things going on that side? I will get back to that.

I would also like you to talk a little bit about the impact of losing a franchise. We want to show the importance of sport as an industry in a region. What is the impact of losing a franchise? We lost the Trois-Rivières Draveurs and the Granby Prédateurs. The Beauport Harfangs and the Quebec City Ramparts are still around. There were several teams. I remember the good old times in Sorel. There was Saint-Jean. We lost a lot of teams. Have you been able to measure the impact of losing a franchise?

**Ms. Suzanne Tremblay:** —

*[Editor's Note: Inaudible]*—

**Mr. Denis Coderre:** That bothers her, because she thinks that Gordie Howe was a good player. Forget about that.


*[English]*

**An hon. member:** He still is.

**Mr. Denis Coderre:** He was a goon. Everybody knows that, but it's okay.

**Voices:** Oh, oh!

**Mr. Denis Coderre:** When Bob Gainey was playing for the Canadiens, he said he was tremendous player, but ask the other teams.

• 1720 

*[Translation]*

**Mr. Gilles Courteau:** First of all, with respect to the Montreal franchise, we are currently negotiating with a group of businessmen interested in obtaining a franchise in the Montreal metropolitan region. The team would play in the Maurice-Richard arena. We agreed, at the Quebec Major Junior League, that by mid-December a final decision would be made as to whether or not everything is in order so that they can obtain a Quebec Major Junior League franchise.

Secondly, at the Major Junior League level, the cost of an expansion franchise is \$850,000. My partners David Branch and Dev Dley will be able to give you more details on the cost of an expansion franchise for their league. It's specific to each league.

What is the impact of losing a Major Junior League franchise or a Canadian League franchise in a city? There is no doubt that we do not want to lose franchises when a city is granted a franchise. However, there are circumstances that explain and justify decisions that are made by club owners when the time comes to decide whether they continue their operations in the same city, transfer their franchise or sell it.

Over the years, we have experienced those situations at the Quebec Major Junior League level and at the Canadian Hockey League level, but at the end of the day, these are positive elements.

You mentioned earlier that with respect to the Quebec Major Junior League, for example, we have expanded to the regions and have been very successful. Ten or fifteen years ago, that was out of the question. The same thing happened in the OHL and the WHL. They expanded for the good of hockey and the Canadian League, to maintain the level of development of hockey players, coaches and managers. Moreover, we went into cities where major junior Canadian hockey was the number one event. You can see how successful we have been.

When we talked about bringing Chicoutimi into the league, in the mid 1970s, a club owner in the metropolitan region wondered if all the trees in the park would have to be cut down to put in a road to get to Chicoutimi. I remember when there was talk about bringing Rimouski—

**Mr. Denis Coderre:** Was that—

*[Editor's Note: Inaudible]*— who said that?

**Mr. Gilles Courteau:** No, it wasn't him. He was not there.

When we talked about Rimouski, people wondered if they would have to take a boat to get there. All that to say that the new vision we had at the Canadian League has been very beneficial over the years, with the new franchises that have been put in place.

**Mr. Denis Coderre:** I'd like to go back to what Ms. Tremblay said about developing players. Basically, it is true that 18 years of age is too young. The problem is not the National League or you. It's one Bob Goodenow. We will be meeting with him next Tuesday. We have some juicy questions to ask him.

Put yourself in our shoes. What question would you like to ask him? Let yourself loose, like we say back home. Now is the time.

*[English]*

I don't know the translation for this expression.



### 38th PARLIAMENT, 1st SESSION Standing Committee on Finance

#### EVIDENCE

#### CONTENTS

Tuesday, November 22, 2005

This is Exhibit 2 referred to in the  
 affidavit of Brendan O'Grady  
 sworn before me, this 15th  
 day of June, 2016  
Lizy  
 A commissioner for taking affidavits

1535

- The Chair (Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.))
- Mr. David Anderson (Cypress Hills—Grasslands, CPC)

1540

1545

- The Chair
- Mr. Brian Fitzpatrick (Prince Albert, CPC)

1550

- Mr. Edward Short (Senior Officer, Tax Policy Branch, Department of Finance)
- Mr. Brian Fitzpatrick
- Mr. Edward Short
- Mr. Brian Fitzpatrick
- The Chair
- Mr. Brian Fitzpatrick
- The Chair
- Mr. Brian Fitzpatrick
- Mr. David Anderson

1555

- The Chair
- Mr. Charlie Penson (Peace River, CPC)
- Mr. David Anderson
- Mr. Charlie Penson
- The Chair
- Mr. Charlie Penson



Secondly, there is an athlete assistance program that was mentioned here, but it actually makes tax-free stipends available to any world-class athletes and the people who show any potential to reach that level. Those stipends are tax-free. The athletes with developmental cards get about \$900 a month, and athletes with the senior cards, or more senior athletes, get about \$1,500 per month. Those are tax-free stipends to them. Carded athletes at Canadian universities are eligible for up to \$10,000 in university assistance as well.

We know there are sports organizations that have charitable status, and there are other situations where grants are given to organizations that would involve amateur athletics as well. So there are a number of places where this happens, and there is an unequal application of tax law in these different situations.

I think it's important that we come back to this issue of 17-year-old hockey players living away getting \$200 a month and a living allowance. The government wants to tax them. We think that's unreasonable, and this bill would try to deal with that.

☺☺ (1555)

☺☺

**The Chair:** Do I have any other members? Otherwise, I'll have the Finance officials go.

Yes, Mr. Penson. Do you have a question for Mr. Anderson?

Go ahead.

☺☺

**Mr. Charlie Penson (Peace River, CPC):** Thank you, Mr. Chairman.

Mr. Anderson, when you talk about this being a widespread practice, I certainly agree; this happens all over the country. I can't understand why CCRA would want to bully their way into a productive program that provides opportunity for young children to excel and maybe develop a career in this area. Now that they've decided to do it and the outcome of the negotiations or settlement with CCRA was not satisfactory, from what you told us, you're seeking this Bill C-285 as an alternative measure. Is that correct?

☺☺

**Mr. David Anderson:** Yes, absolutely.

We would have preferred that the CRA just back off these teams and go back to the previous structure and the way things were. The junior A major hockey league teams are happy to have their players considered to be employees. They are paying EI and CPP; that's not an issue with them. This is the next level below that. Our response, because of the Canada Revenue Agency's reluctance to back off, was that we needed to come up with a bill that dealt with this issue, and this is the result.

☺☺

**Mr. Charlie Penson:** It's probably too bad we don't have some of the officials from CCRA here today to tell us why they decided to pursue this in 2001 and why they've decided to pursue it in the manner they have in one part of the country. As I've said, I know it happens all across the country, including in my home province of Alberta. This is ludicrous.

Given that they're not here, I just want to say, Mr. Anderson, that I support this method. If there's already a clear trail with the Olympic athletes, concerning which you've provided information to us, hopefully this bill will provide an avenue to resolve what I see as an unfair practice by CCRA.

☺☺

**The Chair:** Thank you, Mr. Penson.

I think the answer is that it's confidential. That's why they wouldn't be able to answer you

Mr. McKay.

☺☺

**Mr. Charlie Penson:** It's just like the use of your own garden is taxable when you have a farm. That's how silly some of this gets, and maybe we'll get to that later.

☺☺

**The Chair:** Mr. McKay.

☺☺

**Hon. John McKay (Scarborough—Guildwood, Lib.):** Let me just go back to first principles on your bill. Are you adding \$8,000 onto the basic personal exemption, which is now around \$8,500?

☺☺

**Mr. David Anderson:** Yes.

☺☺

**Hon. John McKay:** So an amateur athlete--the person you're targeting for this bill--really would be able to earn from any source at least \$16,000 tax-free?

☺☺

**Mr. David Anderson:** As I said originally, the intent was if the CRA had backed off on this, it would have allowed these 16- to 21-year-old



**The Chair:** Thank you, Mr. Anderson.

[Translation]

Is that all, Mr. Loubier? Fine.

[English]

Mr. Pallister, Ms. Minna, and then Ms. Ambrose.



**Mr. Brian Pallister:** Thank you.

You mentioned that your daughters are referees. I put myself through university being a referee. One of the things I learned about refereeing is that it's more an art than a science, and many times the best referees aren't the ones who call every infraction by the book.

Last night there was an NHL game in which a player named Jiri Fischer, of the Detroit Red Wings, went down with convulsions, and it was agreed that they would stop the game. There was no rule that said they should do that. They just all agreed that it was the right thing to do.

They should stop this practice, too, of whacking with a massive hammer something that isn't really a problem. This is massive overkill, and everybody here knows it. I really, sincerely believe that if we had your daughters here, they could educate us on how proper refereeing actually could assist us in this issue.

One so-called employee makes a claim for EI and 99% of the tier two junior hockey players in the country are impacted by it. That is kind of reminiscent of that mad cow report. It has an impact beyond its significance and greatly affects a lot of other people.

If you are in possession of any information that could help me on this, I would appreciate that. I have just a couple of specific questions.

On Revenue Canada, are you aware of whether or not they plan to audit the Manitoba Junior Hockey League?

(1650)



**Mr. Edward Short:** My understanding is that the Canada Revenue Agency has had discussions with the Canadian Hockey Association, and it has discussed with them what should be guidelines that could be issued to junior hockey teams as to when things like reimbursement of expenses would be taxable benefits, as to what their obligations are with respect to employment insurance or CPP, and as to, in general, when the players might be considered to be employees.

Mr. Anderson mentioned that there has been something publicly put out by Revenue Canada sometime in the past year. It provides some guidelines, but my understanding is that it is something separate and apart from the discussions that have taken place with the Canadian Hockey Association. I'm not aware of whether or not the Canadian Hockey Association has actually distributed some kind of a guideline to junior hockey teams.



**Mr. Brian Pallister:** So you're not aware of any. You're saying that as far as you are aware, there are discussions under way with the Canadian Amateur Hockey Association and CRA, but you're not aware of where those discussions are right now.



**Mr. Edward Short:** Maybe it's not fair for me to speak on the CRA's behalf, but I think what I heard was that they've completed their discussions. Whether or not there's an agreement, I don't know, but my impression was that there's some kind of a meeting of minds as to how the law should be applied in various situations.



**Mr. Brian Pallister:** It's too bad we couldn't be made aware of what the results of those discussions were. Obviously it would facilitate our discussions somewhat, I suppose.

You mentioned the Canadian Amateur Hockey Association, but are you aware of any specific discussions that the CRA has had with—and I know I've put you in an unfair position, but I have no choice because there's nobody from CRA here, so I'll ask you while you're here.... You know, there's nothing fair about this. There's nothing fair about the tax act either, really, to be frank.

Mr. Holland mentioned that we opened a Pandora's box, but you can open the tax act to any page you want and there's a Pandora's box waiting to be opened right there. So I don't think we're exclusively dealing with fairness issues here.

So apart from the Saskatchewan situation, let me ask you if you are aware of any negotiated agreements that the CRA has entered into with any other junior hockey league or provincial junior hockey association.



**Mr. Edward Short:** No, I'm not, and I'm not aware of any other tax assessments. That's not to say there couldn't be some, but I'm not aware of any.



**Mr. Brian Pallister:** My last question is perhaps more for Mr. Anderson, if he could answer this.

One of the concerns communicated to me by parents, organizers, and players at what I call the tier two level in junior hockey, because of their concerns about post-secondary educational opportunities and being labelled as professional and so on, was the potential for interfering with their

ability to obtain scholarships, for example, in U.S. colleges because of the U.S. rules. Perhaps that's not a concern now, but if it is, I'd like to hear from you on the nature of the concerns, Mr. Anderson.



**Mr. David Anderson:** Basically, in terms of that, my impression was that the less we talked about it, probably the better. We were told they would not likely see their status affected, although in order to go down to the United States, as you know, the major junior A hockey players are not allowed to accept scholarships in the States because they are considered not to be amateur athletes because they receive a salary. The tier two juniors are still considered to be amateur athletes, so hopefully that will continue.

 (1655)



**Mr. Brian Pallister:** There's a long-standing, shallowly guarded secret about hockey in this country that says if you want to play major junior or tier one junior hockey, you can put your education on the back burner. Many of the players who play at that level know that's the choice they're making when they play, in the hopes of big NHL contracts or whatever.

The tier two players, those you are trying to address with your bill, have made a conscious choice to try to keep their education at a higher priority level. Some of them arguably could play tier one in western Canada or in Ontario Hockey League hockey, but they're trying to keep education as a priority in their lives and they hope to play college hockey. Because of the skills they'll develop at this so-called lower level, they hope to be able to have some help in pursuing their post-secondary education. This is something that is a major concern to me if the CRA, in its efforts to swat a mosquito with a bazooka, is jeopardizing the future of several thousand young Canadians in the sense of their ability to pursue post-secondary education.

At a time when we're all concerned about any impediments that are put in the way of any young Canadian in terms of their ability to pursue post-secondary education, it would seem to me to be very important that we make decisions here that reflect that concern and that understanding.



**Mr. David Anderson:** We hope this change does not affect their amateur status.

To refer to your earlier question, you asked if CRA had any information out. Actually, there was a document sent to us last spring. I think all MPs received it, but it basically reaffirmed that they are going to apply this across the country. At one point it says, "In the case of hockey players at the junior level, the CRA has found that employee-employer relationships exist", and then they list the criteria for why they believe that's true.

This is a bit later:

What this means is that players are generally found to be "employees". As a result, money they have received in the course of playing hockey has been taxable. In some cases it may also have been "pensionable" and "insurable", meaning that deductions must have been made for Canada Pension Plan ("CPP") and Employment Insurance ("EI").

I think that answers your question.



**The Chair:** Thank you, Mr. Pallister.

Ms. Minna, and then Ms. Ambrose, because I want to get to the other business we have.



**Hon. Maria Minna:** Mr. Chairman, I'll be very quick. I just want to make a couple of comments.

I think Mr. Loubier put it correctly. There must be another way of addressing this problem without dealing with the blunt tax structure. I don't have a problem with assisting amateur sport in this country. In fact, I think we need to be doing something, but maybe in a more comprehensive way in all sports and not just hockey. But my concern is the blunt instrument of income tax.

I spend a good deal of time trying to help women, single mothers. I would love to be able to guarantee a working mother that she doesn't have to pay taxes at \$16,500, which is the case here, because this is on top of the \$8,000 personal exemption. So I have some real problems with this, because we're dealing with one sector of society. That's one issue.

The other is that if the CRA has had a meeting of the minds, could we not have them come to the committee so we can hear what they have to say? Maybe there's a way around it by which they've resolved the issue, or maybe there is a way of resolving it without having the blunt instrument of a bill.

The other thing with the bill, of course, would be to have some amendments even if we did go ahead with it, because the fact is that it's not clear as to which athletes it affects. That's of concern to me.

And what age group are we talking about? Quite frankly, I do have a nephew who does play. He is an amateur, but I don't think he deserves to get this kind of a break either, because he has a full-time job as well.



**Mr. Brian Pallister:** Christmas would be fun at your place.



**Hon. Maria Minna:** No, he has a full-time job. He shouldn't have this on top of that. Come on. I think we have to be realistic about what we want to do to help amateur sports, but we have to do it in such a way that we're not really establishing some other precedents and creating some other problems for ourselves. That's my problem.

Tax Court of Canada



Cour canadienne de l'impôt

*Handwritten initials*

May 3, 2000

Pat Fraser  
Meighen, Haddad & Co.  
Barristers and Solicitors  
P.O. Box 22105, 110 Eleventh Street  
Brandon, Manitoba  
R7A 6Y9

This is Exhibit M referred to in the  
affidavit of Brendan O'Grady  
sworn before me, this 15<sup>th</sup>  
day of June, 2000  
[Signature]  
A commissioner for taking affidavits

Dear Sir/Madam:

RE: Kelly McCrimmon & Robert Cornell o/a The Brandon  
Wheat Kings  
v. The Minister of National Revenue  
2000-1538(EI)

This will acknowledge receipt of the above-mentioned notice of appeal filed with the Court on April 5, 2000.

A copy of this notice of appeal will be forwarded to the Respondent on May 4, 2000.

The appeal will be heard in Winnipeg, Manitoba, at the first available opportunity. The parties will be given notice as to the date, time and place of the hearing at a later date.

Yours truly,

Original Signed by  
Original signé par  
Hélène F. Plante

For the Registrar

c.c. HRDC/ DRHC  
Revenue Canada/ Revenu Canada

PRESS ALL COMMUNICATIONS TO THE REGISTRAR ÉCRIRE TOUTE DEMANDE AU GREFFIER TEL./TÉL. : 1-800-927-5499	PRINCIPAL OFFICE / BUREAU PRINCIPAL 200 KENT STREET 200, RUE KENT OTTAWA, ONTARIO OTTAWA (ONTARIO) K1A 0M1 TEL./TÉL. : (613) 992-0901 FAX : (613) 957-9034	REGIONAL OFFICE/BUREAU RÉGIONAL 500, PLACE D'ARMES SUITE 1800/BUREAU 1800 18TH FLOOR / 18 <sup>e</sup> ÉTAGE MONTREAL, QUEBEC MONTRÉAL (QUÉBEC) H2Y 2M2 TEL./TÉL. : (514) 283-9912 FAX : (514) 496-1996	REGIONAL OFFICE / BUREAU RÉGIONAL SUN LIFE CENTRE 200 KING STREET WEST 200, RUE KING OUEST SUITE 902/BUREAU 902 TORONTO, ONTARIO TORONTO (ONTARIO) M5H 3T4 TEL./TÉL. : (416) 973-9181 FAX : (416) 973-5944	REGIONAL OFFICE/BUREAU RÉGIONAL PACIFIC CENTRE 700 WEST GEORGIA STREET 700, RUE WEST GEORGIA 17TH FLOOR / 17 <sup>e</sup> ÉTAGE VANCOUVER, B.C. VANCOUVER (C.-B.) V7Y 1A1 TEL./TÉL. : (604) 666-7987 FAX : (614) 666-7967
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# *Meighen, Haddad & Co.*

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April 5, 2000

Tax Court of Canada  
200 Kent Street  
2<sup>nd</sup> Floor  
Ottawa, ON K1A 0M1

By Fax: 613-957-9034

Dear Sir:

**RE: APPEAL OF ASSESSMENT/ BRANDON WHEAT KINGS**

Enclosed is our client's notice of appeal with regard to an assessment by Canada Revenue and Customs Agency. Also enclosed is the original decision of the Agency.

We are submitting this by way of fax and by original mailing. Please confirm acceptance of the notice and have all correspondence directed to the attention of the writer.

Yours truly,

MEIGHEN, HADDAD & CO.

PER:

  
PAT L. FRASER

PLF/pf

2000-1538(EI)

## NOTICE OF APPEAL

**APPELLANTS:** Kelly McCrimmon & Robert Cornell  
O/A The Brandon Wheat Kings  
#2 1175 18<sup>th</sup> Street  
Brandon, MB R7A 7C5

**DATE OF DECISION:** January 17, 2000

### GROUNDS OF APPEAL:

The Minister has ruled that the Junior Hockey Players on the Wheat King team are “employees” within the meaning of the Employment Insurance and Canada Pension Plan provisions and assessed premiums against the Appellants.

The Appellants take the position that the team players are not “employees” of the organization as defined in section 6(1)(a) and 12(1) of the Canada Pension Plan and section 5(1)(a) of the Employment Insurance Act (an any preceding provisions).

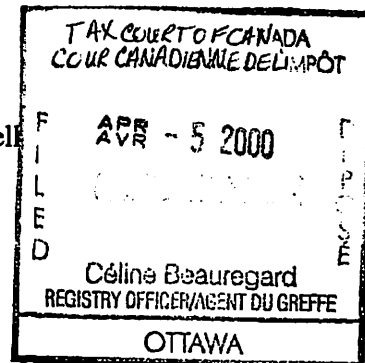
Team members are selected through the drafting process of the Canadian Hockey League based on their performance and skill. The terms of the offer to these players are in the form of a scholarship or bursary to develop and learn further hockey skills.

The compensation provides for a living allowance while they learn their skills and anyone under the age of 18 pursues secondary education while with the team. The payment of compensation or bursary does not in any way reflect a reasonable “wage” for employment.

The Appellants’ position is that the team members are not employees and therefore should not be assessed for contributions to Canada Pension nor to Employment Insurance. It is on this ground that the appeal is based.

### CONTACT:

Meighen, Haddad & Co.  
110 11<sup>th</sup> Street  
Box 22105  
Brandon, MB R7A 6Y9  
Attention: Pat L. Fraser  
Phone: 204-727-8461  
Fax: 204-726-1948  
email: pfraser@mhlaw.mb.ca





Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

KELLY MCCRIMMON & BOB CORNELL  
O/A BRANDON WHEAT KINGS  
#2 1175 18 ST  
BRANDON MB R7A 7C5

En français

En français

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sirs:

This concerns your appeal against the assessments of March 18, 1999, in the amount of \$453.08 for Canada Pension Plan contributions and \$12,216.46 for employment insurance premiums, plus applicable interest, for the period January 1, 1996 to December 31, 1997.

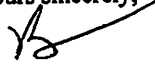
It has been decided to vary the assessments by deleting therefrom the amount of \$106.32 for Canada Pension Plan contributions and \$225.63 for employment insurance premiums, plus applicable interest, to correct errors in the calculation.

It has been decided to otherwise confirm the assessments. This is because the workers listed in Exhibit A, which is attached to and forms part of this notification letter, were employed under contracts of service so were your employees. Furthermore, the board and lodging and education costs paid on behalf of the workers forms part of their pensionable and insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsections 27.2(3) of the Canada Pension Plan and 93(3) of the Employment Insurance Act and is based on paragraph 6(1)(a) and subsection 12(1) of the Canada Pension Plan; paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations, as it read prior to January 1, 1997; and subsections 2(1) and 2(3) of the Employment Insurance Collection of Premiums Regulations, as it reads after December 31, 1996.

Yours sincerely,

  
Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

Canada

## EXHIBIT A

LIST OF WORKERS INVOLVED IN 1996 AND 1997 ASSESSMENTS  
KELLY MCCRIMMON & BOB CORNELL  
O/A BRANDON WHEAT KINGS

JONATHAN AITKEN	DORIAN ANNECK	ALEX ANGYRIOU
LES BORSHEIM	JASON BOYD	BOBBY BROWN
SVEN BUTENSCHAN	STEPHEN CHERNESKI	JOMAR CRUZ
CORY CYRENNE	DAVID DARGUZAS	CHRIS DINGMAN
MARK DUTIAME	BRIAN ELDER	M.GERSTANBUHLER
BRETT GIRARD	AARON GOLDADE	BEVIN GUENTHER
DAVID HAUN	BURKE HENRY	JAMIE HODSON
VINNIE JONASSON	ANDREW KAMINSKY	JAFF KATCHER
JUSTIN KURTZ	KIRBY LAW	BOBBY LEAVINS
MIKE LECLERC	JODY LEHMAN	A. LUPANDIN
SCOTT MCCALLUM	ROBERT MUNTAIN	BROOKS PAISLEY
RANDY PONTE	WADE REDDEN	RYAN ROBSON
PETER SCHAEFER	WADE SKOLNEY	KELLY SMART
DARRYL STOCKHAM	JEFF TEMPLE	P. TEREKHOV
DAN TETRAULT	LYNDON THOMPSON	BRAD TWORDIK
GERHARD UNTERLUGGAUER	DARREN VANOENE	JOSH WOITAS



# Meighen, Haddad & Co.

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April 5, 2000

Tax Court of Canada  
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2<sup>nd</sup> Floor  
Ottawa, ON K1A 0M1

By Fax: 613-957-9034

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FM# 148890 7/02

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MEIGHEN, HADDAD & CO.

PER:

  
PAT L. FRASER

PLF/pf

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**CONTACT:**

Meighen, Haddad & Co.  
110 11<sup>th</sup> Street  
Box 22105  
Brandon, MB R7A 6Y9  
Attention: Pat L. Fraser  
Phone: 204-727-8461  
Fax: 204-726-1948  
email: pfraser@mhlaw.mb.ca

Canada Customs  
and Revenue AgencyAgence des douanes  
et du revenu du Canada

KELLY MCCRIMMON & BOB CORNELL  
O/A BRANDON WHEAT KINGS  
#2 1175 18 ST  
BRANDON MB R7A 7C5

Veuillez lire l'avis d'infraction

Veuillez lire l'avis d'infraction

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

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It has been decided to otherwise confirm the assessments. This is because the workers listed in Exhibit A, which is attached to and forms part of this notification letter, were employed under contracts of service so were your employees. Furthermore, the board and lodging and education costs paid on behalf of the workers forms part of their pensionable and insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsections 27.2(3) of the Canada Pension Plan and 93(3) of the Employment Insurance Act and is based on paragraph 6(1)(a) and subsection 12(1) of the Canada Pension Plan; paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations, as it read prior to January 1, 1997; and subsections 2(1) and 2(3) of the Employment Insurance Collection of Premiums Regulations, as it reads after December 31, 1996.

Yours sincerely,

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

TF600 E (99)

Canada

**EXHIBIT A****LIST OF WORKERS INVOLVED IN 1996 AND 1997 ASSESSMENTS  
KELLY MCCRIMMON & BOB CORNELL  
O/A BRANDON WHEAT KINGS**

JONATHAN AITKEN	DORIAN ANNECK	ALEX ANGYRIOU
LES BORSHEIM	JASON BOYD	BOBBY BROWN
SVEN BUTENSCHAN	STEPHEN CHERNESKI	JOMAR CRUZ
CORY CYRENNE	DAVID DARGUZAS	CHRIS DINGMAN
MARK DUTIAME	BRIAN ELDER	M.GERSTANBUHLER
BRETT GIRARD	AARON GOLDADE	BEVIN GUENTHER
DAVID HAUN	BURKE HENRY	JAMIE HODSON
VINNIE JONASSON	ANDREW KAMINSKY	JAFF KATCHER
JUSTIN KURTZ	KIRBY LAW	BOBBY LEAVINS
MIKE LECLERC	JODY LEHMAN	A. LUPANDIN
SCOTT MCCALLUM	ROBERT MUNTAIN	BROOKS PAISLEY
RANDY PONTE	WADE REDDEN	RYAN ROBSON
PETER SCHAEFER	WADE SKOLNEY	KELLY SMART
DARRYL STOCKHAM	JEFF TEMPLE	P. TEREKHOV
DAN TETRAULT	LYNDON THOMPSON	BRAD TWORDIK
GERHARD UNTERLUGGAUER	DARREN VANOENE	JOSH WOITAS



Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

*PR*

**JUN 13 2000**

THE REGISTRAR  
THE TAX COURT OF CANADA  
200 KENT STREET  
OTTAWA ON K1A 0M1



*Your file / Votre référence*

*Our file / Notre référence*

Re: Appeal to the Tax Court of Canada  
Employment Insurance Act and Canada Pension Plan  
Case: Brandon Wheat Kings, Appeal #2000-1538(EA) and 2000-1540(CPP)

*FA# 110215-87*

In accordance with the Tax Court of Canada Rules of Procedure, a copy of the Notice of Appeal filed by the person mentioned above was forwarded to each concerned party whose name and address appear on the Minister's decision of January 17, 2000.

According to these rules, we have enclosed four copies of each of the following:

- i) "Notices of Assessment", dated March 18, 1999;
- ii) letter filed by Brandon Wheat Kings;
- iii) the Minister's decision of January 17, 2000, issued to workers (see list attached) and Brandon Wheat Kings;
- iv) the Minister's notification advising all other parties of the appeal, issued to the workers (see list attached).

Sincerely,

Nancy Morrow  
Litigation Office  
Edmonton Tax Services

Enclosures

Fax: 495-6982  
5<sup>th</sup> Floor, 9700 Jasper Avenue  
Edmonton AB T5J 4C8

## EXHIBIT A

LIST OF WORKERS INVOLVED IN 1996 AND 1997 ASSESSMENTS  
KELLY MCCRIMMON & BOB CORNELL  
O/A BRANDON WHEAT KINGS

JONATHAN AITKEN	DORIAN ANNECK	ALEX ANGYRIOU
LES BORSHEIM	JASON BOYD	BOBBY BROWN
SVEN BUTENSCHAN	STEPHEN CHERNESKI	JOMAR CRUZ
CORY CYRENNE	DAVID DARGUZAS	CHRIS DINGMAN
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JUSTIN KURTZ	KIRBY LAW	- BOBBY LEAVINS
- MIKE LECLERC	JODY LEHMAN	A. LUPANDIN
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DAN TETRAULT	LYNDON THOMPSON	BRAD TWORDIK
-GERHARD UNTERLUGGAUER	DARREN VANOENE	JOSH WOITAS









Revenue Canada / Revenu Canada

RECEIVED REÇU  
No. 2  
JUL 26 1999  
REVENUE CANADA / REVENU CANADA  
Your file / Votre référence

BRANDON WHEAT KINGS  
2 1175 18 STREET  
BRANDON MB R7A 7C5

RECEIVED REÇU  
JUL 26 1999  
EDMONTON  
f- Brandon Wheat Kings  
13474 9951 & Person  
w- Various  
PDR - 1996 Ass'n  
Re: Transic Benefits

July 13, 1999

Dear Sir or Madam:

We wish to inform you that we have received your appeal. A review of your file will determine if the 1996 and 1997 Notices of Assessment, issued on March 18, 1999, for Canada Pension Plan contributions and Employment Insurance premiums is to be confirmed, modified or cancelled.

In order to begin the study of your file we require a list of names, addresses, (postal codes included) and/or Social Insurance Numbers of all the workers involved in the assessment under appeal, as soon as possible.

The Appeals Division will contact you to discuss your file and to obtain any relevant information.

If you need more information, please do not hesitate to contact N. Morrow at (780) 495-3537. We accept collect calls.

Yours truly,

*N. Morrow*  
Nancy Morrow  
Appeals Division  
Revenue Canada Taxation

*Nancy - the attached  
are our players -  
re: EI. Assessments*

*In regards to Auto  
Benefits there are only  
the following 2:*

*Kelly McCrimmon - 628 299 703  
Mark Johnston - 624 280 525*

*from  
Lynne Shannon*

Fax: 495-6982  
5<sup>th</sup> Floor, 9700 Jasper Avenue  
Edmonton AB T5J 4C8

KELLY MCCRIMMON & BOB CORNELL  
O/A BRANDON WHEAT KINGS  
#2 1175 18 ST  
BRANDON MB R7A 7C5

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sirs:

This concerns your appeal against the assessments of March 18, 1999, in the amount of \$453.08 for Canada Pension Plan contributions and \$12,216.46 for employment insurance premiums, plus applicable interest, for the period January 1, 1996 to December 31, 1997.

It has been decided to vary the assessments by deleting therefrom the amount of \$106.32 for Canada Pension Plan contributions and \$225.63 for employment insurance premiums, plus applicable interest, to correct errors in the calculation.

It has been decided to otherwise confirm the assessments. This is because the workers listed in Exhibit A, which is attached to and forms part of this notification letter, were employed under contracts of service so were your employees. Furthermore, the board and lodging and education costs paid on behalf of the workers forms part of their pensionable and insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsections 27.2(3) of the Canada Pension Plan and 93(3) of the Employment Insurance Act and is based on paragraph 6(1)(a) and subsection 12(1) of the Canada Pension Plan; paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations, as it read prior to January 1, 1997; and subsections 2(1) and 2(3) of the Employment Insurance Collection of Premiums Regulations, as it reads after December 31, 1996.

Yours sincerely,  
Original signed by  
RONALD SMITH  
Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

COPY

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

## EXHIBIT A

LIST OF WORKERS INVOLVED IN 1996 AND 1997 ASSESSMENTS  
KELLY MCCRIMMON & BOB CORNELL  
O/A BRANDON WHEAT KINGS

JONATHAN AITKEN	DORIAN ANNECK	ALEX ANGYRIOU
LES BORSHEIM	JASON BOYD	BOBBY BROWN
SVEN BUTENSCHAN	STEPHEN CHERNESKI	JOMAR CRUZ
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BRETT GIRARD	AARON GOLDADE	BEVIN GUENTHER
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DAN TETRAULT	LYNDON THOMPSON	BRAD TWORDIK
GERHARD UNTERLUGGAUER	DARREN VANOENE	JOSH WOITAS

**BRANDON WHEAT KINGS  
13474 9951 RP0001**

**LIST OF WORKERS TO WHICH MINISTERIAL NOTIFICATION LETTERS  
WERE NOT SENT**

**Mike Gerstanbuhler (SIN – 651647786) – no address available**

**Bobby Leavins (SIN – 650810815) – no address available**

**Michael Leclerc (SIN – 644532137) – no address available**

**Brooks Paisley (SIN – 648556546) – no address available**

**Pavel Terekhov – no SIN or address available**

**Gerhard Unterluggauer – no SIN or address available**

JOSH WOITAS  
24 VARSITY PLACE NW  
CALGARY AB T3B 2Z3

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessments of March 18, 1999, for employment insurance premiums, for the period January 1, 1996 to December 31, 1997.

It has been decided to confirm the assessments in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board paid on your behalf forms part of your insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsection 93(3) of the Employment Insurance Act and is based on paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations, as it read prior to January 1, 1997; and subsection 2(1) of the Employment Insurance Collection of Premiums Regulations, as it reads after December 31, 1996.

Yours sincerely,  
Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

COPY

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

DARREN VANOENE  
102 13 ST E  
BRANDON MB R7A 5X8

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessments of March 18, 1999, for employment insurance premiums, for the period January 1, 1996 to December 31, 1997.

It has been decided to confirm the assessments in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board paid on your behalf forms part of your insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsection 93(3) of the Employment Insurance Act and is based on paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations, as it read prior to January 1, 1997; and subsection 2(1) of the Employment Insurance Collection of Premiums Regulations, as it reads after December 31, 1996.

Yours sincerely,

Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

COPY

BRADLEY TWORDIK  
127 FAIRBURN COURT  
SASKATOON SK S7M 5P7

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessments of March 18, 1999, for employment insurance premiums, for the period January 1, 1996 to December 31, 1997.

It has been decided to confirm the assessments in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board paid on your behalf forms part of your insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsection 93(3) of the Employment Insurance Act and is based on paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations, as it read prior to January 1, 1997; and subsection 2(1) of the Employment Insurance Collection of Premiums Regulations, as it reads after December 31, 1996.

Yours sincerely,

Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

COPY

LYNDON THOMPSON  
107 PINTAIL CRES  
THOMPSON MB R8N 1A8

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessment of March 18, 1999, for employment insurance premiums, for the period January 1, 1996 to December 31, 1996.

It has been decided to cancel the assessment in respect of you. This is because, although you were employed under a contract of service, you did not have any insurable earnings since you did not receive any cash remuneration.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsection 93(3) of the Employment Insurance Act and is based on paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; and subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations.

Yours sincerely,  
Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

COPY



DANIEL TETRAULT  
CP 130  
LA BROQUERIE MB R0A 0W0

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessments of March 18, 1999, for employment insurance premiums, for the period January 1, 1996 to December 31, 1997.

It has been decided to confirm the assessments in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board paid on your behalf forms part of your insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsection 93(3) of the Employment Insurance Act and is based on paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations, as it read prior to January 1, 1997; and subsection 2(1) of the Employment Insurance Collection of Premiums Regulations, as it reads after December 31, 1996.

Yours sincerely,

Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

COPY

JEFF TEMPLE  
24 BUTTERCUP BAY  
BRANDON MB R7B 1G3

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessment of March 18, 1999, for employment insurance premiums, for the period January 1, 1996 to December 31, 1996.

It has been decided to confirm the assessment in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board paid on your behalf forms part of your insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsection 93(3) of the Employment Insurance Act and is based on paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; and subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations.

Yours sincerely,  
Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

COPY

DARYL STOCKHAM  
1109 22 ST  
BRANDON MB R7B 2P6

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessments of March 18, 1999, for Canada Pension Plan contributions and for employment insurance premiums, for the period January 1, 1996 to December 31, 1997.

It has been decided to confirm the assessments in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board and education costs paid on your behalf form part of your pensionable and insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsections 27.2(3) of the Canada Pension Plan and 93(3) of the Employment Insurance Act and is based on paragraph 6(1)(a) and subsection 12(1) of the Canada Pension Plan; paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations, as it read prior to January 1, 1997; and subsection 2(1) of the Employment Insurance Collection of Premiums Regulations, as it reads after December 31, 1996.

Yours sincerely,

Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

COPY

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

KELLY SMART  
BOX 143  
MCAULEY MB R0M 1H0

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessments of March 18, 1999, for Canada Pension Plan contributions and for employment insurance premiums, for the period January 1, 1996 to December 31, 1997.

It has been decided to vary the 1997 assessment in respect of you. This is because the Canada Pension Plan contributions were calculated incorrectly.

It has been decided to otherwise confirm the assessments in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board paid on your behalf forms part of your pensionable and insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsections 27.2(3) of the Canada Pension Plan and 93(3) of the Employment Insurance Act and is based on paragraph 6(1)(a) and subsection 12(1) of the Canada Pension Plan; paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations, as it read prior to January 1, 1997; and subsection 2(1) of the Employment Insurance Collection of Premiums Regulations, as it reads after December 31, 1996.

Yours sincerely,  
Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

COPY

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

WADE SKOLNEY  
BOX 85 564  
WYNYARD SK S0A 4T0

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessment of March 18, 1999, for employment insurance premiums, for the period January 1, 1997 to December 31, 1997.

It has been decided to confirm the assessment in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board paid on your behalf forms part of your insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsection 93(3) of the Employment Insurance Act and is based on paragraph 5(1)(a) of the Employment Insurance Act and subsection 2(1) of the Employment Insurance Collection of Premiums Regulations.

Yours sincerely,  
Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

COPY

PETER SCHAEFER  
C/O STACEY MCALPINE  
700 11012 MACLEOD TRAIL  
CALGARY AB T2J 6A5

K. Storrer  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessments of March 18, 1999, for employment insurance premiums, for the period January 1, 1996 to December 31, 1997.

It has been decided to confirm the assessments in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board paid on your behalf forms part of your insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsection 93(3) of the Employment Insurance Act and is based on paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations, as it read prior to January 1, 1997; and subsection 2(1) of the Employment Insurance Collection of Premiums Regulations, as it reads after December 31, 1996.

Yours sincerely,

Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

COPY

RYAN ROBSON  
2 3310 MCDONALD AVE  
BRANDON MB R7B 0B9

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessments of March 18, 1999, for employment insurance premiums, for the period January 1, 1996 to December 31, 1997.

It has been decided to confirm the assessments in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board and education costs paid on your behalf form part of your insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsection 93(3) of the Employment Insurance Act and is based on paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations, as it read prior to January 1, 1997; and subsection 2(1) of the Employment Insurance Collection of Premiums Regulations, as it reads after December 31, 1996.

Yours sincerely,  
Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

COPY

WADE REDDEN  
C/O NEWPORT SPORTS MANAGEMENT  
601 201 CITY CENTRE DRIVE  
MISSISSAUGA ON L5B 2T4

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessment of March 18, 1999, for employment insurance premiums, for the period January 1, 1996 to December 31, 1996.

It has been decided to confirm the assessment in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board paid on your behalf forms part of your insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsection 93(3) of the Employment Insurance Act and is based on paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; and subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations.

Yours sincerely,

Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

COPY



RANDY PONTE  
19733 72 AVE  
LANGLEY BC V2Y 1R9

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

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Yours sincerely,  
Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

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ROBERT MUNTAIN  
BOX 1418  
ESTERHAZY SK S0A 0X0

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

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SCOTT MCCALLUM  
237 EDWARD AVE  
DAUPHIN MB R7N 2Y3

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ANDREI LUPANDIN  
16706 93 AVE NW  
EDMONTON AB T5R 5J2

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Appeals Division  
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9700 Jasper Avenue  
Edmonton AB T5J 4C8

JODY LEHMAN  
1692B 102 ST  
NORTH BATTLEFORD SK S9A 1H1

K. Storrier  
Appeals Division  
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Date of Mailing: JAN 17 2000

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KIRBY LAW  
BOX 538  
MCCREARY MB R0J 1B0

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Appeals Division  
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JUSTIN KURTZ  
258 BANCROFT BAY  
WINNIPEG MB R2Y 1A7

K. Storrier  
Appeals Division  
(780)495-3679

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JEFFREY KATCHER  
53 TANYA CRES  
WINNIPEG MB R2G 2Z5

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ANDREW KAMINSKY  
BOX 20  
BRUNKILD MB R0G 0E0

K. Storrier  
Appeals Division  
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VINCENT JONASSON  
79 GRASS RIVER DRIVE  
THOMPSON MB R8N 1Y7

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JAMIE HODSON  
BOX 1394  
VIRDEN MB R0M 2C0

K. Storrier  
Appeals Division  
(780)495-3679

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BURKE HENRY  
RR 1  
ST ROSE DU LAC MB R0L 1S0

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Edmonton AB T5J 4C8

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DAVID HAUN  
GENERAL DELIVERY  
SOLSGIRTH MB R0J 2B0

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BEVIN GUENTHER  
C/O A PINEL & ASSOCIATES LTD  
127-B AVE D NORTH  
SASKATOON SK S7L 1M5

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AARON GOLDADE  
1240 AMOS PLACE  
PRINCE ALBERT SK S6V 7A5

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BRETT GIRARD  
11 DENISON CRES  
RED DEER AB T4R 2E8

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Appeals Division  
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BRIAN ELDER  
BOX 359  
OAK LAKE MB R0M 1P0

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

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MARK DUTIAME  
191 IMPERIAL AVE  
WINNIPEG MB R2M 0K9

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Appeals Division  
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Facs: (780)495-6982

9700 Jasper Avenue  
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CHRISTOPHER DINGMAN  
5008 143A ST NW  
EDMONTON AB T6H 4S1

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DAVID DARGUZAS  
78 DOUGLAS WOODS GARDENS  
CALGARY AB T2Z 3A9

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: **JAN 17 2000**

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CORY CYRENNE  
57 WHITLEY DR  
WINNIPEG MB R2N 1H6

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Appeals Division  
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9700 Jasper Avenue  
Edmonton AB T5J 4C8

COPY

JOMAR CRUZ  
BOX 3143  
THE PAS MB R9A 1L8

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessment of March 18, 1999, for employment insurance premiums, for the period January 1, 1997 to December 31, 1997.

It has been decided to confirm the assessment in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board paid on your behalf forms part of your insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsection 93(3) of the Employment Insurance Act and is based on paragraph 5(1)(a) of the Employment Insurance Act and subsection 2(1) of the Employment Insurance Collection of Premiums Regulations.

Yours sincerely,

Original signed by  
RONALD SMITH  
Ronald Smith  
Team Leader  
CPP/EI Appeals  
for  
Minister of National Revenue

Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

COPY

STEPHAN CHERNESKI  
C/O COLLINS BARROW  
1400 777 8 AVE SW  
CALGARY AB T2P 3R5

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessments of March 18, 1999, for Canada Pension Plan contributions and for employment insurance premiums, for the period January 1, 1996 to December 31, 1997.

It has been decided to confirm the assessments in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board and education costs paid on your behalf form part of your pensionable and insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsections 27.2(3) of the Canada Pension Plan and 93(3) of the Employment Insurance Act and is based on paragraph 6(1)(a) and subsection 12(1) of the Canada Pension Plan; paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations, as it read prior to January 1, 1997; and subsection 2(1) of the Employment Insurance Collection of Premiums Regulations, as it reads after December 31, 1996.

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Minister of National Revenue

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Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

SVEN BUTENSCHON  
C/O ROLAND THOMPSON  
35 MONTICELLO CRES  
GUELPH ON N1G 2M1

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessment of March 18, 1999, for employment insurance premiums, for the period January 1, 1996 to December 31, 1996.

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Minister of National Revenue

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Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8



BOBBY BROWN  
360 LOCKWOOD ST  
WINNIPEG MB R3N 1S4

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessment of March 18, 1999, for Canada Pension Plan contributions and for employment insurance premiums, for the period January 1, 1996 to December 31, 1996.

It has been decided to confirm the assessment in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board paid on your behalf forms part of your pensionable and insurable earnings.

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Yours sincerely,

Original signed by  
RONALD SMITH

Ronald Smith  
Team Leader  
CPP/EI Appeals  
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Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8

JASON BOYD  
54 HOLMGREN CRES  
ST ALBERT AB T8N 5V4

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessments of March 18, 1999, for employment insurance premiums, for the period January 1, 1996 to December 31, 1997.

It has been decided to confirm the assessments in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board paid on your behalf forms part of your insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

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Ronald Smith  
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CPP/EI Appeals  
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Minister of National Revenue

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9700 Jasper Avenue  
Edmonton AB T5J 4C8

COPY

LESLIE BORSHEIM  
BOX 807  
WATROUS SK S0K 4T0

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessments of March 18, 1999, for employment insurance premiums, for the period January 1, 1996 to December 31, 1997.

It has been decided to confirm the assessments in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board and education costs paid on your behalf form part of your insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

The decision in this letter is issued pursuant to subsection 93(3) of the Employment Insurance Act and is based on paragraph 3(1)(a) of the Unemployment Insurance Act, as it read prior to June 30, 1996; paragraph 5(1)(a) of the Employment Insurance Act, as it reads after June 29, 1996; subsection 3(1) of the Unemployment Insurance Collection of Premiums Regulations, as it read prior to January 1, 1997; and subsection 2(1) of the Employment Insurance Collection of Premiums Regulations, as it reads after December 31, 1996.

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CPP/EI Appeals  
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Minister of National Revenue

Facs: (780)495-6982

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COPY

ALEX ANGYRIOU  
782 STURGEON RD  
WINNIPEG MB R2Y 0K9

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

Dear Sir:

This concerns Kelly McCrimmon's and Bob Cornell's (o/a Brandon Wheat Kings) appeal against the assessment of March 18, 1999, for employment insurance premiums, for the period January 1, 1997 to December 31, 1997.

It has been decided to vary the assessment in respect of you. This is because the employment insurance premiums were calculated incorrectly.

It has been decided to otherwise confirm the assessment in respect of you. This is because you were employed under a contract of service and, therefore, you were an employee. Furthermore, the room and board paid on your behalf forms part of your insurable earnings.

If you disagree with this decision, you may appeal to the Tax Court of Canada within 90 days of the mailing date of this letter. Information on how to proceed is attached.

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Edmonton AB T5J 4C8

COPY

DORIAN ANNECK  
682 ANDERSON AVE  
WINNIPEG MB R2W 1G6

K. Storrier  
Appeals Division  
(780)495-3679

Date of Mailing: JAN 17 2000

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9700 Jasper Avenue  
Edmonton AB T5J 4C8

COPY

JOHNATHAN AITKEN  
C/O THE SPORTS CORPORATION  
2735 TORONTO DOMINION TOWER  
EDMONTON AB T5J 2Z1

K. Storrier  
Appeals Division  
(780)495-3679

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CPP/EI Appeals  
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Facs: (780)495-6982

9700 Jasper Avenue  
Edmonton AB T5J 4C8



Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

JUN 13 2000

JOSH WOITAS  
24 VARSITY PLACE NW  
CALGARY AB T3B 2Z3

Votre file: Votre référence

On file: Notre référence

Dear Sir,

We would like to inform you that *Brandon Wheat Kings* has appealed to the Tax Court of Canada.

These are appeals of the Minister of National Revenue's decision of *January 17, 2000* regarding Canada Pension Plan contributions and EI premiums for the *1996 and/or 1997 years*.

We have enclosed a copy of *Brandon Wheat Kings' Notices of Appeal*. If you would like to participate in these appeals, you can do so by filing a *Notice of Intervention* or by writing, within 45 days of the date of this letter, to the Registrar of the Tax Court of Canada.

Please attach a copy of this letter to your submission and send it to one of the following addresses:

200 Kent Street  
2nd Floor  
Ottawa ON K1A 0M1

500 Place d'Armes  
Room 1800  
Montreal QC H2Y 2W2

200 King St. W.  
Suite 902  
P.O. Box 10  
Toronto ON M5H 3T4

700 West Georgia St.  
17th Floor  
P.O. Box 10091  
Vancouver BC V7Y 1A1

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Fax (613) 957-9034

Tel. (514) 283-9912  
Fax (514) 496-1996

Tel. (416) 973-9181  
Fax (416) 973-5944

Tel. (604) 666-7987  
Fax (604) 666-7967

Sincerely,

Nancy Morrow  
Litigation Office  
Edmonton Tax Service Office  
Ph: (780) 495 - 5397

Enclosures

c.c. Tax Court of Canada



Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

JUN 13 2000

DARREN VANOENE  
102 13 STREET EAST  
BRANDON MB R7A 5X8

Your file: Votre référence

Our file: Notre référence

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Nancy Morrow  
Litigation Office  
Edmonton Tax Service Office  
Ph: (780) 495 - 5397

Enclosures

c.c. Tax Court of Canada





Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

JUN 13 2000

*Vous fax. Votre référence*

**BRADLEY TWORDIK  
127 FAIRBURN COURT  
SASKATOON SK S7M 5P7**

*Circle No. référence*

Dear Sir:

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Enclosures

c.c. Tax Court of Canada



Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

JUN 13 2000

LYNDON THOMPSON  
107 PINTAIL CRESCENT  
THOMPSON MB R8N 1A8

Votre file / Votre référence:

Our file / Notre référence:

Dear Sir,

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Edmonton Tax Service Office  
Ph: (780) 495 - 5397

Enclosures

c.c. Tax Court of Canada



JUN 13 2000

Your file / Votre référence

DANIEL TETRAULT  
CP 130  
LA BROQUERIE MB ROA 0W0

Our file / Notre référence

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Nancy Morrow  
Litigation Office  
Edmonton Tax Service Office  
Ph: (780) 495 - 5397

Enclosures

c.c. Tax Court of Canada



Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

JUN 13 2000

JEFF TEMPLE  
24 BUTTERCUP BAY  
BRANDON MB R7B 1G3

Votre file / Ihre référence

Sur file / Sur référence

Dear Sir:

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Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

JUN 13 2000

DARYL STOCKHAM  
1109 22 STREET  
BRANDON MB R7B 2P6

Seuiften: Nota de intervencao

Our file: Nota de intervencao

Dear Sir:

We would like to inform you that *Brandon Wheat Kings* has appealed to the Tax Court of Canada.

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Canada Customs  
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Agence des douanes  
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JUN 13 2000

KELLY SMART  
BOX 143  
MCAULEY MB R0M 1H0

Your file / Votre référence

Our file / Notre référence

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We would like to inform you that *Brandon Wheat Kings* has appealed to the Tax Court of Canada.

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Ph: (780) 495 - 5397

Enclosures

c.c. Tax Court of Canada



Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

JUN 13 2000

WADE SKOLNEY  
BOX 564  
WYNYARD SK S0A 4T0

Notice de l'Agence des douanes et du revenu du Canada

Notice of the Canada Revenue Agency

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Fax (613) 957-9034

Tel. (514) 283-9912  
Fax (514) 496-1996

Tel. (416) 973-9181  
Fax (416) 973-5944

Tel. (604) 666-7987  
Fax (604) 666-7967

Sincerely,

Nancy Morrow  
Litigation Office  
Edmonton Tax Service Office  
Ph: (780) 495 - 5397

Enclosures

c.c. Tax Court of Canada



Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

JUN 13 2000

PETER SCHAEFER  
C/O STACEY MCALPINE  
700 11012 MACLEOD TRAIL  
CALGARY AB T2J 6A5

Dear Sir:

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Canada Customs  
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JUN 13 2000

RYAN ROBSON  
2 3310 MCDONALD AVENUE  
BRANDON MB R7B 0B9

Number: 2000-0018-1000

Date: 2000-06-13

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Canada Customs  
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JUN 13 2000

WADE REDDEN  
C/O NEWPORT SPORTS MANAGEMENT  
601 201 CITY CENTRE DRIVE  
MISSISSAUGA ON L5B 2T4

Votre file / Votre référence:

Our file / Notre référence:

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Canada Customs  
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JUN 13 2000

RANDY PONTE  
19733 72 AVENUE  
LANGLEY BC V2Y 1R9

Revised: 1/19/99

Canada Customs and Revenue Agency

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Canada Customs  
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Agence des douanes  
et du revenu du Canada

JUN 13 2000

ROBERT MUNTAIN  
BOX 1418  
ESTERHAZY SK S0A 0X0

Vous êtes notre référence

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JUN 13 2000

SCOTT MCCALLUM  
237 EDWARD AVENUE  
DAUPHIN MB R7N 2Y3

Document communiqué

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Canada Customs  
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JUN 13 2000

ANDREI LUPANDIN  
16706 93 AVENUE NW  
EDMONTON AB T5R 5J2

Your file / Votre référence:

Our file / Notre référence:

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JUN 13 2000

JODY LEHMAN  
1692B 102 STREET  
NORTH BATTLEFORD SK S9A 1H1

File No. / Références

Our file / Notre référence

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JUN 13 2000

KIRBY LAW  
BOX 538  
MCCREARY MB R0J 1B0

View for this reference

Quirky - same reference

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Canada Customs  
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Agence des douanes  
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JUN 13 2000

JUSTIN KURTZ  
258 BANCROFT BAY  
WINNIPEG MB R2Y 1A7

Subject: *Votre référence*

Dir file: *Note référence*

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JUN 13 2000

JEFFREY KATCHER  
53 TANYA CRESCENT  
WINNIPEG MB R2G 2Z5

Votre fax: Votre télécopieur:

Votre file: Votre référence:

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JUN 13 2000

ANDREW KAMINSKY  
BOX 20  
BRUNKILD MB R0G 0E0

Mr. Andrew Kaminsky

Box 20, Brunkild, MB

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Canada Customs  
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VINCENT JONASSON  
79 GRASS RIVER DRIVE  
THOMPSON MB R8N 1Y7

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JAMIE HODSON  
BOX 1394  
VIRDEN MB R0M 2C0

Supplémentaire

Carfax Notice d'intervention

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~~JUN~~ 13 2000

BURKE HENRY  
RR 1  
ST ROSE DU LAC MB R0L 1S0

Vous êtes: Votre référence

Our file: Notre référence

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JUN 13 2000

DAVID HAUN  
GENERAL DELIVERY  
SOLSGIRTH MB R0J 2B0

Vous n'avez rien à faire.

Our file. Notre référence.

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Tel. (416) 973-9181  
Fax (416) 973-5944

Tel. (604) 666-7987  
Fax (604) 666-7967

Sincerely, -

Nancy Morrow  
Litigation Office  
Edmonton Tax Service Office  
Ph: (780) 495 - 5397

Enclosures

c.c. Tax Court of Canada



Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

**JUN 13 2000**

**BEVIN GUENTHER  
C/O A PINEL & ASSOCIATED LTD  
127 B AVENUE D NORTH  
SASKATOON SK S7L 1M5**

*Vous / for / Ihre Mitteilung*

*Outside / Notice / Mitteilung*

Dear Sir,

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Canada Customs  
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JUN 13 2000

AARON GOLDADE  
1240 AMOS PLACE  
PRINCE ALBERT SK S6V 7A5

Votre file: Votre numéro

Our file: Notre numéro

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JUN 13 2000

BRETT GIRARD  
11 DENISON CRESCENT  
RED DEER AB T4R 2E8

Number of this document

Document Number

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**JUN 13 2000**

**BRIAN ELDER  
BOX 359  
OAK LAKE MB R0M 1P0**

Votre no. / Votre référence

Our file / Notre référence

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Canada Customs  
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Agence des douanes  
et du revenu du Canada

JUN 13 2000

MARK DUTIAME  
191 IMPERIAL AVENUE  
WINNIPEG MB R2M 0K9

Your file / Votre référence :

Our file / Notre référence :

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Canada Customs  
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JUN 13 2000

CHRISTOPHER DINGMAN  
5008 143A STREET NW  
EDMONTON AB T6H 4S1

*Votre référence*

*Our file / Notre référence*

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Canada Customs  
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JUN 13 2000

DAVID DARGUZAS  
78 DOUGLAS WOODS GARDENS  
CALGARY AB T2Z 3A9

Our file: Votre numéro de dossier

Our file: Votre référence

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Canada Customs  
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et du revenu du Canada

JUN 13 2000

CORY CYRENNE  
57 WHITLEY DRIVE  
WINNIPEG MB R2N 1H6

Votre file / Votre référence

Our file / Notre référence

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Canada Customs  
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**JUN 13 2000**

JOMAR CRUZ  
BOX 3143  
THE PAS MB R9A 1L8

Revised: 1999-05-19

Revised: 1999-05-19

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JUN 13 2000

STEPHAN CHERNESKI  
C/O COLLINS BARROW  
1400 777 8 AVENUE SW  
CALGARY AB T2P 3R5

Number: 1996-0000000000

File No: Notice of Appeal

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JUN 13 2000

SVEN BUTENSCHON  
C/O ROLAND THOMPSON  
35 MONTICELLO CRESCENT  
GUELPH ON N1G 2M1

Votre fax / Notre télécopieur

Carte de / Notre référence

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JUN 13 2000

BOBBY BROWN  
360 LOCKWOOD STREET  
WINNIPEG MB R3N 1S4

Your file: *Not applicable*

Our file: *Not applicable*

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**SUN 13 2000**

**JASON BOYD  
54 HOLMGREN CRESCENT  
ST ALBERT AB T8N 5V4**

*Version française*

*Version anglaise*

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**JUN 13 2000**

**LESLIE BORSHEIM  
BOX 807  
WATROUS SK S0K 4T0**

*Vous file. Votre référence*

*Our file. Notre référence*

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JUN 13 2000

ALEX ANGYRIOU  
782 STURGEAN ROAD  
WINNIPEG MB R2Y 0K9

*Your file / Votre référence*

*Our file / Notre référence*

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Canada Customs and Revenue Agency    Agence des douanes et du revenu du Canada

**JUN 13 2000**

**DORIAN ANNECK  
682 ANDERSON AVENUE  
WINNIPEG MB R2W 1G6**

*Vous êtes l'administré*

*Vous êtes l'administré*

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Fax (514) 496-1996

Tel. (416) 973-9181  
Fax (416) 973-5944

Tel. (604) 666-7987  
Fax (604) 666-7967

Sincerely, \*

Nancy Morrow  
Litigation Office  
Edmonton Tax Service Office  
Ph: (780) 495 - 5397

Enclosures

c.c. Tax Court of Canada



Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

JUN 13 2000

JOHNATHAN AITKEN  
C/O THE SPORTS CORPORATION  
2735 TORONTO DOMINION TOWER  
EDMONTON AB T5J 2Z1

Mr. John Aitken

Mr. John Aitken

Dear Sir,

We would like to inform you that *Brandon Wheat Kings* has appealed to the Tax Court of Canada.

These are appeals of the Minister of National Revenue's decision of *January 17, 2000* regarding Canada Pension Plan contributions and EI premiums for the *1996 and/or 1997 years*.

We have enclosed a copy of *Brandon Wheat Kings' Notices of Appeal*. If you would like to participate in these appeals, you can do so by filing a *Notice of Intervention* or by writing, within 45 days of the date of this letter, to the Registrar of the Tax Court of Canada.

Please attach a copy of this letter to your submission and send it to one of the following addresses:

200 Kent Street  
2nd Floor  
Ottawa ON K1A 0M1

500 Place d'Armes  
Room 1800  
Montreal QC H2Y 2W2

200 King St. W.  
Suite 902  
P.O. Box 10  
Toronto ON M5H 3T4

700 West Georgia St.  
17th Floor  
P.O. Box 10091  
Vancouver BC V7Y 1A1

Tel. (613) 992-0901  
Fax (613) 957-9034

Tel. (514) 283-9912  
Fax (514) 496-1996

Tel. (416) 973-9181  
Fax (416) 973-5944

Tel. (604) 666-7987  
Fax (604) 666-7967

Sincerely,

Nancy Morrow  
Litigation Office  
Edmonton Tax Service Office  
Ph: (780) 495 - 5397

Enclosures

c.c. Tax Court of Canada





Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

(780) 495-3808

Your file / Votre référence :

Our file / Notre référence :

JUN 22 2000

The Registrar  
Tax Court of Canada  
200 Kent Street, 3rd. Floor  
Ottawa, Ontario  
K1A 0M1

Dear Sir:

**RE: KELLY MCCRIMMON & ROBERT CORNELL O/A THE BRANDON  
WHEAT KINGS v. THE MINISTER OF NATIONAL REVENUE  
2000-1538 (EI)**

FH-173756/P

I am enclosing two copies of the Reply to the Notice of Appeal. Would you please file these documents with the Court.

A copy of the Reply has been forwarded today by registered mail to the Appellant's representative.

Yours truly,

Michael Curley, Counsel  
Tax Litigation Section  
Coordinator, Informal Procedure

Encl.

Facs: (780) 495-6982

Télécopieur: (780) 495-6982

TF690 E (99) 9700 Jasper Avenue  
Edmonton, AB T5J 4C8

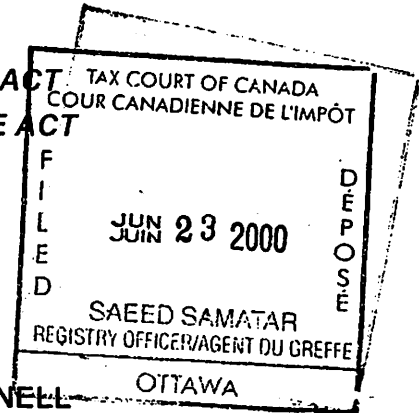
9700 avenue Jasper  
Edmonton, AB T5J 4C8

Canada

2000-1538 (E1)  
IN THE TAX COURT OF CANADA  
in re the *EMPLOYMENT INSURANCE ACT*  
and the *UNEMPLOYMENT INSURANCE ACT*

BETWEEN:

KELLY MCCRIMMON & ROBERT CORNELL  
O/A THE BRANDON WHEAT KINGS



Appellant

- and -

THE MINISTER OF NATIONAL REVENUE

Respondent

REPLY TO THE NOTICE OF APPEAL

In reply to the Notice of Appeal received by the Tax Court of Canada on April 5, 2000, with respect a decision of the Minister of National Revenue (the "Minister") dated January 17, 2000, the Respondent states as follows:

**A. STATEMENT OF FACTS**

1. In response to the allegations of fact contained in the third paragraph of the Notice of Appeal, which begins with "*Team members are*", he admits the facts contained in the first sentence and denies the allegations of fact contained in the second sentence.
2. In response to the allegations of fact contained in the fourth paragraph of the Notice of Appeal, which begins with "*The compensation*", he has no knowledge of and puts in issue the allegations of fact contained in the first sentence and denies the allegations of fact contained in the second sentence.
3. The remainder of the Notice of Appeal contains reasons or argument for the appeal and does not contain any facts to either admit or deny, but so far as there are facts, they are denied.
4. By Notice of Assessment dated March 18, 1999, the Appellant was assessed for, *inter alia*, employment insurance premiums in the amount of \$6,607.14 for the 1996 year, in respect of the individuals listed in *Schedule "A"* attached to and forming part of the Reply to the Notice of Appeal.
5. By Notice of Assessment dated March 18, 1999, the Appellant was assessed for, *inter alia*, employment insurance premiums in the amount of \$5,609.32 for the 1997 year, in respect of the individuals listed in *Schedule "B"* attached to and forming part of the Reply to the Notice of Appeal.
6. By letter received July 20, 1999, the Appellant appealed to the Minister for a reconsideration of the 1996 and 1997 assessments dated March 18, 1999.

7. In response to the appeal, the Minister:
- (a) varied the assessment for the 1996 year by reducing the employment insurance premiums by \$40.00 due to a calculation error,
  - (b) further varied the assessment for the 1996 year by reducing the employment insurance premiums by \$92.42 as Lyndon Thompson did not have insurable earnings for collection of premiums purposes, pursuant to paragraph 3(1)(b) of the *Unemployment Insurance (Collection of Premiums) Regulations* and subsection 2(3) of the *Insurable Earnings and Collection of Premiums Regulations*,
  - (c) varied the assessment for the 1997 year by reducing the employment insurance premiums by \$42.33 due to a calculation error,
  - (d) further varied the assessment for the 1997 year by reducing the employment insurance premiums by \$50.88 as Pavel Terekhov did not have insurable earnings for collection of premiums purposes, pursuant to subsection 2(3) of the *Insurable Earnings and to the Collection of Premiums Regulations*,
  - (e) otherwise confirmed the assessments for the 1996 and 1997 years as individuals listed in *Schedules "A" and "B"* attached to and forming part of the Reply to the Notice of Appeal, were employed under a contract of service.
8. In so assessing as he did with respect to the individuals listed in *Schedule "C"* (hereinafter "the Workers") attached to and forming part of the Reply to the Notice of Appeal, the Minister relied on the following assumptions of fact:
- (a) the Appellant owned and operated a junior hockey club;
  - (b) the Appellant was a member of the Western Hockey League (hereinafter "the WHL");
  - (c) the Workers were hired as hockey players;

- (d) the hockey season runs from September to May each year;
- (e) the Workers signed a contract with the WHL which included the following:
  - (i) the allowance paid to the Workers will be fixed by the WHL,
  - (ii) the Appellant will pay for the Workers' room and board,
  - (iii) the Appellant will pay for the Workers' transportation,
  - (iv) the Workers will give their exclusive service to the Appellant, under the supervision and control of the Appellant,
  - (v) the Appellant owns the right to the Workers' image,
  - (vi) the WHL has the exclusive rights to use the Workers' information on hockey cards,
  - (vii) the Appellant agrees to provide all equipment and supplies,
  - (viii) any rules set by the Appellant are binding on the Workers,
  - (ix) the Workers' salary will cease to be paid during a suspension,
- (f) the Workers also signed a contract with the Appellant which included the following:
  - (i) the Workers agree to play for 5 years,
  - (ii) the Workers agree to abide by the Appellant's rules of discipline and conduct,
  - (iii) the Appellant agrees to pay expenses for the Workers to attend high school or take post-secondary school courses,
- (g) the Workers were paid between \$160.00 and \$300.00 per month;

- (h) the Appellant paid the Workers on a semi-monthly basis;
- (i) the Appellant also paid the Workers' room and board and education costs;
- (j) the Workers normally practiced with the Appellant from 1:00PM to 3:30PM every day, except after road trips;
- (k) the Workers normally play 72 regular season games and make promotional appearances as required;
- (l) the Workers could not hold another job during the hockey season due to their schedule;
- (m) room and board and education costs paid by the Appellant in addition to cash remuneration, were insurable earnings to the Workers;
- (n) wages and benefits provided by the Appellant to the Workers, for the 1996 and 1997 years, are detailed on *Schedules "D"* attached to and forming part of the Reply to the Notice of Appeal;
- (o) the Worker Lyndon Thompson received only room and board from the Appellant in the 1996 year;
- (p) the Worker Pavel Terekhov received only room and board from the Appellant in the 1997 year;
- (q) the Worker Lyndon Thompson did not have any insurable earnings, pursuant to paragraph 3(1)(b) of the *Unemployment Insurance (Collection of Premiums) Regulations* and subsection 2(3) of the *Insurable Earnings and Collection of Premiums Regulations*, as no cash remuneration was paid in the 1996 year;
- (r) the Worker Pavel Terekhov did not have any insurable earnings, pursuant to subsection 2(3) of the *Insurable Earnings and Collection of Premiums Regulations*, as no cash remuneration was paid in the 1997 year;

**B. ISSUES TO BE DECIDED**

9. The first issue to be decided is whether the Workers were engaged under a contract of service with the Appellant in the 1996 and 1997 years.

10. The second issue to be decided is whether the Appellant was properly assessed with respect to the Workers.

**C. STATUTORY PROVISIONS, GROUNDS RELIED ON AND RELIEF SOUGHT**

11. The Respondent relies on the following;

- (a) subsection 2(1) and paragraph 5(1)(a) of the *Employment Insurance Act*,
- (b) section 2 of the *Insurable Earnings and Collection of Premiums Regulations*,
- (c) subsection 2(1) and paragraph 3(1)(a) of the *Unemployment Insurance Act*,
- (d) subsection 3 of the *Unemployment Insurance (Collection of Premiums) Regulations*.

12. He submits that the individuals listed in *Schedules "A"* attached to and forming part of the Reply to the Notice of Appeal were engaged in insurable employment within the meaning of 3(1)(a) of the *Unemployment Insurance Act* and 5(1)(a) of the *Employment Insurance Act* as they were engaged under a contract of service by the Appellant, in the 1996 year.


13. He submits that the individuals listed in *Schedules "B"* attached to and forming part of the Reply to the Notice of Appeal were engaged in insurable employment within the meaning of 5(1)(a) of the *Employment Insurance Act* as they were engaged under a contract of service by the Appellant, in the 1997 year.

14. He submits that the Appellant has been properly assessed in respect of the Workers.

15. He requests that the appeal be dismissed.

Dated at Edmonton the 22 day of June 2000.

Deputy Attorney General  
of Canada  
Solicitor for the Respondent

  
\_\_\_\_\_  
K. Rebryna  
Agent of the Respondent

TO:

The Registrar  
Tax Court of Canada

AND TO:

Pat Fraser  
Meighen, Haddad & Co.  
Barristers and Solicitors  
PO Box 22105 110 Eleventh Street  
Brandon MB R7A 6Y9



## SCHEDULE A

AITKEN, JONATHAN  
ANNECK, DORIAN  
BORSHEIM, LES  
BOYD, JASON  
BROWN, BOBBY  
BUTENSCHAN, SVEN  
CHERNESKI, STEPHEN  
CYRENNE, CORY  
DARGUZAS, DAVID  
DINGMAN, CHRIS  
DUTIAME, MARK  
ELDER, BRIAN  
GOLDADE, AARON  
HAUN, DAVID  
HENRY, BURKE  
JONASSON, VINNIE  
KATCHER, JAFF  
KURTZ, JUSTIN  
LEAVINS, BOBBY  
LECLERC, MIKE  
LEHMAN, JODY  
LUPANDIN, ANDREI  
MUNTAIN, ROBERT  
REDDEN, WADE  
ROBSON, RYAN  
SCHAEFER, PETER  
SMART, KELLY  
STOCKHAM, DARRYL  
TEMPLE, JEFF  
TEREKHOV, PAVEL  
TETRAULT, DAN  
THOMPSON, LYNDON  
TWORDIK, BRAD  
UNTERLUGGAUER, GERHARD  
VANOENE, DARREN  
WOITAS, JOSH

## **SCHEDULE B**

AITKEN, JONATHAN  
ANNECK, DORIAN  
ANGYRIOU, ALEX  
BORSHEIM, LES  
BOYD, JASON  
CHERNESKI, STEPHEN  
CRUZ, JOMAR  
CYRENNE, CORY  
DUTIAME, MARK  
ELDER, BRIAN  
GERSTANBUHLER, MIKE  
GIRARD, BRETT  
GOLDADE, AARON  
GUENTHER, BEVIN  
HAUN, DAVID  
HENRY, BURKE  
HODSON, JAMIE  
KAMINSKY, ANDREW  
KATCHER, JAFF  
KURTZ, JUSTIN  
LAW, KIRBY  
LEAVINS, BOBBY  
LUPANDIN, ANDREI  
MCCALLUM, SCOTT  
MUNTAIN, ROBERT  
PAISLEY, BROOKS  
PONTE, RANDY  
ROBSON, RYAN  
SCHAEFER, PETER  
SKOLNEY, WADE  
SMART, KELLY  
STOCKHAM, DARRYL  
TEREKHOV, PAVEL  
TETRAULT, DAN  
TWORDIK, BRAD  
UNTERLUGGAUER, GERHARD  
VANOENE, DARREN  
WOITAS, JOSH

## **SCHEDULE C**

(Total list of individuals included in schedule A and B.)

AITKEN, JONATHAN  
ANNECK, DORIAN  
ANGYRIOU, ALEX  
BORSHEIM, LES  
BOYD, JASON  
BROWN, BOBBY  
BUTENSCHAN, SVEN  
CHERNESKI, STEPHEN  
CRUZ, JOMAR  
CYRENNE, CORY  
DARGUZAS, DAVID  
DINGMAN, CHRIS  
DUTIAME, MARK  
ELDER, BRIAN  
GERSTANBUHLER, MIKE  
GIRARD, BRETT  
GOLDADE, AARON  
GUENTHER, BEVIN  
HAUN, DAVID  
HENRY, BURKE  
HODSON, JAMIE  
JONASSON, VINNIE  
KAMINSKY, ANDREW  
KATCHER, JAFF  
KURTZ, JUSTIN  
LAW, KIRBY  
LEAVINS, BOBBY  
LECLERC, MIKE  
LEHMAN, JODY  
LUPANDIN, ANDREI  
MCCALLUM, SCOTT  
MUNTAIN, ROBERT  
PAISLEY, BROOKS  
PONTE, RANDY  
REDDEN, WADE  
ROBSON, RYAN  
SCHAEFER, PETER  
SKOLNEY, WADE  
SMART, KELLY  
STOCKHAM, DARRYL  
TEMPLE, JEFF  
TEREKHOV, PAVEL  
TETRAULT, DAN  
THOMPSON, LYNDON  
TWORDIK, BRAD  
UNTERLUGGAUER, GERHARD  
VANOENE, DARREN  
WOITAS, JOSH

## SCHEDULE D

	<u>1996</u>	<u>1997</u>
AITKEN, JONATHAN	\$1,275	\$2,814
ANNECK, DORIAN	\$4,962	\$2,491
ANGYRIOU, ALEX		\$1,446
BORSHEIM, LES	\$1,437	\$3,001
BOYD, JASON	\$1,510	\$1,211
BROWN, BOBBY	\$3,830	
BUTENSCHAN, SVEN	\$1,994	
CHERNESKI, STEPHEN	\$2,296	\$4,028
CRUZ, JOMAR		\$1,396
CYRENNE, CORY	\$3,395	\$3,131
DARGUZAS, DAVID	\$1,810	
DINGMAN, CHRIS	\$1,104	
DUTIAME, MARK	\$4,579	\$1,395
ELDER, BRIAN	\$4,830	\$2,491
GERSTANBUHLER, MIKE		\$331
GIRARD, BRETT		\$1,446
GOLDADE, AARON	\$1,477	\$2,757
GUENTHER, BEVIN		\$1,446
HAUN, DAVID	\$2,341	\$3,034
HENRY, BURKE	\$3,525	\$2,433
HODSON, JAMIE		\$1,446
JONASSON, VINNIE	\$1,810	
KAMINSKY, ANDREW		\$923
KATCHER, JAFF	\$1,501	\$1,717
KURTZ, JUSTIN	\$3,595	\$1,411
LAW, KIRBY		\$2,848
LEAVINS, BOBBY	\$1,525	\$2,672
LECLERC, MIKE	\$2,178	
LEHMAN, JODY	\$3,558	
LUPANDIN, ANDREI	\$2,604	\$2,097
MCCALLUM, SCOTT		\$1,102
MUNTAIN, ROBERT	\$1,234	\$1,027
PAISLEY, BROOKS		\$1,446
PONTE, RANDY		\$2,223
REDDEN, WADE	\$1,994	
ROBSON, RYAN	\$3,338	\$3,285
SCHAEFER, PETER	\$3,432	\$1,275
SKOLNEY, WADE		\$1,339
SMART, KELLY	\$3,513	\$4,139
STOCKHAM, DARRYL	\$3,661	\$3,516
TEMPLE, JEFF	\$2,099	
TEREKHOV, PAVEL	\$1,310	\$731
TETRAULT, DAN	\$3,470	\$2,007
THOMPSON, LYNDON	\$1,305	
TWORDIK, BRAD	\$1,517	\$2,025
UNTERLUGGAUER, GERHARD	\$3,961	\$2,491
VANOENE, DARREN	\$3,307	\$2,926
WOITAS, JOSH	\$1,477	\$2,488

2000-1538 (E1)

**IN THE TAX COURT OF CANADA  
in re the *EMPLOYMENT INSURANCE ACT*  
and the *UNEMPLOYMENT INSURANCE ACT***

BETWEEN:

**KELLY MCCRIMMON & ROBERT CORNELL  
O/A THE BRANDON WHEAT KINGS**

Appellant

- and -

**THE MINISTER OF NATIONAL REVENUE**

Respondent

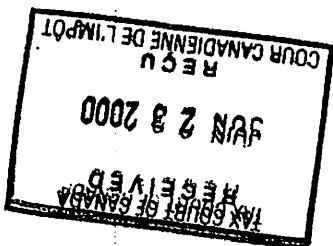
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**REPLY TO THE NOTICE OF APPEAL**

---

Deputy Attorney General of Canada  
Solicitor for the Respondent

K. Rebryna  
Agent of the Respondent



Tax Court of Canada



Cour canadienne de l'impôt

MA3

July 4, 2000

Daryl Stockham  
6475 Cardinal Road  
Vernon, British Columbia  
V1H 1W3

Dear Sir:

RE: Kelly McCrimmon & Robert Cornell o/a The Brandon Wheat Kings  
v. The Minister of National Revenue  
2000-1538(EI)  
INT: Daryl Stockham

Reference is made to your letter received on June 29, 2000 regarding the above-noted appeal.

Please be advised that the Notice of Intervention was filed in the Registry of the Court on June 29, 2000, and a copy thereof will be forwarded to the Respondent and the Appellant.

Yours truly,

ORIGINAL SIGNED BY  
SAEED SAMATAR  
A SIGNÉ L'ORIGINAL  
For the Registrar

c.c. Pat Fraser  
Canada Customs And Revenue Agency/ Agence des douanes et du revenu du  
Canada

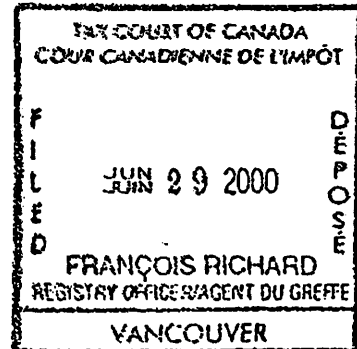
ADDRESS ALL COMMUNICATIONS TO THE REGISTRAR	PRINCIPAL OFFICE / BUREAU PRINCIPAL 200 KENT STREET 200, RUE KENT OTTAWA, ONTARIO OTTAWA (ONTARIO) K1A 0M1 TEL./TÉL. : (613) 992-0901 FAX : (613) 957-9034	REGIONAL OFFICE/BUREAU RÉGIONAL 500, PLACE D'ARMES SUITE 1800/BUREAU 1800 18TH FLOOR / 18 <sup>e</sup> ÉTAGE MONTREAL, QUEBEC MONTREAL (QUEBEC) H2Y 2W2 TEL./TÉL. : (514) 283-9912 FAX : (514) 496-1996	REGIONAL OFFICE / BUREAU RÉGIONAL SUN LIFE CENTRE 200 KING STREET WEST 200, RUE KING OUEST SUITE 902/BUREAU 902 TORONTO, ONTARIO TORONTO (ONTARIO) M5H 3T4 TEL./TÉL. : (416) 973-9181 FAX : (416) 973-5944	REGIONAL OFFICE/BUREAU RÉGIONAL PACIFIC CENTRE 700 WEST GEORGIA STREET 700, RUE WEST GEORGIA 17TH FLOOR / 17 <sup>e</sup> ÉTAGE VANCOUVER, B.C. VANCOUVER (C.-B.) V7Y 1A1 TEL./TÉL. : (604) 666-7987 FAX : (604) 666-7967
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FM# 135641

2000-1538(E1)

June 26, 2000

Registrar of the Tax Court of Canada  
700 West Georgia St.  
17th Floor  
P.O. Box 10091  
Vancouver, BC  
V7Y 1A1



Dear Sir/Madam:

I would like to inform you that I will participate in the appeals initiated by Kelly McCrimmon and Robert Cornell of the Brandon Wheat Kings.

I was a member of the team from 1995 to 1997, and was forced to pay Revenue Canada \$1,259.43 due to the 1996 and 1997 Reassessments.

I have attached a copy of the letter I received earlier this month.

Sincerely,

*Daryl Stockham*

Daryl Stockham



Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

JUN 13 2000

DARYL STOCKHAM  
1109 22 STREET  
BRANDON MB R7B 2P6

Dear Sir,

We would like to inform you that *Brandon Wheat Kings* has appealed to the Tax Court of Canada.

These are appeals of the Minister of National Revenue's decision of *January 17, 2000* regarding Canada Pension Plan contributions and EI premiums for the *1996 and/or 1997 years*.

We have enclosed a copy of *Brandon Wheat Kings' Notices of Appeal*. If you would like to participate in these appeals, you can do so by filing a *Notice of Intervention* or by writing, within 45 days of the date of this letter, to the Registrar of the Tax Court of Canada.

Please attach a copy of this letter to your submission and send it to one of the following addresses:

200 Kent Street  
2nd Floor  
Ottawa ON K1A 0M1

500 Place d'Armes  
Room 1800  
Montreal QC H2Y 2W2

200 King St. W.  
Suite 902  
P.O. Box 10  
Toronto ON M5H 3T4

700 West Georgia St.  
17th Floor  
P.O. Box 10091  
Vancouver BC V7Y 1A1

Tel. (613) 992-0901  
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Tel. (416) 973-9181  
Fax (416) 973-5944

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Fax (604) 666-7967

Sincerely,

Nancy Morrow  
Litigation Office  
Edmonton Tax Service Office  
Ph: (780) 495 - 5397

Enclosures

c.c. Tax Court of Canada



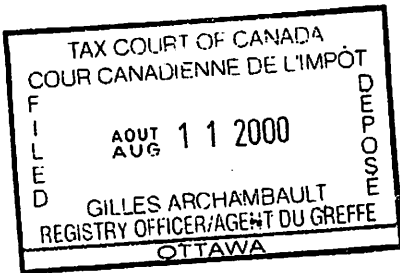
2000-1538 (EI)  
IN THE TAX COURT OF CANADA  
in re the *EMPLOYMENT INSURANCE ACT*

BETWEEN:

**KELLY MCCRIMMON & ROBERT CORNELL  
O/A THE BRANDON WHEAT KINGS**

Appellant

- and -



**THE MINISTER OF NATIONAL REVENUE**

Respondent

- and -

**DARYL STOCKHAM**

Intervener


**REPLY TO THE NOTICE OF INTERVENTION**

In reply to the Notice of Intervention dated June 29, 2000, the Respondent states as follows:

1. The Notice of Intervention does not contain any facts to either admit or deny, but so far as there are facts, they are denied.
2. The Respondent intends to rely on the Statement of Facts as set out in the Reply to Notice of Appeal, a copy of which is attached.
3. The Respondent relies on the following:
  - (a) subsection 2(1) and paragraph 5(1)(a) of the *Employment Insurance Act*,
  - (b) section 2 of the *Insurable Earnings and Collection of Premiums Regulations*,
  - (c) subsection 2(1) and paragraph 3(1)(a) of the *Unemployment Insurance Act*, and
  - (d) subsection 3 of the *Unemployment Insurance (Collection of Premiums) Regulations*.
4. The Respondent intends to further rely on the Submissions as set out in the Reply to Notice of Appeal, a copy of which is attached.
5. He requests that the appeal be dismissed.

Dated at Edmonton the 10 day of August 2000.

Deputy Attorney General  
of Canada  
Solicitor for the Respondent

  
\_\_\_\_\_  
K. Rebryna  
Agent of the Respondent

TO:

The Registrar  
Tax Court of Canada

AND TO:

Pat Fraser  
Meighen, Haddad & Co.  
Barristers and Solicitors  
PO Box 22105 110 Eleventh Street  
Brandon MB R7A 6Y9

AND TO:

Daryl Stockham  
6475 Cardinal Road  
Vernon BC V1H 1W3

2000-1538 (EI)  
IN THE TAX COURT OF CANADA  
in re the *EMPLOYMENT INSURANCE ACT*

BETWEEN:

**KELLY MCCRIMMON & ROBERT CORNELL**  
**O/A THE BRANDON WHEAT KINGS**  
Appellant

- and -

**THE MINISTER OF NATIONAL REVENUE**  
Respondent

- and -

**DARYL STOCKHAM**  
Intervener

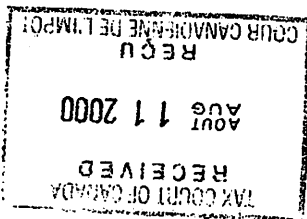
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**REPLY TO THE NOTICE OF INTERVENTION**

---

Deputy Attorney General of Canada  
Solicitor for the Respondent

K. Rebryna  
Agent of the Respondent



Tax Court of Canada

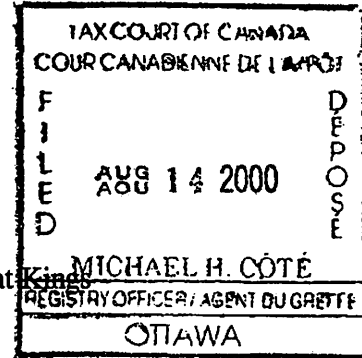


Cour canadienne de l'impôt

August 14, 2000

Registered Mail

Daryl Stockham  
6475 Cardinal Road  
Vernon, British Columbia  
V1H 1W3



Dear Sir:

RE: Kelly McCrimmon & Robert Cornell o/a The Brandon Wheat Kings  
v. The Minister of National Revenue  
2000-1538(EI)  
INT: Daryl Stockham

**NOTICE OF HEARING**

TAKE NOTICE THAT this appeal has been scheduled to be heard on 2nd day of October 2000 at 2:00 p.m. or so soon thereafter as the parties can be heard, at Federal Court of Canada, Imperial Broadway Tower, 4th Floor, 363 Broadway Street, Winnipeg, Manitoba.

TAKE NOTICE THAT if you or another person authorised to represent the appellant fail to appear at the time and place fixed for the hearing of this appeal, an application may then be made on behalf of the respondent for dismissal of the appeal for failure to appear.

\_\_\_\_\_  
For the Registrar

MICHAEL H. CÔTE  
REGISTRY OFFICER  
AGENT DU GREFFE

c.c. Naomi Goldstein (Justice - Winnipeg)  
Canada Customs And Revenue Agency/ Agence des douanes et du revenu du Canada

N.B. Please note that all relevant documents in support of the appeal must be available at the hearing of the appeal. In the absence of agreement between the parties about the facts relating to the appeal, they must be established by evidence given under oath or affirmation. All witnesses are subject to cross-examination.

ADDRESS ALL COMMUNICATIONS TO THE REGISTRAR	PRINCIPAL OFFICE / BUREAU PRINCIPAL 200 KENT STREET 200, RUE KENT OTTAWA, ONTARIO OTTAWA (ONTARIO) K1A 0M1 TEL./TÉL. : (613) 992-0901 FAX : (613) 957-9034	REGIONAL OFFICE/BUREAU RÉGIONAL 500, PLACE D'ARMES SUITE 1800/BUREAU 1800 18TH FLOOR / 18 <sup>e</sup> ÉTAGE MONTREAL, QUEBEC MONTREAL (QUEBEC) H2Y 2W2 TEL./TÉL. : (514) 283-9912 FAX : (514) 496-1996	REGIONAL OFFICE / BUREAU RÉGIONAL SUN LIFE CENTRE 200 KING STREET WEST 200, RUE KING OUEST SUITE 902/BUREAU 902 TORONTO, ONTARIO TORONTO (ONTARIO) M5H 3T4 TEL./TÉL. : (416) 973-9181 FAX : (416) 973-5944	REGIONAL OFFICE/BUREAU RÉGIONAL PACIFIC CENTRE 700 WEST GEORGIA STREET 700, RUE WEST GEORGIA 17TH FLOOR / 17 <sup>e</sup> ÉTAGE VANCOUVER, B.C. VANCOUVER (C.-B.) V7Y 1A1 TEL./TÉL. : (604) 666-7987 FAX : (614) 666-7967
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Tax Court of Canada

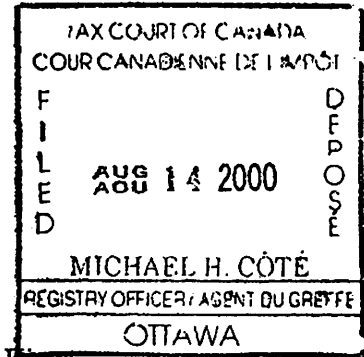


Cour canadienne de l'impôt

August 14, 2000

**Registered Mail**

Pat Fraser  
Meighen, Haddad & Co.  
Barristers and Solicitors  
P.O. Box 22105, 110 Eleventh Street  
Brandon, Manitoba  
R7A 6Y9



Dear Madam:

RE: Kelly McCrimmon & Robert Cornell o/a The Brandon Wheat Kings  
v. The Minister of National Revenue  
2000-1538(EI)  
INT: Daryl Stockham

**NOTICE OF HEARING**

TAKE NOTICE THAT this appeal has been scheduled to be heard on 2nd day of October 2000 at 2:00 p.m. or so soon thereafter as the parties can be heard, at Federal Court of Canada, Imperial Broadway Tower, 4th Floor, 363 Broadway Street, Winnipeg, Manitoba.

TAKE NOTICE THAT if you or another person authorised to represent the appellant fail to appear at the time and place fixed for the hearing of this appeal, an application may then be made on behalf of the respondent for dismissal of the appeal for failure to appear.

\_\_\_\_\_  
For the Registrar

MICHAEL H. CÔTÉ  
REGISTRY OFFICER  
AGENT DU GREFFE

c.c. Naomi Goldstein (Justice - Winnipeg)  
Canada Customs And Revenue Agency/ Agence des douanes et du revenu du Canada

N.B. Please note that all relevant documents in support of the appeal must be available at the hearing of the appeal. In the absence of agreement between the parties about the facts relating to the appeal, they must be established by evidence given under oath or affirmation. All witnesses are subject to cross-examination.

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Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

(780) 495-2985

Vous file: Votre référence

Our file: Notre référence

AUS  
AOUT 10 2000

The Registrar  
Tax Court of Canada  
200 Kent Street, 3rd. Floor  
Ottawa, Ontario  
K1A 0M1

Dear Sir:

**RE: KELLY MCCRIMMON & ROBERT CORNELL O/A THE BRANDON  
WHEAT KINGS v. THE MINISTER OF NATIONAL REVENUE  
2000-1538 (EI)**

**INTERVENER: DARYL STOCKHAM**

*Filing 187233-2/00*

I am enclosing two copies of the Reply to the Notice of Intervention. Would you please file these documents with the Court.

A copy of the Reply has been forwarded today by registered mail to the Appellant and to the Intervener.

Yours truly,

Deborah Horowitz, Counsel  
Tax Litigation Section  
Coordinator, Informal Procedure

Encl.

Facs: (780) 495-6982

Télécopieur: (780) 495-6982

Tax Court of Canada



Cour canadienne de l'impôt

March 20, 2001

Pat Fraser  
Meighen, Haddad & Co.  
Barristers and Solicitors  
P.O. Box 22105, 110 Eleventh Street  
Brandon, Manitoba  
R7A 6Y9

Dear Sir:

RE: Kelly McCrimmon & Robert Cornell o/a The Brandon Wheat Kings  
v. The Minister of National Revenue  
2000-1538(EI)  
INT: Daryl Stockham

As the above-noted file has been closed with the Tax Court of Canada, we are returning the attached Exhibit(s) filed at the hearing of this appeal.

Attachments include A-1 to A-4

Yours truly,

ORIGINAL SIGNED BY  
C. MORELAND  
A SIGNÉ L'ORIGINAL

For the Registrar

Encl.

ADDRESS ALL COMMUNICATIONS TO THE REGISTRAR	PRINCIPAL OFFICE/BUREAU PRINCIPAL 200 KENT STREET 200, RUE KENT OTTAWA, ONTARIO OTTAWA (ONTARIO) K1A 0H1 TEL./TÉL. : (613) 952-0901 FAX : (613) 957-9034	REGIONAL OFFICE/BUREAU RÉGIONAL SUITE 1800 / BUREAU 1800 18TH FLOOR / 18 <sup>E</sup> ÉTAGE 500, PLACE D'ARMES MONTREAL, QUEBEC MONTREAL (QUÉBEC) H2Y 2W2 TEL./TÉL. : (514) 283-9912 FAX : (514) 496-1996	REGIONAL OFFICE/BUREAU RÉGIONAL SUN LIFE CENTRE SUITE 902 / BUREAU 902 200 KING STREET WEST 200, RUE KING OUEST TORONTO, ONTARIO TORONTO (ONTARIO) M5H 3P4 TEL./TÉL. : (416) 973-9181 FAX : (416) 973-5944	REGIONAL OFFICE/BUREAU RÉGIONAL IBM TOWER / TOUR IBM SUITE 300 / BUREAU 300 701 WEST GEORGIA STREET 701, RUE WEST GEORGIA VANCOUVER, B.C. VANCOUVER (C.-B.) V7Y 1K1 TEL./TÉL. : (604) 666-7987 FAX : (604) 666-7967
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*PA/ADR*

Tax Court of Canada



Cour canadienne de l'impôt

December 1, 2000

Pat Fraser  
Meighen, Haddad & Co.  
Barristers and Solicitors  
P.O. Box 22105, 110 Eleventh Street  
Brandon, Manitoba  
R7A 6Y9

Dear Sir/Madam:

RE: Kelly McCrimmon & Robert Cornell o/a The Brandon  
Wheat Kings  
v. The Minister of National Revenue  
2000-1538(EI)  
INT: Daryl Stockham

We enclose herewith a certified true copy of the formal Judgment and Reasons for Judgment in the above-noted matter.

If you disagree with this decision, you may appeal to the Federal Court of Canada within 30 days. Please contact the Federal Court at (613)-996-6795 to obtain additional information.

Yours truly,

For the Registrar

c.c. HRDC/DRHC

Encl.

ADDRESS ALL COMMUNICATIONS  
TO THE REGISTRAR  
ADRESSER TOUTE DEMANDE AU  
GREFFIER  
TEL./TÉL. : 1-800-927-5499

PRINCIPAL OFFICE / BUREAU PRINCIPAL  
205 KENT STREET  
205, RUE KENT  
OTTAWA, ONTARIO  
OTTAWA (ONTARIO) K1A 0M1  
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FAX : (613) 957-9034

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500, PLACE D'ARMES  
SUITE 1800/BUREAU 1800  
18TH FLOOR / 18 ÉTAGE  
MONTREAL, QUEBEC  
MONTREAL (QUÉBEC) H2Y 2W2  
TEL./TÉL. : (514) 253-9912  
FAX : (514) 496-1996

REGIONAL OFFICE / BUREAU REGIONAL  
SUN LIFE CENTRE  
200 KING STREET WEST  
200, RUE KING OUEST  
SUITE 902/BUREAU 902  
TORONTO, ONTARIO  
TORONTO (ONTARIO) M5H 3T4  
TEL./TÉL. : (416) 973-9181  
FAX : (416) 973-5944

REGIONAL OFFICE/BUREAU REGIONAL  
PACIFIC CENTRE  
700 WEST GEORGIA STREET  
700, RUE WEST GEORGIA  
17TH FLOOR / 17 ÉTAGE  
VANCOUVER, B.C.  
VANCOUVER (C.-B.) V7Y 1A1  
TEL./TÉL. : (604) 666-7987  
FAX : (614) 666-7967

*Handwritten initials*

Tax Court of Canada



Cour canadienne de l'impôt

December 1, 2000

Daryl Stockham  
6475 Cardinal Road  
Vernon, British Columbia  
V1H 1W3

Dear Sir:

RE: Kelly McCrimmon & Robert Cornell o/a The Brandon  
Wheat Kings  
v. The Minister of National Revenue  
2000-1538(EI)  
INT: Daryl Stockham

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Yours truly,  
ORIGINAL SIGNED BY  
MONIQUE O'Rourke  
A SIGNÉ L'ORIGINAL  
For the Registrar

c.c. HRDC/DRHC

Encl.

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Tax Court of Canada



Cour canadienne de l'impôt

December 1, 2000

Tracey Harwood-Jones  
Department of Justice  
Tax Litigation Section  
301 Centennial House, 310 Broadway Avenue  
Winnipeg, Manitoba  
R3C 0S6

Dear Sir/Madam:

RE: Kelly McCrimmon & Robert Cornell o/a The Brandon  
Wheat Kings  
v. The Minister of National Revenue  
2000-1538(EI)  
INT: Daryl Stockham

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Yours truly,  
ORIGINAL SIGNED BY  
MONIQUE O'ROURKE  
A SIGNÉ L'ORIGINAL

For the Registrar

c.c. HRDC/ DRHC

Encl.

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Tax Court of Canada



Cour canadienne de l'impôt

December 1, 2000

Canada Customs And Revenue Agency/ Agence des douanes et du revenu du Canada  
Customs, Excise and Taxation  
21st Floor, Albion Tower  
25 Nicholas Street  
Ottawa, Ontario  
K1A 0L8

Dear Sir/Madam:

RE: Kelly McCrimmon & Robert Cornell o/a The Brandon  
Wheat Kings  
v. The Minister of National Revenue  
2000-1538(EI)  
INT: Daryl Stockham

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Yours truly,

ORIGINAL SIGNED BY  
MONIQUE O'ROURKE  
A SIGNÉ L'ORIGINAL

For the Registrar

c.c. HRDC/ DRHC

Encl.

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TEL./TÉL. : (604) 666-7987  
FAX : (614) 666-7967

Tax Court of Canada



Cour canadienne de l'impôt

2000-1538(EI)

BETWEEN:

MCCRIMMON HOLDINGS LTD. and  
32155 MANITOBA LTD., A PARTNERSHIP  
o/a BRANDON WHEAT KINGS,

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent,

and

DARYL STOCKHAM,

Intervenor.

Appeal heard on common evidence with the appeal of *McCrimmon Holdings Ltd.*  
and *32155 Manitoba Ltd., A Partnership o/a Brandon Wheat Kings*  
(2000-1540(CPP)) on October 2, 2000 at Winnipeg, Manitoba, by the  
Honourable Deputy Judge D.W. Rowe

Appearances

Counsel for the Appellant: Pat Fraser  
David Swayze

Counsel for the Respondent: Tracy Harwood-Jones

For the Intervenor: No one appeared

JUDGMENT

The appeal is dismissed and the decision of the Minister is confirmed in accordance with the attached Reasons for Judgment.

Signed at Sidney, British Columbia, this 24<sup>th</sup> day of November 2000.

  
D.J.T.C.F.

Tax Court of Canada



Cour canadienne de l'impôt

Date: 20001124  
Dockets: 2000-1538(EI)  
2000-1540(CPP)

BETWEEN:

MCCRIMMON HOLDINGS LTD.  
32155 MANITOBA LTD., A PARTNERSHIP  
o/a BRANDON WHEAT KINGS,

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent,

and

DARYL STOCKHAM,

Intervenor.

### REASONS FOR JUDGMENT

#### Rowe, D.J.T.C.C.

[1] The style of cause utilized in the Notice of Appeal and subsequent pleadings or notices named Kelly McCrimmon and Robert Cornell o/a The Brandon Wheat Kings as the appellant. Counsel for the appellant advised the proper style of cause should reflect the corporate members of the partnership, McCrimmon Holdings Ltd. and 32155 Manitoba Ltd. used by McCrimmon and Cornell to carry on the business of operating - in Brandon, Manitoba - the hockey team known as the Brandon Wheat Kings and I ordered the style of cause to be amended accordingly. Counsel for the appellant waived the effect of any irregularities arising from the manner in which the assessment was issued and noted the proper account number had been used so there was no doubt concerning the matter at issue. The position of the appellant is that the junior hockey players on the Wheat Kings team were participants in an established training program having a sophisticated infrastructure and the overriding component was educational in nature.

[2] The appellant partnership, referred to herein as the "Wheat Kings" appealed from decisions of the Minister of National Revenue (the "Minister"), dated January 17, 2000 wherein it was decided to confirm certain assessments issued pursuant to the *Employment Insurance Act*, *Unemployment Insurance Act* and the *Canada Pension Plan* on the basis named persons listed on Schedule A attached to the said decision letter were employed under contracts of service with the Wheat Kings and were therefore engaged in both insurable and pensionable employment. The appellant appeals from these decisions and both counsel agreed that appeal 2000-1540(CPP) would follow the result in the within appeal.

[3] Kelly McCrimmon testified he resides in Brandon, Manitoba and for the past 12 years has been the General Manager of the Brandon Wheat Kings hockey club. Through his corporation, McCrimmon Holdings Ltd., he owns 1/3 of the team and Robert Cornell - through the numbered company - owns the balance and they operate as a partnership. McCrimmon explained the Canadian Hockey League (CHL) is composed of the Ontario Hockey League (OHL), Western Hockey League (WHL) and Quebec Major Hockey League (QMHL). There are 18 teams - including the Wheat Kings - in the WHL and 55 teams within the CHL. The teams are made up of players who have been developed in the minor hockey systems. McCrimmon stated that if a young (aged 16-20) player wishes to play in the WHL, it will probably be necessary for him to move away from home to the municipality where the team is situated. The Canadian Hockey Association (CHA) is an umbrella organization which oversees Canadian amateur hockey. The CHL has some teams operating in the United States and they have a similar arrangement with the U.S. counterpart organization. The WHL - an 18-member league - includes 7 community-owned teams that are managed by an Executive Committee and the other 11 franchises are privately owned. The WHL has a 72-game schedule with training camp beginning in August. The regular season is finished at the end of March while the playoff series - including the final - are concluded on Victoria Day in May. The WHL is run by a Commissioner and Board of Governors composed of one member from each team in the league. Approximately 8 meetings are held each year, on average, and a 5-man Executive Committee is responsible throughout the year for developing policy, rules, by-laws and otherwise dealing with matters pursuant to the league constitution. An excerpt of the Rules and Regulations governing the WHL was filed as Exhibit A-1 and contains details concerning the mandatory pay schedule of players while playing for any team in the WHL. McCrimmon stated the modest amounts paid to the players have not changed

substantially since he played in the WHL 20 years ago except that a second-year player now earns \$20.00 more per month than he would have two decades ago. McCrimmon stated the following monthly payments of \$160.00 to a first-year player, \$180.00 to a second-year player, \$200.00 to a third-year player, \$240.00 to a fourth-year player and a maximum of \$600.00 to a returning 20-year old player are little more than an allowance to cover their day-to-day needs for transportation and other small expenses one would normally associate with "pocket money" if they were living at home. The players are billeted at local families in Brandon and the host billets are paid the sum of \$270.00 per month together with tickets to Wheat Kings home games as compensation for a player's room and board. Since most billets are avid hockey fans, the players are treated like a member of the billet's family. During the many years the Wheat Kings have been in the WHL, there has never been more than two players on the team from Brandon and some years there are none. In the event the players are local, they merely reside in their own family homes. McCrimmon referred to the standard players contract - Exhibit A-2 - which, in his opinion, did not legally bind a player but served to formalize the arrangement and sets forth the obligations of the player and the hockey team. A player can move up to a team playing in a higher league or to a team in a lower rung in the hockey hierarchy but cannot voluntarily decide to move to another team within the WHL. McCrimmon explained the cities having teams in the WHL range in size from Seattle and Portland to Swift Current and Prince George so it is vital for the existence of the league to stabilize the player pool. Pursuant to clause 13 of the contract - Exhibit A-2 - a player can play for a chosen professional team as an under-age 19-year old player provided the team in the professional league compensates his former WHL team by paying the sum of \$100,000. The rules of the WHL permit three 20-year olds on the roster of each team and they are referred to as "over-age" players. As a result, most players remain in the WHL for only four years. The National Hockey League (NHL) rules permit an 18-year old to play in that elite league but not in any minor league or farm system owned by or associated with that NHL team. McCrimmon stated the WHL has a policy regarding education of the players. The league will pay the cost of one year's tuition and books at any Canadian university for each year a player has performed for a team and every education agreement is registered with the league Head Office. In any player-trade agreement, there is a provision relating to an allocation of the education entitlement as agreed upon by both teams and this arrangement must be approved by the Governor of the WHL. The minimum age at which a player can be a member of a WHL team is 16. The league has a system whereby promising 15-year olds are contacted and counselled in order to prepare



them for leaving home the next year in order to play with a WHL team in another city. While playing for the Wheat Kings, all players attend the same high school and meet with the same counsellor. All players are subject to a curfew and are closely monitored both in and out of school, especially as it concerns their attendance, and the club will mete out discipline. There is a great deal of travel involved during the course of a hockey season and the players are required to be at school in Brandon at 9:00 a.m. even if they had just returned - at 5:00 a.m. - from a road trip. Brandon University and Assiniboine Community College are both located in Brandon. Those players who finished high school but have not chosen to attend college or university must come to training sessions 6 days a week from 12:30 p.m. to 5:30 p.m. each day. On a day on which a game is played, the players report to the arena between 12:30 p.m. and 2:00 p.m. and then return to the rink at 5:30 p.m. and remain there until the game is finished which is usually after 11:00 p.m. Even during a week when there is no game played, a Wheat Kings player would be at the arena 24 hours a week. When travelling to play games in other cities, the bus is the only form of transportation used by the team and it takes 27 hours to travel from Brandon to Portland, Oregon and 22 hours to Prince George, British Columbia. The arduous bus trips are an integral part of the process by which a player - against long odds - ultimately is afforded an opportunity to become a professional in the NHL and to participate in an industry which can permit a young man to earn up to several million dollars US per year or to play in other hockey leagues in North America or in Europe where salaries - for a short season - range up to \$100,000 CND. McCrimmon stated that following his hockey career in the WHL as a Brandon Wheat King, which he acknowledged was a disciplined environment requiring many sacrifices, he attended Brandon University. He is aware of other former players who have become executives, scouts or therapists and thereby able to remain involved in the game of hockey as a business. The Wheat Kings players are permitted one 2:00 a.m. weekend curfew each month. They are required to work with children at elementary schools and in programs concerning minor hockey, handicapped children, and drug awareness as well as interacting with the Brandon business community. Behaviour is monitored by the team management and the families acting as billets. The city of Brandon - with a population of 50,000 - is very proud of the Wheat Kings hockey team and players have a high profile within the community. At the annual awards banquet, there is an award for scholastic achievement and an award for the top graduating player which includes many facets of the individual as a member of the team and as a resident of the community of Brandon. The actual team roster has 22 or 23 players but an additional four persons

can be on a protected list recognized by the WHL and could be playing somewhere else at a lower level such as Tier II or Midget Triple A.

[4] In cross-examination, Kelly McCrimmon stated in the event a player chooses not to pursue post-secondary education, the room and board allowance is still paid on his behalf. Pursuant to clause 12 of the standard player's contract - Exhibit A-2 - there is provision for the suspension of payment of salary during a suspension issued by the league to a player but in 12 years with the Wheat Kings as General Manager, he had never seen this clause utilized. The fines that can be imposed pursuant to clause 6 of the contract are deducted from the monthly allowance but are later refunded in the sense the amounts collected are contributed towards a team function for the benefit of all the players.

[5] Lyn Shannon testified she lives in Brandon and for the past 10 years has worked as the Executive Assistant to the General Manager of the Wheat Kings. Her function originally was to reduce the workload of the General Manager but it developed into other areas so that she is now responsible for certain accounting, marketing and administrative functions as well as acting as a counsellor to the players. She is responsible for issuing them their monthly cheques. In September, 1992 she enquired of the previous operator of the hockey club and of Revenue Canada about the method of payment to the players and was advised that cash could be paid in a pay envelope - without any deductions - but a T4 slip would have to be issued to each player at the end of the year. She advised that since January, 1999, the appellant takes the appropriate deductions from the cheques issued to the players. While the billets are compensated at the rate of \$260.00 per month, in Shannon's opinion that does not cover the cost of having a young hockey player living in the home and eating as a member of the family. The billets enter into an agreement - Exhibit A-4 - with the Wheat Kings which sets out various terms and conditions including certain rules and expectations of the club together with some advice as to how players should be treated in an attempt to include them into a family atmosphere. When the players are on the road for 36 games per season, all costs are paid for by the Wheat Kings. At least 50% of the team - aged 16-18 - will be in highschool and the older ones can attend university or the community college and will be reimbursed for the cost of their books and tuition provided they achieve a passing grade. At the arena - Keystone Centre - in Brandon there is space available for the players who are students to study and, on occasion, the Wheat Kings organization will retain and pay for a tutor to instruct one or more players.

[6] Counsel for the respondent did not cross-examine.

[7] Counsel for the appellant submitted the case did not involve the usual analysis employed pursuant to the decision of the Federal Court of Appeal in *Wiebe Door Services Ltd. v. M.N.R.* [1986] 2 C.T.C. 200 as it was clear on the evidence the players were not independent contractors but would be regarded as employees, without more. However, counsel put forth the proposition that the true characterization of the status of the players in relation to the Wheat Kings hockey club was not that of apprentices but was more consistent with a form of private education in that the students were participating in a hockey program offering scholarships containing certain pre-conditions, one of which was to possess the ability to play hockey at a level permitting one to be a member of a team in the WHL. The players - like any students - had to abide by a code of conduct and to meet certain defined standards similar to any student on a scholarship. Counsel pointed out that in the long history of the WHL no assessments for unemployment - or employment - insurance premiums or contributions for Canada Pension had ever been issued and it did not seem reasonable within the overall context of the WHL to regard the small payment to the players as anything more than an allowance they could spend at their unfettered discretion that - although it constituted income under the *Income Tax Act* - was not insurable income for purposes of the *Employment Insurance Act*. In counsel's view of the legislation, it was intended to protect against involuntary idleness and is not - from any practical standpoint - relevant to the situation in the within appeal.

[8] Counsel for the respondent submitted the evidence clearly established the relationship of the players to the appellant was that of employees to an employer as they were engaged in employment pursuant to a contract of service pursuant to the *Employment Insurance Act* and the *Regulations* thereunder made it clear the remuneration paid to the players was to be regarded as insurable earnings. Further, counsel submitted it would require a specific regulation in order to exempt the players from the category of insurable employees as otherwise defined by the *Employment Insurance Act*.

[9] Insurable employment is defined in paragraph 5(1)(a) of the *Employment Insurance Act* as follows:

"Subject to subsection (2), insurable employment is

(a) employment in Canada by one or more employers, under any express or implied contract of service or apprenticeship, written or oral, whether the earnings of the employed person are received from the employer or some other person and whether the earnings are calculated by time or by the piece, or partly by time and partly by the piece, or otherwise;"

[10] Subsection 5(2) of the *Employment Insurance Act* reads as follows:

"(2) Insurable employment does not include:

(a) employment of a casual nature other than for the purpose of the employer's trade or business;

(b) the employment of a person by a corporation if the person controls more than 40% of the voting shares of the corporation;

(c) employment in Canada by Her Majesty in right of a province;

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(g) employment that constitutes an exchange of work or services;

(h) employment excluded by regulations made under sub-section (6); and

(i) employment if the employer and employee are not dealing with each other at arm's length."

[11] Since the *Employment Insurance Act* did not come into force until June 30, 1996 - and the assessments included the entire year 1996 - it is worth noting the

definition of insurable employment contained in paragraph 3(1)(a) of the *Unemployment Insurance Act* is exactly the same as the one above quoted.

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"For the purposes of subsections (1) and (2), "earnings" does not include

(a) the value of board, lodging and all other benefits received or enjoyed by a person in a pay period in respect of the employment if no cash remuneration is paid to the person by the person's employer in respect of the pay period;

(a.1) any amount excluded as income under paragraph 6(1)(a) or (b) or subsection 6(6) or (16) of the *Income Tax Act*;

(b) a retiring allowance;

(c) a supplement paid to a person by the person's employer to increase worker's compensation paid to the person by a provincial authority;

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(f) a payment made to a person by the person's employer to cover the waiting period referred to in section 13 of the Act or to increase the pregnancy or parental benefit payable to the person under section 22 or 23 of the Act if the payment meets the criteria set out in section 38 of the *Employment Insurance Regulations*."

[13] The relevant provision in the former *Unemployment Insurance (Collection of Premiums) Regulations* is section 3:

"3(1) For the purposes of this Part, a person's earnings from insurable employment means any remuneration, whether wholly or partly pecuniary, received or enjoyed by him, paid to him by his employer in respect of insurable employment..."

[14] Pursuant to both sets of regulations, the value of board, lodging and other benefits received in respect of the employment are not considered as insurable earnings provided no cash remuneration is paid by the employer to the employee. The Minister recognized this aspect of the matter when undertaking a variation of earlier assessments and deleted certain amounts by virtue of certain players falling into the exempt category.

[15] As noted by counsel for the appellant, IT 168R3 applies only to professional athletes employed by football, hockey and similar clubs and players in the WHL are not included in that definition.

[16] The appellant's position is that the players were involved in a scholarship program. The following definition of scholarship is contained in The Dictionary of Canadian Law, 2nd Edition, Carswell, 1995, Dukelow & Nuse:

"1. A sum of money awarded with special regard to the quality of the academic work of the person to whom it is awarded. 2. An award of distinction, prize or incentive. 3. Pecuniary assistance granted gratuitously to a student."

[17] The Concise Oxford Dictionary of Current English, Eighth Edition, Clarendon Press, Oxford defines scholarship as:

"payment from the funds of a school, university, local government, etc., to maintain a student in full-time education, awarded on the basis of scholarly achievement."

[18] Counsel for the appellant agreed the sums received by the players in the form of their monthly allowance would be taxable but that one cannot assume this renders the employment insurable - or pensionable - for purposes of the relevant legislation. The WHL rules and regulations - Exhibit A-1 - referred to the Standard Players Contract which states the amount of payment which is referred to as "player's allowance". The players had full discretion over this amount and they were not required to use it to pay for any expenses while travelling on the road for away games or otherwise in connection with performing their services as hockey

players for the Wheat Kings. The player's contract - Exhibit A-2 - in clause 12 referred to: Loss of salary during a suspension by the club or the league. However, under Clauses 2.1 and 2.2 there is reference to the payment as "the allowance fixed by the rules of the WHL".

[19] While there is an educational component attached to the contract between the Wheat Kings and the players - and that is commendable - the players are paid to play hockey for the team in the WHL. They are entitled to one year's books and tuition at a post-secondary educational institution for each year they have played for a WHL team. It is the completion of the playing time that gives rise to the educational entitlement. The payment for playing hockey is modest but all their expenses are covered, including room and board. However, the requirement to play hockey is not inextricably bound to a condition of scholarship as may be the case with a university since attendance at a post-secondary educational institution was not mandatory for remaining on the roster. In the case of *Charron v. M.N.R.*, [1994] T.C.J. No. 47 - Archambault T.C.J. heard an appeal from a determination by the Minister that the appellant - a graduate student employed by Laval University on a research project - was not engaged in insurable employment because she was receiving university credit for the work. Judge Archambault held that the existence of an academic benefit did not prevent the existence of a contract of employment and at paragraph 14 of his judgment stated:

"...Further, the fact that s. 3(1)(a) refers to employment " under any express or implied contract of service or apprenticeship, written or oral, whether the earnings of the employed person are received from the employer or some other person" indicates that Parliament clearly intended the idea of insurable employment to be as wide as possible for the purposes of the Act."

[20] Kelly McCrimmon - General Manager of the Wheat Kings - stated he did not regard the players contract as being legally binding upon them but as a document formalizing - for league purposes mainly - the arrangement between players and their respective hockey clubs. The relevant provision of *The Employment Standards Act*, chapter E110, Province of Manitoba, in force during the period covered by the within appeal defines an adolescent, as follows:

"adolescent" means a person who has reached his 16th birthday but has not reached his 18th birthday;"

[21] Subsection 9(2) of the said *Standards Act* under the heading Agreements by Adolescent states:

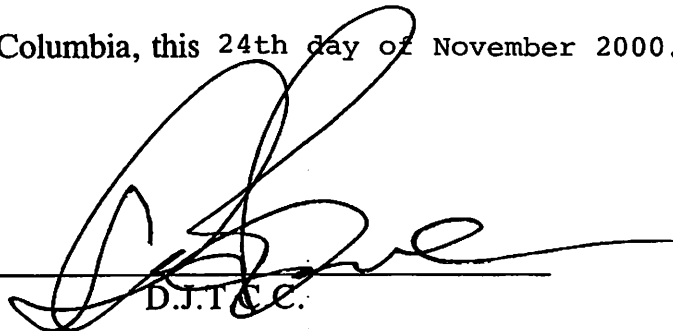
"An adolescent who enters into employment is liable thereon and has the benefit thereof as if the adolescent were an adult."

[22] It is extremely doubtful that Parliament was concerned about massive unemployment among the ranks of 16 to 20-year old hockey players. It is also difficult to imagine how unemployment would result other than in the circumstance where a player was released outright or was unable to play for any other team and was therefore in need of collecting the extremely modest benefits during a transition period. The WHL has operated for many years and has put emphasis on the value of obtaining an education. Kelly McCrimmon serves as a model to other players who can continue to be involved - at some level - in the hockey industry after their playing days have come to an end. But, the business of the Wheat Kings is simply the business of hockey. It is a commercial organization - albeit beloved by the citizens of Brandon - carrying on business for profit. The players are employees who receive remuneration - defined as cash - pursuant to the appropriate regulations governing insurable earnings. It would require an amendment to subsection 5(2) of the *Employment Insurance Act* in order to exclude players in the WHL - and other junior hockey players within the CHL - from the category of insurable employment.

[23] Taking into account the evidence, relevant legislation and jurisprudence, I find the assessments issued by the Minister to have been correct and the decision dated January 17, 2000 confirming those previous assessments is - itself - hereby confirmed.

[24] The within appeal is dismissed together with the appeal 2000-1540(CPP) which the parties agree would follow the result.

Signed at Sidney, British Columbia, this 24th day of November 2000.



D.J.T.C.



COURT FILE NO.: 2000-1538(EI)

STYLE OF CAUSE: McCrimmon Holdings Ltd. and  
32155 Manitoba Ltd., A Partnership  
o/a Brandon Wheat Kings and M.N.R. and  
Daryl Stockham

PLACE OF HEARING: Winnipeg, Manitoba

DATE OF HEARING: October 2, 2000

REASONS FOR JUDGMENT BY: the Honourable Deputy Judge D.W. Rowe

DATE OF JUDGMENT: November 24, 2000

APPEARANCES:

Counsel for the Appellant: Pat Fraser  
David Swayze

Counsel for the Respondent: Tracy Harwood-Jones

For the Intervenor: No one appeared

COUNSEL OF RECORD:

For the Appellant:

Name: Pat Fraser  
Firm: Meighen, Haddad & Co.  
Brandon, Manitoba

For the Respondent:

Morris Rosenberg  
Deputy Attorney General of Canada  
Ottawa, Canada

For the Intervenor:

Name:  
Firm:

Tax Court of Canada



Cour canadienne de l'impôt

2000-1538(EI)

BETWEEN:

MCCRIMMON HOLDINGS LTD. and  
32155 MANITOBA LTD., A PARTNERSHIP  
o/a BRANDON WHEAT KINGS,

Appellant,

and

THE MINISTER OF NATIONAL REVENUE,

Respondent,

and

DARYL STOCKHAM,

Intervenor.

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Appeal heard on common evidence with the appeal of *McCrimmon Holdings Ltd.*  
and *32155 Manitoba Ltd., A Partnership o/a Brandon Wheat Kings*  
(2000-1540(CPP)) on October 2, 2000 at Winnipeg, Manitoba, by the  
Honourable Deputy Judge D.W. Rowe

Appearances

Counsel for the Appellant: Pat Fraser  
David Swayze

Counsel for the Respondent: Tracy Harwood-Jones

For the Intervenor: No one appeared

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JUDGMENT

The appeal is dismissed and the decision of the Minister is confirmed in accordance with the attached Reasons for Judgment.

Signed at Sidney, British Columbia, this 24th day of November 2000.

"D.W. Rowe"

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D.J.T.C.C.

Tax Court of Canada



Cour canadienne de l'impôt

Date: 20001124

Dockets: 2000-1538(EI)

2000-1540(CPP)

BETWEEN:

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32155 MANITOBA LTD., A PARTNERSHIP  
o/a BRANDON WHEAT KINGS,

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### REASONS FOR JUDGMENT

Rowe, D.J.T.C.C.

[1] The style of cause utilized in the Notice of Appeal and subsequent pleadings or notices named Kelly McCrimmon and Robert Cornell o/a The Brandon Wheat Kings as the appellant. Counsel for the appellant advised the proper style of cause should reflect the corporate members of the partnership, McCrimmon Holdings Ltd. and 32155 Manitoba Ltd. used by McCrimmon and Cornell to carry on the business of operating - in Brandon, Manitoba - the hockey team known as the Brandon Wheat Kings and I ordered the style of cause to be amended accordingly. Counsel for the appellant waived the effect of any irregularities arising from the manner in which the assessment was issued and noted the proper account number had been used so there was no doubt concerning the matter at issue. The position of the appellant is that the junior hockey players on the Wheat Kings team were participants in an established training program having a sophisticated infrastructure and the overriding component was educational in nature.

[2] The appellant partnership, referred to herein as the "Wheat Kings" appealed from decisions of the Minister of National Revenue (the "Minister"), dated January 17, 2000 wherein it was decided to confirm certain assessments issued pursuant to the *Employment Insurance Act*, *Unemployment Insurance Act* and the *Canada Pension Plan* on the basis named persons listed on Schedule A attached to the said decision letter were employed under contracts of service with the Wheat Kings and were therefore engaged in both insurable and pensionable employment. The appellant appeals from these decisions and both counsel agreed that appeal 2000-1540(CPP) would follow the result in the within appeal.

[3] Kelly McCrimmon testified he resides in Brandon, Manitoba and for the past 12 years has been the General Manager of the Brandon Wheat Kings hockey club. Through his corporation, McCrimmon Holdings Ltd., he owns 1/3 of the team and Robert Cornell - through the numbered company - owns the balance and they operate as a partnership. McCrimmon explained the Canadian Hockey League (CHL) is composed of the Ontario Hockey League (OHL), Western Hockey League (WHL) and Quebec Major Hockey League (QMHL). There are 18 teams - including the Wheat Kings - in the WHL and 55 teams within the CHL. The teams are made up of players who have been developed in the minor hockey systems. McCrimmon stated that if a young (aged 16-20) player wishes to play in the WHL, it will probably be necessary for him to move away from home to the municipality where the team is situated. The Canadian Hockey Association (CHA) is an umbrella organization which oversees Canadian amateur hockey. The CHL has some teams operating in the United States and they have a similar arrangement with the U.S. counterpart organization. The WHL - an 18-member league - includes 7 community-owned teams that are managed by an Executive Committee and the other 11 franchises are privately owned. The WHL has a 72-game schedule with training camp beginning in August. The regular season is finished at the end of March while the playoff series - including the final - are concluded on Victoria Day in May. The WHL is run by a Commissioner and Board of Governors composed of one member from each team in the league. Approximately 8 meetings are held each year, on average, and a 5-man Executive Committee is responsible throughout the year for developing policy, rules, by-laws and otherwise dealing with matters pursuant to the league constitution. An excerpt of the Rules and Regulations governing the WHL was filed as Exhibit A-1 and contains details concerning the mandatory pay schedule of players while playing for any team in the WHL. McCrimmon stated the modest amounts paid to the players have not changed

substantially since he played in the WHL 20 years ago except that a second-year player now earns \$20.00 more per month than he would have two decades ago. McCrimmon stated the following monthly payments of \$160.00 to a first-year player, \$180.00 to a second-year player, \$200.00 to a third-year player, \$240.00 to a fourth-year player and a maximum of \$600.00 to a returning 20-year old player are little more than an allowance to cover their day-to-day needs for transportation and other small expenses one would normally associate with "pocket money" if they were living at home. The players are billeted at local families in Brandon and the host billets are paid the sum of \$270.00 per month together with tickets to Wheat Kings home games as compensation for a player's room and board. Since most billets are avid hockey fans, the players are treated like a member of the billet's family. During the many years the Wheat Kings have been in the WHL, there has never been more than two players on the team from Brandon and some years there are none. In the event the players are local, they merely reside in their own family homes. McCrimmon referred to the standard players contract - Exhibit A-2 - which, in his opinion, did not legally bind a player but served to formalize the arrangement and sets forth the obligations of the player and the hockey team. A player can move up to a team playing in a higher league or to a team in a lower rung in the hockey hierarchy but cannot voluntarily decide to move to another team within the WHL. McCrimmon explained the cities having teams in the WHL range in size from Seattle and Portland to Swift Current and Prince George so it is vital for the existence of the league to stabilize the player pool. Pursuant to clause 13 of the contract - Exhibit A-2 - a player can play for a chosen professional team as an under-age 19-year old player provided the team in the professional league compensates his former WHL team by paying the sum of \$100,000. The rules of the WHL permit three 20-year olds on the roster of each team and they are referred to as "over-age" players. As a result, most players remain in the WHL for only four years. The National Hockey League (NHL) rules permit an 18-year old to play in that elite league but not in any minor league or farm system owned by or associated with that NHL team. McCrimmon stated the WHL has a policy regarding education of the players. The league will pay the cost of one year's tuition and books at any Canadian university for each year a player has performed for a team and every education agreement is registered with the league Head Office. In any player-trade agreement, there is a provision relating to an allocation of the education entitlement as agreed upon by both teams and this arrangement must be approved by the Governor of the WHL. The minimum age at which a player can be a member of a WHL team is 16. The league has a system whereby promising 15-year olds are contacted and counselled in order to prepare

them for leaving home the next year in order to play with a WHL team in another city. While playing for the Wheat Kings, all players attend the same high school and meet with the same counsellor. All players are subject to a curfew and are closely monitored both in and out of school, especially as it concerns their attendance, and the club will mete out discipline. There is a great deal of travel involved during the course of a hockey season and the players are required to be at school in Brandon at 9:00 a.m. even if they had just returned - at 5:00 a.m. - from a road trip. Brandon University and Assiniboine Community College are both located in Brandon. Those players who finished high school but have not chosen to attend college or university must come to training sessions 6 days a week from 12:30 p.m. to 5:30 p.m. each day. On a day on which a game is played, the players report to the arena between 12:30 p.m. and 2:00 p.m. and then return to the rink at 5:30 p.m. and remain there until the game is finished which is usually after 11:00 p.m. Even during a week when there is no game played, a Wheat Kings player would be at the arena 24 hours a week. When travelling to play games in other cities, the bus is the only form of transportation used by the team and it takes 27 hours to travel from Brandon to Portland, Oregon and 22 hours to Prince George, British Columbia. The arduous bus trips are an integral part of the process by which a player - against long odds - ultimately is afforded an opportunity to become a professional in the NHL and to participate in an industry which can permit a young man to earn up to several million dollars US per year or to play in other hockey leagues in North America or in Europe where salaries - for a short season - range up to \$100,000 CND. McCrimmon stated that following his hockey career in the WHL as a Brandon Wheat King, which he acknowledged was a disciplined environment requiring many sacrifices, he attended Brandon University. He is aware of other former players who have become executives, scouts or therapists and thereby able to remain involved in the game of hockey as a business. The Wheat Kings players are permitted one 2:00 a.m. weekend curfew each month. They are required to work with children at elementary schools and in programs concerning minor hockey, handicapped children, and drug awareness as well as interacting with the Brandon business community. Behaviour is monitored by the team management and the families acting as billets. The city of Brandon - with a population of 50,000 - is very proud of the Wheat Kings hockey team and players have a high profile within the community. At the annual awards banquet, there is an award for scholastic achievement and an award for the top graduating player which includes many facets of the individual as a member of the team and as a resident of the community of Brandon. The actual team roster has 22 or 23 players but an additional four persons

can be on a protected list recognized by the WHL and could be playing somewhere else at a lower level such as Tier II or Midget Triple A.

[4] In cross-examination, Kelly McCrimmon stated in the event a player chooses not to pursue post-secondary education, the room and board allowance is still paid on his behalf. Pursuant to clause 12 of the standard player's contract - Exhibit A-2 - there is provision for the suspension of payment of salary during a suspension issued by the league to a player but in 12 years with the Wheat Kings as General Manager, he had never seen this clause utilized. The fines that can be imposed pursuant to clause 6 of the contract are deducted from the monthly allowance but are later refunded in the sense the amounts collected are contributed towards a team function for the benefit of all the players.

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[15] As noted by counsel for the appellant, IT 168R3 applies only to professional athletes employed by football, hockey and similar clubs and players in the WHL are not included in that definition.

[16] The appellant's position is that the players were involved in a scholarship program. The following definition of scholarship is contained in The Dictionary of Canadian Law, 2nd Edition, Carswell, 1995, Dukelow & Nuse:

"1. A sum of money awarded with special regard to the quality of the academic work of the person to whom it is awarded. 2. An award of distinction, prize or incentive. 3. Pecuniary assistance granted gratuitously to a student."

[17] The Concise Oxford Dictionary of Current English, Eighth Edition, Clarendon Press, Oxford defines scholarship as:

"payment from the funds of a school, university, local government, etc., to maintain a student in full-time education, awarded on the basis of scholarly achievement."

[18] Counsel for the appellant agreed the sums received by the players in the form of their monthly allowance would be taxable but that one cannot assume this renders the employment insurable - or pensionable - for purposes of the relevant legislation. The WHL rules and regulations - Exhibit A-1 - referred to the Standard Players Contract which states the amount of payment which is referred to as "player's allowance". The players had full discretion over this amount and they were not required to use it to pay for any expenses while travelling on the road for away games or otherwise in connection with performing their services as hockey

players for the Wheat Kings. The player's contract - Exhibit A-2 - in clause 12 referred to: Loss of salary during a suspension by the club or the league. However, under Clauses 2.1 and 2.2 there is reference to the payment as "the allowance fixed by the rules of the WHL".

[19] While there is an educational component attached to the contract between the Wheat Kings and the players - and that is commendable - the players are paid to play hockey for the team in the WHL. They are entitled to one year's books and tuition at a post-secondary educational institution for each year they have played for a WHL team. It is the completion of the playing time that gives rise to the educational entitlement. The payment for playing hockey is modest but all their expenses are covered, including room and board. However, the requirement to play hockey is not inextricably bound to a condition of scholarship as may be the case with a university since attendance at a post-secondary educational institution was not mandatory for remaining on the roster. In the case of *Charron v. M.N.R.*, [1994] T.C.J. No. 47 - Archambault T.C.J. heard an appeal from a determination by the Minister that the appellant - a graduate student employed by Laval University on a research project - was not engaged in insurable employment because she was receiving university credit for the work. Judge Archambault held that the existence of an academic benefit did not prevent the existence of a contract of employment and at paragraph 14 of his judgment stated:

"...Further, the fact that s. 3(1)(a) refers to employment " under any express or implied contract of service or apprenticeship, written or oral, whether the earnings of the employed person are received from the employer or some other person" indicates that Parliament clearly intended the idea of insurable employment to be as wide as possible for the purposes of the Act."

[20] Kelly McCrimmon - General Manager of the Wheat Kings - stated he did not regard the players contract as being legally binding upon them but as a document formalizing - for league purposes mainly - the arrangement between players and their respective hockey clubs. The relevant provision of *The Employment Standards Act*, chapter E110, Province of Manitoba, in force during the period covered by the within appeal defines an adolescent, as follows:

"adolescent" means a person who has reached his 16th birthday but has not reached his 18th birthday;"

[21] Subsection 9(2) of the said *Standards Act* under the heading Agreements by Adolescent states:

"An adolescent who enters into employment is liable thereon and has the benefit thereof as if the adolescent were an adult."

[22] It is extremely doubtful that Parliament was concerned about massive unemployment among the ranks of 16 to 20-year old hockey players. It is also difficult to imagine how unemployment would result other than in the circumstance where a player was released outright or was unable to play for any other team and was therefore in need of collecting the extremely modest benefits during a transition period. The WHL has operated for many years and has put emphasis on the value of obtaining an education. Kelly McCrimmon serves as a model to other players who can continue to be involved - at some level - in the hockey industry after their playing days have come to an end. But, the business of the Wheat Kings is simply the business of hockey. It is a commercial organization - albeit beloved by the citizens of Brandon - carrying on business for profit. The players are employees who receive remuneration - defined as cash - pursuant to the appropriate regulations governing insurable earnings. It would require an amendment to subsection 5(2) of the *Employment Insurance Act* in order to exclude players in the WHL - and other junior hockey players within the CHL - from the category of insurable employment.

[23] Taking into account the evidence, relevant legislation and jurisprudence, I find the assessments issued by the Minister to have been correct and the decision dated January 17, 2000 confirming those previous assessments is - itself - hereby confirmed.

[24] The within appeal is dismissed together with the appeal 2000-1540(CPP) which the parties agree would follow the result.

Signed at Sidney, British Columbia, this 24th day of November 2000.

---

"D.W. Rowe"  
D.J.T.C.C.

COURT FILE NO.: 2000-1538(EI)

STYLE OF CAUSE: McCrimmon Holdings Ltd. and  
32155 Manitoba Ltd., A Partnership  
o/a Brandon Wheat Kings and M.N.R. and  
Daryl Stockham

PLACE OF HEARING: Winnipeg, Manitoba

DATE OF HEARING: October 2, 2000

REASONS FOR JUDGMENT BY: the Honourable Deputy Judge D.W. Rowe

DATE OF JUDGMENT: November 24, 2000

APPEARANCES:

Counsel for the Appellant: Pat Fraser  
David Swayze

Counsel for the Respondent: Tracy Harwood-Jones

For the Intervenor: No one appeared

COUNSEL OF RECORD:

For the Appellant:  
Name: Pat Fraser  
Firm: Meighen, Haddad & Co.  
Brandon, Manitoba

For the Respondent: Morris Rosenberg  
Deputy Attorney General of Canada  
Ottawa, Canada

For the Intervenor:  
Name:  
Firm:

TAX COURT OF CANADA / COUR CANADIENNE DE  
MINUTES / PROCES-VERBAUX

Judge / Juge HON DWAYNE ROWE Date MONDAY OCTOBER 2ND 2000

No. / N° 2000-1538(E1) Place / Endroit WINNIPEG MB.

Between / Entre KELLY McCRIMMON & ROBERT CORNELL Applicant / Requéant(e)  
O/A THE BRANDON WHEAT KINGS Appellant / Appellant(e)  
M [ ] F [ ]

and / et MINISTER NATIONAL REVENUE. Respondent / Intimé(e)

and / et DARYL STOCKHAM. Intervener / Intervenant(e)  
M [ ] F [ ]

Fm# 204407 APPEARANCES / COMPARUTIONS

For the / Pour l' Applicant / Requéant(e) Name / Nom PAT FRASER & DAVID SWAYZE ESQ  
Appellant / Appellant(e) Address / Adresse MEIGHEN, HADDAD & CO.  
M [ ] F [ ] Box 22105  
BRANDON MB.  
R7A 6Y9.

For the / Pour le Respondent / Intimé(e) Name / Nom TRACY HARWOOD - JONES  
Representative Address / Adresse  
M [ ] F [ ]

For the / Pour l' Intervener / Intervenant(e) Name / Nom /  
Address / Adresse  
M [ ] F [ ]

Court Reporter / Sténographe Judiciaire  Firm / Firme FOUR SEASONS REPORTING.  
Recording Technician / Technicien de l'enregistrement [ ] Name / Nom CHERYL LAUIGNE.

Before the Court / Devant la Cour E1

Tape(s) No. / N° de la (des) Cassette(s) 2 From / de 2:00 PM To / à 4:00 PM

Decision / Décision  
  
Reserved Decision

A. Beattie Court Registrar's Signature du greffier audiencier ALEX BEATTIE Please Print Name / SVP imprimer votre nom

Transcript Requested by Presiding Judge / Transcription demandée par le juge qui préside Yes/Oui ( ) No / Non   
04/97

## TAX COURT OF CANADA / COUR CANADIENNE D'IMPÔTS

## MINUTES / PROCEEDINGS

Date / Temps:	Court # / # de chambre:		No. / N°: 2000-1538 (E1)
		HON JUDGE DWAYNE ROWE PRESIDING.	
2:00 PM		Calling case # 2000-1538 (E1) KELLY M <sup>o</sup> CRIMMON & ROBERT CORNELL o/a THE BRANDON WHEAT KINGS & case # 2000-1540 (CPP) KELLY M <sup>o</sup> CRIMMON & ROBERT CORNELL o/a THE BRANDON WHEAT KINGS VS MINISTER NATIONAL REVENUE.	
		MA Frousel speaks to court	
		Style & Cause - M <sup>o</sup> Crimmond Holdings Ltd. & Munder Co., Partnerships.	
		SWORN IN (BIBAE)	
		KELLY M <sup>o</sup> CRIMMON 167 WAVERLY DRIVE BRANDON MB. R7B 3Y8. Occupation :- GENERAL MANAGER. Co-OWNER.	
		Mr M <sup>o</sup> Crimmon gives evidence Questioned	



TAX COURT OF CANADA / COUR CANADIENNE D'IMPOT

MINUTES / PROCES-VERBAUX

Time / Temps	Counter # / # de documents		No. / N°: 2000-1538(E1)
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by Ms Fraser

A-1

Rules - Regulations Hockey league

A-2

Blank Contract Western Hockey League.

A-3

Agreement re Education Western Hockey League.

Mr M'Leammon Cross Examined by Ms Harwood-Jones.

Ms Fraser has further Questions.

SWORN IN  
(BQE)

LYN SHANNON  
1528-8<sup>th</sup> STREET.

BRANDON MB.  
R7A 3Z8.

OCCUPATION: EXECUTIVE ASSISTANT.

Ms Shannon gives evidence questioned by

TAX COURT OF CANADA / COUR CANADIENNE DE LA

MINUTES / PROCES-VERBAUX

Date / Date:	Case # / # de dossier:		No. / N°: 2000-1538 (E1)
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Mr Swayze.

A-4

Form Hockey League Billet information

No Cross Examination.

Argument.

Mr David Swayze is heard.

Ms Tracy Harwood-Jones is heard.

Mr Swayze Rebuttal.

4:00 PM

Reserved Decision

A. Beatty  
Court Registrar

TAX COURT OF CANADA / COUR CANADIENNE DE L'IMPÔT

EXHIBIT LIST / LISTE DES PIÈCES

Court File No. /

N° de dossier de la Cour :

2000-1538(E1)

fn# 204409

No. /  
N°

Description of Exhibits  
Description des pièces

A-1

Rules & Regulations Hockey League.

A-2

Blank Contract Western Hockey League.

A-3

Agreement re Education Western Hockey League.

A-4

Form Hockey League Ticket Information.

A. Beattie  
Court Registrar.

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PA  
e



Tax Court of Canada

Cour canadienne de l'impôt

Court No.: 2000-1538(EI)

N° de la cause : 2000-1538(EI)

Let the certified translation of the Reasons for Judgment delivered by Deputy Judge Rowe be utilized to comply with section 20 of the *Official Languages Act* and be filed.

Je requiers que la traduction certifiée des motifs de jugement rendus par le juge suppléant Rowe soit déposée et soit utilisée pour satisfaire aux exigences de l'article 20 de la *Loi sur les langues officielles*.

TAX COURT OF CANADA COUR CANADIENNE DE L'IMPÔT	
MAY 10 2001	DÉPOSÉ
CHRISTINE MORELAND REGISTRY OFFICER/AGENT DU GRÉFFÉ	
OTTAWA	

McCrimmon Holdings Ltd. et 32155 Manitoba Ltd. Société de  
Personnes s/n de Brandon Wheat Kings  
et M.R.N. et Daryl Stockham

(Style of Cause - Intitulé de la cause)

  
Registrar - Greffier

MAY - 9 2001

Date

Tax Court of Canada



Cour canadienne de l'impôt

Court No.: 2000-1538(EI)

N° de la cause : 2000-1538(EI)

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McCrimmon Holdings Ltd. et 32155 Manitoba Ltd. Société de  
Personnes s/n de Brandon Wheat Kings  
et M.R.N. et Daryl Stockham

---

(Style of Cause - Intitulé de la cause)

ORIGINAL SIGNED BY  
R.P. GUENETTE  
A SIGNÉ L'ORIGINAL

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Registrar - Greffier

MAY - 9 2001

---

Date

**REQUEST FOR TRANSLATION, REVISION OR EDITING  
 DEMANDE DE SERVICES DE TRADUCTION, DE RÉVISION OU DE RELECTURE**

REQUEST NUMBER N° DE LA DEMANDE
7610

TO/A Translation services	DATE November 27, 2000
FROM/DE F. Desjardins	TENTATIVE RETURN DATE DATE DE RETOUR PROVISOIRE
SUBJECT / OBJET McCrimmon Holdings Ltd. & 32155 Manitoba Ltd. and MNR 2000-1538(EI) and 2000-1540(CPP)#	WORD COUNT COMPTE-MOTS <u>4665 4503</u>

*trad. 3635*

**ACTION REQUIRED / MESURE À PRENDRE**

- TRANSLATION  
TRADUCTION
- REVISION  
RÉVISION
- EDITING  
RELECTURE

REMARKS / REMARQUES

**TO BE COMPLETED BY THE AUTHORIZED OFFICER / RÉSERVÉ À L'AGENT AUTORISÉ**

- TRANSLATION COMPLETED  
TRADUCTION COMPLÉTÉE
- REVISION COMPLETED  
RÉVISION COMPLÉTÉE
- EDITING COMPLETED  
RELECTURE COMPLÉTÉE

REMARKS / REMARQUES

*4/5/01*

DATE



SIGNATURE OF THE AUTHORIZED OFFICER  
SIGNATURE DE L'AGENT AUTORISÉ

Tax Court of Canada



Cour canadienne de l'impôt

[TRADUCTION FRANÇAISE OFFICIELLE]

2000-1538(ED)

ENTRE :

MCCRIMMON HOLDINGS LTD. et  
32155 MANITOBA LTD., UNE SOCIÉTÉ DE PERSONNES  
FAISANT AFFAIRE SOUS LE NOM DE BRANDON WHEAT KINGS,

appelante,

et

LE MINISTRE DU REVENU NATIONAL,

intimé,

et

DARYL STOCKHAM,

intervenant.

---

Appel entendu sur preuve commune avec l'appel de *McCrimmon Holdings Ltd.* et  
de *32155 Manitoba Ltd.*, une société de personnes faisant affaire sous le nom de  
*Brandon Wheat Kings* (2000-1540(CPP))  
le 2 octobre 2000 à Winnipeg (Manitoba) par  
l'honorable juge suppléant D. W. Rowe

Comparutions

Avocats de l'appelante : M<sup>e</sup> Pat Fraser  
M<sup>e</sup> David Swayze

Avocate de l'intimé : M<sup>e</sup> Tracy Harwood-Jones

Pour l'intervenant :

Personne n'a comparu

---

JUGEMENT

L'appel est rejeté et la décision du ministre est confirmée selon les motifs du jugement ci-joints.

Signé à Sidney (Colombie-Britannique), le 24<sup>e</sup> jour de novembre 2000.

« D. W. Rowe »

---

J.S.C.C.I.

Traduction certifiée conforme  
ce 4<sup>e</sup> jour de mai 2001.



Mario Lagacé, réviseur



Tax Court of Canada



Cour canadienne de l'impôt

[TRADUCTION FRANÇAISE OFFICIELLE]

2000-1540(CPP)

ENTRE :

MCCRIMMON HOLDINGS LTD. et  
32155 MANITOBA LTD., UNE SOCIÉTÉ DE PERSONNES  
FAISANT AFFAIRE SOUS LE NOM DE BRANDON WHEAT KINGS,

appelante,

et

LE MINISTRE DU REVENU NATIONAL,

intimé,

et

DARYL STOCKHAM,

intervenant.

---

Appel entendu sur preuve commune avec l'appel de *McCrimmon Holdings Ltd.* et de *32155 Manitoba Ltd.*, une société de personnes faisant affaire sous le nom de *Brandon Wheat Kings* (2000-1538(EI))  
le 2 octobre 2000 à Winnipeg (Manitoba) par  
l'honorable juge suppléant D. W. Rowe

Comparutions

Avocats de l'appelante : M<sup>e</sup> Pat Fraser  
M<sup>e</sup> David Swayze

Page : 2

Avocate de l'intimé : M<sup>e</sup> Tracy Harwood-Jones

Pour l'intervenant : Personne n'a comparu

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JUGEMENT

L'appel est rejeté et la décision du ministre est confirmée selon les motifs du jugement ci-joints.

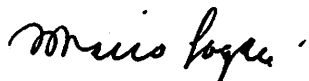
Signé à Sidney (Colombie-Britannique), le 24<sup>e</sup> jour de novembre 2000.

« D. W. Rowe »

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J.S.C.C.I.

Traduction certifiée conforme  
ce 4<sup>e</sup> jour de mai 2001.



Mario Lagacé, réviseur

Tax Court of Canada



Cour canadienne de l'impôt

[TRADUCTION FRANÇAISE OFFICIELLE]

Date: 20001124  
Dossiers: 2000-1538(EI)  
2000-1540(CPP)

ENTRE :

MCCRIMMON HOLDINGS LTD.  
32155 MANITOBA LTD., UNE SOCIÉTÉ DE PERSONNES  
FAISANT AFFAIRE SOUS LE NOM DE BRANDON WHEAT KINGS,

appelante,

et

LE MINISTRE DU REVENU NATIONAL,

intimé,

et

DARYL STOCKHAM,

intervenant.

### **MOTIFS DU JUGEMENT**

#### **Le juge suppléant Rowe, C.C.I.**

[1] L'intitulé de la cause utilisé dans l'avis d'appel et les actes de procédures ou avis ultérieurs désignait Kelly McCrimmon et Robert Cornell, faisant affaire sous le nom de The Brandon Wheat Kings, comme les appelants. Les avocats de l'appelante ont recommandé que l'intitulé exact désigne plutôt les membres moraux

de la société de personnes, soit McCrimmon Holdings Ltd. et 32155 Manitoba Ltd., utilisés par M. McCrimmon et M. Cornell pour exploiter une équipe de hockey connue sous le nom de Brandon Wheat Kings à Brandon, au Manitoba. J'ai ordonné que l'intitulé de la cause soit modifié en conséquence. Les avocats de l'appelante ont renoncé au droit de soulever les irrégularités découlant de la manière dont l'évaluation avait été établie et ont fait remarquer que le numéro de compte correct avait été utilisé, de sorte qu'aucun doute n'existait quant à la question en litige. Selon l'appelante, les joueurs juniors de hockey de l'équipe des Wheat Kings participaient à un programme de formation établi qui possédait une structure sophistiquée dont la composante essentielle visait les études.

[2] La société de personnes appelante, ci-après les « Wheat Kings », a interjeté appel à l'encontre des décisions du ministre du Revenu national (le « ministre »), datées du 17 janvier 2000, selon lesquelles il confirmait certaines évaluations établies en vertu de la *Loi sur l'assurance-emploi*, de la *Loi sur l'assurance-chômage* et du *Régime de pensions du Canada* au motif que les personnes énumérées à l'annexe A, jointe à la dite lettre de décision, étaient employées en vertu de contrats de louage de services conclus avec les Wheat Kings et exerçaient par conséquent un emploi assurable et ouvrant droit à pension. L'appelante a interjeté appel à l'encontre de ces décisions, et les avocats ont accepté que l'appel 2000-1540(CPP) suive le sort de l'appel en l'espèce.

[3] Kelly McCrimmon a indiqué dans son témoignage qu'il résidait à Brandon, au Manitoba, et qu'il avait été, au cours des douze dernières années, le directeur général du club de hockey les Wheat Kings de Brandon. Par l'entremise de sa société, McCrimmon Holdings Ltd., il est propriétaire du tiers de l'équipe, et Robert Cornell, par l'entremise d'une société à dénomination numérique, est propriétaire du reste. Ensemble, ils l'exploitent comme une société de personnes. M. McCrimmon a expliqué que la Ligue canadienne de hockey (LCH) était composée de la Ligue de hockey de l'Ontario (LHO), de la Western Hockey League (WHL) et de la Ligue de hockey junior majeur du Québec (LHJMQ). Il y a 18 équipes, dont les Wheat Kings, au sein de la WHL et 55 au sein de la LCH. Les équipes sont composées de joueurs qui ont évolué dans les ligues de hockey mineur. M. McCrimmon a déclaré que si un jeune joueur (âgé de 16 à 20 ans) souhaitait jouer dans la WHL, il lui serait probablement nécessaire de déménager dans la municipalité où l'équipe est située. La Ligue canadienne de hockey (LCH) est un organisme cadre qui supervise le hockey amateur au Canada. Certaines de ses équipes sont situées aux États-Unis et elles possèdent un arrangement semblable

avec l'organisme américain équivalent. La WHL, une ligue composée de 18 membres, comprend sept équipes appartenant à la collectivité, qui sont gérées par un conseil de direction, et onze autres franchises, qui sont détenues par des intérêts privés. La WHL possède un calendrier de 72 parties, et le camp d'entraînement débute en août. La saison régulière se termine à la fin du mois de mars, et les séries éliminatoires, y compris les finales, se terminent le Jour de Victoria, au mois de mai. La WHL est exploitée par un commissaire et un Conseil des gouverneurs composé de membres provenant chacun d'une équipe de la Ligue. Environ huit réunions sont tenues chaque année, en moyenne, et un conseil de direction composé de cinq personnes doit, tout au long de l'année, élaborer des politiques, des règles et des règlements et s'occuper par ailleurs de toute question prévue par la constitution de la ligue. Un extrait des règles et des règlements régissant la WHL a été déposé sous la cote A-1 et il contient les détails portant sur la grille salariale obligatoire des joueurs pendant qu'ils sont membres de l'une des équipes de la WHL. M. McCrimmon a déclaré que les montants modestes versés aux joueurs n'avaient pas considérablement changé depuis l'époque où il jouait dans la WHL, il y a 20 années, sauf qu'un joueur de deuxième année gagne maintenant 20 \$ de plus par mois que ce qu'il aurait gagné il y a 20 années. M. McCrimmon a déclaré que les versements mensuels de 160 \$ à un joueur de première année, de 180 \$ à un joueur de deuxième année, de 200 \$ à un joueur de troisième année, de 240 \$ à un joueur de quatrième année et d'un maximum de 600 \$ à un joueur de 20 ans qui faisait un retour constituaient à peine plus qu'une allocation visant à couvrir leurs besoins quotidiens de transport et d'autres petites dépenses que l'on pourrait normalement associer à de l'« argent de poche » si les joueurs vivaient à la maison. Les joueurs logent chez des familles locales, à Brandon, et les hôtes reçoivent la somme de 270 \$ par mois ainsi que des billets pour assister aux parties à domicile des Wheat Kings à titre d'indemnisation pour le logement et les repas du joueur. Comme la plupart des familles offrant le logement sont de fervents amateurs de hockey, les joueurs sont traités comme des membres de la famille. Au cours des nombreuses années pendant lesquelles les Wheat Kings ont fait partie de la WHL, il n'y a jamais eu plus de deux joueurs de l'équipe provenant de Brandon, et, certaines années, il n'y en avait aucun. Dans l'éventualité où les joueurs étaient de la localité, ils résidaient simplement chez eux. M. McCrimmon a renvoyé la Cour au contrat type des joueurs, pièce A-2, qui, à son avis, ne liait pas légalement un joueur, mais ne servait qu'à officialiser l'entente et présente les obligations du joueur et de l'équipe de hockey. Un joueur peut passer d'une équipe d'une ligue supérieure à une équipe d'un échelon inférieur de la hiérarchie du hockey, mais ne peut de lui-même décider de passer à une autre équipe au sein de la WHL.

M. McCrimmon a expliqué que les villes possédant des équipes variaient en taille, allant de Seattle et de Portland à Swift Current et à Prince George, de sorte qu'il était essentiel pour l'existence de la ligue de stabiliser le bassin de joueurs. En vertu de la clause 13 du contrat, pièce A-2, un joueur peut jouer pour une équipe professionnelle donnée, comme joueur âgé de moins de 19 ans, pourvu que l'équipe de la ligue professionnelle indemnise son ancienne équipe de la WHL en lui versant le montant de 100 000 \$. Les règles de la WHL autorisent la présence de trois joueurs de 20 ans sur la liste de chaque équipe, que l'on appelle des joueurs « ayant dépassé l'âge limite ». En conséquence, la plupart des joueurs ne demeurent dans la WHL que pendant quatre années. Les règles de la Ligue nationale de hockey (LNH) permettent à un joueur âgé de 18 ans de jouer dans cette ligue d'élite, mais non pas dans une ligue mineure, pour un club-école d'une équipe de la LNH ou pour un club-école associé à celle-ci. M. McCrimmon a déclaré que la WHL avait une politique en ce qui concerne les études des joueurs. La ligue payera le coût des frais de scolarité et des livres, pendant une année de fréquentation d'une université canadienne, pour chaque année qu'un joueur a passée auprès d'une équipe, et chaque accord d'études est inscrit auprès du siège social de la ligue. Dans tout accord d'échange d'un joueur, il existe une disposition portant sur une allocation visant les études ainsi qu'en ont convenu les deux équipes, et cet accord doit être approuvé par le gouverneur de la WHL. L'âge minimum auquel un joueur peut devenir membre d'une équipe de la WHL est de 16 ans. La ligue possède un système en vertu duquel on communique avec des joueurs prometteurs de 15 ans et on les conseille en vue de les préparer à quitter la maison l'année suivante pour jouer dans une équipe de la WHL d'une autre ville. Tout en jouant pour les Wheat Kings, tous les joueurs fréquentent la même école secondaire et rencontrent le même conseiller. Ils sont tous soumis à un couvre-feu et ils sont étroitement surveillés, tant à l'école qu'à l'extérieur de l'école, en particulier parce que cela concerne leur présence, et le club imposera des punitions. Les joueurs doivent voyager beaucoup pendant une saison de hockey et ils doivent être à l'école, à Brandon, à 9 h, même s'ils sont arrivés d'un voyage à 5 h. La Brandon University et le Assiniboine Community College sont tous les deux situés à Brandon. Les joueurs qui terminent l'école secondaire, mais qui ont choisi de ne pas fréquenter le collège ou l'université, doivent participer à des séances d'entraînement six jours par semaine, de 12 h 30 à 17 h 30 tous les jours. Le jour d'une partie, les joueurs se rendent à l'aréna entre 12 h 30 et 14 h et y reviennent à 17 h 30 pour en repartir à la fin de la partie, habituellement après 23 h. Même durant une semaine où aucune partie n'est jouée, un joueur des Wheat Kings sera à l'aréna 24 heures par semaine. Lorsqu'il voyage pour jouer des parties dans

d'autres villes, l'autobus est le seul moyen de transport utilisé par l'équipe, et il lui faut 27 heures pour se rendre de Brandon à Portland, en Oregon, et 22 heures pour aller à Prince George, en Colombie-Britannique. Les voyages ardues en autobus font partie intégrante du processus grâce auquel un joueur, après une longue attente, se voit finalement accorder la chance de devenir un joueur professionnel de la LNH et de faire partie d'une industrie qui permet à un jeune homme de gagner un salaire pouvant atteindre plusieurs millions de dollars américains par année ou de jouer dans d'autres ligues de hockey en Amérique du Nord ou en Europe, où les salaires, pendant une courte saison, peuvent atteindre 100 000 \$CAN. M. McCrimmon a déclaré qu'après sa carrière de hockey dans la WHL comme joueur des Wheat Kings de Brandon, qui, a-t-il reconnu, constituait un milieu où régnait la discipline exigeant de nombreux sacrifices, il a fréquenté la Brandon University. Il connaît d'anciens joueurs qui sont devenus des dirigeants, des recruteurs ou des thérapeutes et qui ont pu ainsi continuer d'être actifs dans l'industrie du hockey. Les joueurs des Wheat Kings se voyaient accorder un couvre-feu à 2 h la fin de semaine une fois par mois. Ils doivent travailler avec des enfants dans des écoles élémentaires et participer à des programmes portant sur le hockey mineur, les enfants handicapés et la sensibilisation aux drogues ainsi que se mêler au milieu d'affaires de Brandon. Leur comportement est surveillé par la direction de l'équipe et les familles offrant le logement. La ville de Brandon, dont la population est de 50 000 habitants, est très fière de l'équipe de hockey des Wheat Kings, et les joueurs ont une très bonne réputation au sein de la collectivité. Au banquet annuel de remise des médailles, un prix est remis pour les réalisations scolaires et un autre au meilleur joueur finissant élu notamment en fonction de sa participation à titre de membre de l'équipe et de résidant de la collectivité de Brandon. La liste réelle de l'équipe comprend 22 ou 23 joueurs, mais quatre autres personnes peuvent figurer sur une liste protégée reconnue par la WHL et pourraient jouer ailleurs à un niveau inférieur, comme le niveau II et le Midget AAA.

[4] En contre-interrogatoire, Kelly McCrimmon a déclaré que, dans l'éventualité où un joueur choisissait de ne pas poursuivre d'études postsecondaires, l'allocation pour le logement et les repas était quand même payée en son nom. En vertu de la clause 12 du contrat standard des joueurs, pièce A-2, il existe une disposition prévoyant l'interruption du paiement du salaire pendant une suspension imposée par la ligue à un joueur, mais, en 12 années avec les Wheat Kings en tant que directeur général, il n'avait jamais vu l'équipe appliquer cette clause. Les amendes pouvant être imposées en vertu de la clause 6 du contrat sont déduites de l'allocation mensuelle, mais sont plus tard remboursées en quelque sorte, puisque

les montants perçus sont consacrés à une activité de l'équipe pour le bénéfice de tous les joueurs.

[5] Lyn Shannon a indiqué dans son témoignage qu'elle résidait à Brandon et, pendant les dix dernières années, qu'elle avait travaillé comme adjointe exécutive au directeur général des Wheat Kings. Sa fonction à l'origine était de réduire la charge de travail du directeur général, mais elle a évolué vers d'autres domaines, de sorte que M<sup>me</sup> Shannon est maintenant responsable de certaines fonctions comptables, administratives et de marketing et elle doit également agir à titre de conseillère auprès des joueurs. Elle est chargée de leur faire parvenir leur chèque mensuel. En septembre 1992, elle s'est renseignée auprès de l'ancien exploitant du club de hockey et de Revenu Canada au sujet de la méthode de paiement aux joueurs, et on lui a dit que l'argent comptant pouvait être payé dans une enveloppe, sans retenues, mais qu'un feuillet T4 devait être envoyé à chaque joueur à la fin de l'année. Elle a indiqué que, depuis janvier 1999, l'appelante effectuait les retenues appropriées sur les chèques envoyés aux joueurs. Bien que les familles offrant le logement soient indemnisées au taux de 260 \$ par mois, selon M<sup>me</sup> Shannon, cela ne couvre pas le coût engendré par la présence d'un jeune joueur de hockey qui vit et mange à la maison comme un membre de la famille. Les familles concluent un contrat, pièce A-4, avec les Wheat Kings, qui établit les différentes modalités ainsi que certaines règles et attentes du club accompagnées de certains conseils sur la manière dont les joueurs devraient être traités de façon à tenter de les inclure dans un environnement familial. Lorsque les joueurs sont à l'extérieur pour y jouer 36 parties par saison, tous les coûts sont payés par les Wheat Kings. Au moins la moitié des joueurs de l'équipe, âgés de 16 à 18 ans, iront à l'école secondaire, et les plus vieux fréquenteront l'université ou un collège communautaire, et le coût de leurs livres et de leurs frais de scolarité leur sera remboursé s'ils obtiennent un diplôme. De l'espace est prévu à l'aréna Keystone Centre, à Brandon, pour les joueurs qui sont étudiants et qui souhaitent étudier, et, à l'occasion, l'organisation des Wheat Kings retiendra et payera les services d'un tuteur qui enseignera à un ou plusieurs joueurs.

[6] L'avocate de l'intimé n'a pas procédé à un contre-interrogatoire.

[7] Les avocats de l'appelante ont soutenu que l'affaire n'avait pas fait l'objet de l'analyse habituelle employée en vertu de la décision de la Cour d'appel fédérale dans l'affaire *Wiebe Door Services Ltd c. M.R.N.*, [1986] 3 C.F. 553 ([1986] 2 C.T.C. 200), puisque la preuve a clairement révélé que les joueurs



n'étaient pas des entrepreneurs indépendants, mais qu'ils étaient considérés comme des employés, sans plus. Toutefois, les avocats ont présenté la proposition selon laquelle la véritable qualification de l'état des joueurs, par rapport au club de hockey des Wheat Kings, n'était pas celle d'apprentis, mais était plus compatible avec une forme d'enseignement privé en ce sens que les étudiants participaient à un programme de hockey offrant des bourses d'études assujetties à certaines conditions préalables dont l'une d'elles était qu'ils possèdent la capacité de jouer au hockey au niveau permettant de devenir membre d'une équipe de la WHL. Les joueurs, comme tout étudiant, devaient se conformer à un code de conduite et respecter certaines normes définies de la même manière que tout étudiant qui reçoit une bourse d'études. Les avocats ont fait remarquer que, dans la longue histoire de la WHL, aucune évaluation visant des primes d'assurance-chômage ou d'assurance-emploi ou des contributions au Régime de pensions du Canada n'avait été établie et qu'il ne semblait pas raisonnable, dans le contexte général de la WHL, de considérer les petits paiements faits aux joueurs comme autre chose qu'une simple allocation qu'ils pouvaient dépenser à leur entière discrétion, même si cela constituait un revenu selon la *Loi de l'impôt sur le revenu*, lesquels paiements ne constituaient pas un revenu assurable au sens de la *Loi sur l'assurance-emploi*. Selon les avocats, la loi visait à protéger les personnes du risque d'être contraintes à l'inactivité, et elle n'est pas, d'un point de vue pratique, pertinente à la situation en l'espèce.

[8] L'avocate de l'intimé a soutenu que la preuve avait clairement établi que la relation entre l'appelante et les joueurs était une relation employeur-employé puisque les joueurs occupaient un emploi en vertu d'un contrat de louage de services selon la *Loi sur l'assurance-emploi* et que le règlement pris en application de cette loi précisait que la rémunération versée aux joueurs devait être considérée comme une rémunération assurable. En outre, l'avocate a soutenu qu'un règlement particulier devrait être adopté afin d'exclure les joueurs de la catégorie des personnes occupant un emploi assurable selon la définition de cette expression dans la *Loi sur l'assurance-emploi*.

[9] L'emploi assurable est défini par l'alinéa 5(1)a) de la *Loi sur l'assurance-emploi* de la manière suivante :

Sous réserve du paragraphe (2), est un emploi assurable :

a) l'emploi exercé au Canada pour un ou plusieurs employeurs, aux termes d'un contrat de louage de services ou

d'apprentissage exprès ou tacite, écrit ou verbal, que l'employé reçoive sa rémunération de l'employeur ou d'une autre personne et que la rémunération soit calculée soit au temps ou aux pièces, soit en partie au temps et en partie aux pièces, soit de toute autre manière;

[10] Le paragraphe 5(2) de la *Loi sur l'assurance-emploi* est ainsi rédigé :

5.(2) N'est pas un emploi assurable :

a) l'emploi occasionnel à des fins autres que celles de l'activité professionnelle ou de l'entreprise de l'employeur;

b) l'emploi d'une personne au service d'une personne morale si cette personne contrôle plus de quarante pour cent des actions avec droit de vote de cette personne morale;

c) l'emploi exercé au Canada et relevant de Sa Majesté du chef d'une province;

d) l'emploi exercé au Canada au service du gouvernement d'un pays étranger ou de celui d'une subdivision politique d'un tel pays;

e) l'emploi exercé au Canada au service d'un organisme international;

f) l'emploi exercé au Canada dans le cadre d'un programme d'échange mais non rétribué par un employeur résident au Canada;

g) l'emploi qui constitue un échange de travail ou de services;

h) l'emploi exclu par règlement pris en vertu du présent article;

i) l'emploi dans le cadre duquel l'employeur et l'employé ont entre eux un lien de dépendance.

[11] Comme la *Loi sur l'assurance-emploi* est entrée en vigueur le 30 juin 1996 et que les évaluations visaient l'année 1996 au complet, il vaut la peine de remarquer que la définition d'emploi assurable de l'alinéa 3(1)a) de la *Loi sur l'assurance-chômage* est exactement la même que celle citée ci-dessus.

[12] La définition de rémunération assurable du paragraphe 2(3) du *Règlement sur la rémunération assurable et la perception des cotisations* est ainsi rédigée :

Pour l'application des paragraphes (1) et (2), sont exclus de la rémunération :

a) la somme représentant la valeur de la pension, du logement et autres avantages qu'une personne a reçus ou dont elle a joui au cours d'une période de paie au titre de son emploi, si l'employeur ne lui verse aucune rétribution en espèces pour cette période;

a.1) toute somme qui est exclue du revenu en vertu des alinéas 6(1)a) ou b) ou des paragraphes 6(6) ou (16) de la *Loi de l'impôt sur le revenu*;

b) les allocations de retraite;

c) tout montant supplémentaire versé par l'employeur à une personne afin d'augmenter les indemnités d'accident du travail versées à celle-ci par un organisme provincial;

d) tout montant supplémentaire versé par l'employeur à une personne afin d'augmenter les indemnités d'assurance-salaire versées à celle-ci par une tierce partie;

e) les prestations supplémentaires de chômage versées à une personne dans le cadre d'un régime de prestations supplémentaires de chômage visé au paragraphe 37(2) du *Règlement sur l'assurance-emploi*;

f) tout montant versé par l'employeur à une personne, soit à titre d'indemnité durant le délai de carence visé à l'article 13 de la Loi, soit pour augmenter les prestations de maternité payables en vertu de l'article 22 de la Loi ou les prestations parentales payables en vertu de l'article 23 de la Loi, si les conditions énoncées à l'article 38 du *Règlement sur l'assurance-emploi* sont respectées.

[13] La disposition pertinente du *Règlement sur l'assurance-chômage (perception des cotisations)* est l'article 3 :

3(1) Aux fins de la présente partie, la rémunération d'une personne provenant d'un emploi assurable correspond à toute rétribution, entièrement ou partiellement en espèces, qu'elle reçoit ou dont elle bénéficie et qui lui est versée par son employeur relativement à cet emploi, à l'exception : [...]

[14] En vertu des deux règlements, la valeur des repas, du logement et des autres avantages reçus en ce qui concerne l'emploi n'est pas considérée comme une rémunération assurable si aucune rémunération en argent comptant n'est payée par l'employeur à l'employé. Le ministre a reconnu cet aspect de la question lorsqu'il a entrepris une modification des évaluations précédentes et qu'il a effacé certains montants parce que certains joueurs entraient dans la catégorie des personnes exerçant un emploi exclu.

[15] Comme l'ont fait remarquer les avocats de l'appelante, le Bulletin d'interprétation IT 168R3 ne s'applique qu'aux athlètes professionnels employés par des clubs de football, de hockey et d'autres clubs semblables, et les joueurs de la WHL ne sont pas visés par cette définition.

[16] Selon l'appelante, les joueurs participaient à un programme de bourses d'études. La définition suivante de bourse d'études figure dans le *Dictionary of Canadian Law*, 2<sup>e</sup> édition, Carswell, 1995, Dukelow & Nuse :

[TRADUCTION]

1. Une somme accordée en considération de la qualité particulière du travail universitaire de la personne qui la reçoit. 2. Un prix de distinction, une récompense ou un incitatif. 3. Aide financière accordée à titre gratuit à un étudiant.

[17] Le *Concise Oxford Dictionary of Current English*, 8<sup>e</sup> édition, Clarendon Press, Oxford définit une bourse d'études comme :

[TRADUCTION]

le paiement provenant des fonds d'une école, d'une université, d'un gouvernement local etc., afin d'assurer des études à temps complet à un étudiant, qui est assujéti à l'obtention d'excellents résultats.

[18] Les avocats de l'appelante ont reconnu que les montants reçus par les joueurs sous la forme de leur allocation mensuelle étaient imposables, mais qu'on ne pouvait supposer que cela rendait leur emploi assurable ou ouvrait droit à pension au sens de la loi pertinente. Les règles et règlements de la WHL, pièce A-1, renvoient au contrat standard des joueurs, qui précise le montant d'argent qui est désigné comme l'« allocation du joueur ». Les joueurs ont entière discrétion quant à ce montant et ils n'avaient pas à l'utiliser pour payer leurs dépenses liées à l'exercice de leurs fonctions en tant que joueurs de hockey pour les Wheat Kings, notamment leurs dépenses de voyage dans le cadre de leurs matchs à l'extérieur. La clause 12 du contrat du joueur, pièce A-2, faisait référence à la perte de salaire pendant une suspension par le club ou la ligue. Toutefois, en vertu des clauses 2.1 et 2.2, on parle du paiement comme d'une « allocation fixée par les règles de la WHL ».

[19] Bien qu'il existe une composante éducative associée au contrat intervenu entre les Wheat Kings et les joueurs, ce qui est louable, les joueurs sont payés pour jouer au hockey pour l'équipe de la WHL. Ils ont droit au remboursement des frais d'achat des livres et des frais de scolarité dans un établissement d'enseignement postsecondaire pour chaque année où ils ont joué pour une équipe de la WHL. C'est le fait de terminer une période de jeu qui leur permet d'obtenir ce droit. La paie pour jouer au hockey est modeste, mais toutes les dépenses sont couvertes, y compris le logement et les repas. Toutefois, il n'y avait pas de lien inextricable entre la bourse d'études et l'obligation de jouer au hockey comme cela peut être le cas à une université, puisque la fréquentation d'un établissement d'enseignement postsecondaire n'était pas obligatoire afin de demeurer sur la liste. Dans l'affaire *Charron c. Canada (ministre du Revenu national – M.R.N.)*, [1994] A.C.I. n° 47, le juge Archambault, C.C.I., a entendu un appel interjeté à l'encontre d'une décision du ministre selon laquelle l'appelante, une étudiante diplômée employée par l'Université Laval pour un projet de recherche, n'exerçait pas un emploi assurable parce qu'elle recevait un crédit universitaire pour le travail. Le juge Archambault a conclu que l'existence d'un avantage académique n'empêchait pas l'existence d'un contrat de travail, et le paragraphe 14 de son jugement précise que :

[...] De plus, le fait que l'alinéa 3(1)a) réfère à des emplois « en vertu d'un contrat de louage de services ou d'apprentissage, exprès ou tacite, écrit ou verbal, que l'employé reçoive sa rémunération de l'employeur ou d'une autre personne » indique une volonté claire du

législateur que la notion de l'emploi assurable soit la plus large possible pour les fins de la Loi.

[20] Kelly McCrimmon, le directeur général des Wheat Kings, a déclaré qu'il ne considérait pas que le contrat des joueurs liait légalement ces derniers, mais qu'il s'agissait plutôt d'un document officialisant, principalement pour les besoins de la ligue, l'entente conclue entre les joueurs et leur club de hockey respectif. La disposition pertinente de la *Loi sur les normes d'emploi*, chapitre E110, de la province du Manitoba, en vigueur au cours de la période visée par les présents appels, définit un adolescent de la manière suivante :

« adolescent » Personne de 16 ans ou plus mais qui n'a pas encore atteint l'âge de 18 ans.

[21] Le paragraphe 9(2) de ladite loi, sous l'intitulé Entente par un adolescent, précise que :

L'adolescent qui conclut une entente en vue de son emploi assume les responsabilités qui en découlent et en bénéficie comme s'il était un adulte.

[22] Il est extrêmement douteux que le législateur se soit préoccupé du chômage important parmi les joueurs de hockey âgés de 16 à 20 ans. Il est également difficile d'imaginer comment le chômage aurait pu survenir autrement que dans des circonstances où un joueur était congédié ou incapable de jouer pour une autre équipe et devait par conséquent percevoir les très modestes avantages pendant une période de transition. La WHL fonctionne depuis de nombreuses années et donne de l'importance à la valeur des études. Kelly McCrimmon sert d'exemple pour les autres joueurs qui peuvent continuer d'être actifs, à un certain niveau, dans l'industrie du hockey après la fin de leur carrière de joueur. Toutefois, l'entreprise des Wheat Kings est simplement l'entreprise du hockey. Il s'agit d'une organisation commerciale, bien qu'adorée par les citoyens de Brandon, qui exploite une entreprise en vue d'en tirer un profit. Les joueurs sont des employés qui reçoivent une rémunération, définie comme de l'argent comptant, selon les règlements appropriés régissant la rémunération assurable. Une modification serait nécessaire au paragraphe 5(2) de la *Loi sur l'assurance-emploi* afin d'exclure des joueurs de la WHL et d'autres joueurs de hockey juniors de la LCH de la catégorie des personnes exerçant un emploi assurable.

[23] Tenant compte de la preuve, de la loi et de la jurisprudence pertinentes, je conclus que les évaluations établies par le ministre sont appropriées et que la décision datée du 17 janvier 2000, confirmant ces évaluations antérieures, est elle-même confirmée par la présente.

[24] Le présent appel est rejeté, comme l'appel 2000-1540(CPP), et ce dernier, avec l'accord des parties, doit avoir le même résultat que celui en l'espèce.

Signé à Sidney (Colombie-Britannique), ce 24<sup>e</sup> jour de novembre 2000.

« D. W. Rowe »

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J.S.C.C.I.

Traduction certifiée conforme  
ce 4<sup>e</sup> jour de mai 2001.



Mario Lagacé, réviseur

# THE GLOBE AND MAIL

## Junior teams to get primer in tax law

**Allan Maki**

From Saturday's Globe and Mail

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This is Exhibit N referred to in the  
 affidavit of Brendan O'Grady  
 sworn before me, this 15<sup>th</sup>  
 day of June, 20 16  
[Signature]  
 A commissioner for taking affidavits

There will be no further audits of Canada's junior A hockey leagues providing teams get their accounting act in order and are willing to work with the Canada Customs and Revenue Agency.

Bob Nicholson, president of the Canadian Hockey Association, met with CCRA officials earlier this week and acknowledged junior A teams must follow "the letter of the law" when it comes to claiming income and making Canada Pension Plan and Employment Insurance deductions on players who receive billet money.

A recent audit of the Saskatchewan Junior Hockey League found 10 of the 12 teams had not done the proper bookkeeping, and those 10 must pay the money owed plus interest -- amounts ranging from \$5,600 to \$14,500. Some have made their payment; others have filed an appeal.

To ensure all teams operate as required and are not subjected to potentially damaging fines or assessments, Nicholson and the CCRA agreed there should be an outreach program to better educate and assist the 10 junior A leagues across the country.

"There will be no more audits as long as we're willing to work with the CCRA and continue on an educational process," Nicholson said yesterday. "There are teams that have to do a little more due diligence. These organizations may be community-owned and volunteer-based, but they still have to look after the law of the country."

The CCRA began auditing teams in the SJHL last year after a complaint was filed by a teenage player who had been receiving billet money for room and board and wanted to claim his CPP and EI deductions. When told no deductions had been made, the player's complaint was investigated by the CCRA, which led to a public outcry. Fears that the CCRA might put several teams -- even entire leagues -- out of business swept throughout Saskatchewan and the west.

Last November, Canadian Alliance senior national revenue critic Rahim Jaffer weighed in on the matter: "The CCRA's hip check to the SJHL is a first step to tax the life out of Canada's favourite winter pastime." He added, "This government really needs to spend time in the penalty box to cool off and set its priorities straight."

"This isn't something [the CCRA] went digging for. It came up and they dealt with it," said Nicholson, who met Thursday with the commissioners of the four western junior A leagues to discuss a co-operative approach. "We want this to work for everyone's interests."

Kim Davis, commissioner of the Manitoba Junior League, said a team in his league had also been "put



through an assessment process" by the CCRA. It was his hope ground rules could be established and further audits would be avoided since any fine "would be substantial for our organizations."

For SJHL president Wayne Kartusch, who plans to step down this summer after spending more than 30 years in junior hockey, the taxation issue added to his workload and made for a stressful year.

"It started in Weyburn last June," Kartusch said. "Then in August I was notified that all teams were subject to an audit. It took off after that.

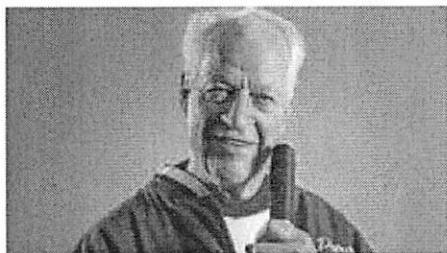
"It's not comfortable dealing with a government agency, but we're hopeful that we can work together and other leagues won't have to go what we've gone through in Saskatchewan."

Critics charged that this was the first time SJHL teams and players had been assessed income tax, CPP or EI since the league was formed in 1969.

### Report Typo/Error

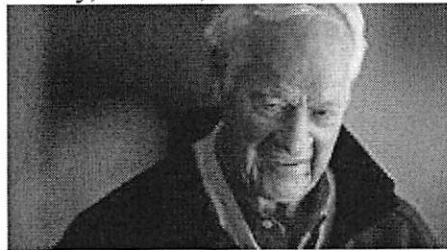
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Employer's name - Nom de l'employeur <b>OTTAWA 67S HOCKEY TEAM</b>		14	Employment income - line 101 Revenus d'emploi - ligne 101	1,675.03	22	Income tax deducted - line 437 Impôt sur le revenu retenu - ligne 437
U504-P		10	Province of employment Province d'emploi	ON	16	Employee's CPP contributions - line 308 Cotisations de l'employé au RPC - ligne 308
12	Social Insurance number Numéro d'assurance sociale	28	Exempt - Exemption CPP/QPP EI PPIP	X	17	Employee's OPP contributions - line 308 Cotisations de l'employé au RRO - ligne 308
		29	Employment code Code d'emploi		24	EI insurable earnings Gains assurables d'AE
Employee's name and address - Nom et adresse de l'employé		18	Employee's EI premiums - line 312 Cotisations de l'employé à l'AE - ligne 312	29.82	26	CPP/OPP pensionable earnings Gains ouvrant droit à pension - RPC/RRO
Last name (in capital letters) - Nom de famille (en lettres majuscules)		20	RPP contributions - line 207 Cotisations à un RPA - ligne 207		44	Union dues - line 212 Cotisations syndicales - ligne 212
First name - Prénom		52	Pension adjustment - line 206 Facteur d'équivalence - ligne 206		46	Charitable donations - line 349 Dons de bienfaisance - ligne 349
Initials - Initiales		50	Employee's PPIP premiums - see over Cotisations de l'employé au RPAP - voir au verso		56	RPP or DPSP registration number N° d'agrément d'un RPA ou d'un RPDB
		55				PPIP insurable earnings Gains assurables du RPAP
Other information (see over) Autres renseignements (voir au verso)		Box - Case		Amount - Montant	Box - Case	
		Box - Case		Amount - Montant	Box - Case	
		Box - Case		Amount - Montant	Box - Case	
		Box - Case		Amount - Montant	Box - Case	

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Employer's name - Nom de l'employeur <b>OTTAWA 67S HOCKEY TEAM</b>		14	Employment income - line 101 Revenus d'emploi - ligne 101	1,675.03	22	Income tax deducted - line 437 Impôt sur le revenu retenu - ligne 437
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Employer's name - Nom de l'employeur  
OTTAWA 67S HOCKEY TEAM

U504-P

12 Social Insurance number / Numéro d'assurance sociale

28 Exempt - Exemption / Code d'exemption  
28 X R1 PFP  
NRCNRG AR RPAP

14 Province of employment / Province d'emploi  
10 ON  
29 Employment code / Code d'emploi

Employee's name and address - Nom et adresse de l'employé  
Last name (in capital letters) - Nom de famille (en lettres majuscules)

[Redacted employee name and address]

ID: 0404

Employment income - line 101 / Revenu d'emploi - ligne 101

1,300.00

16 Employee's CPP contributions - line 308 / Cotisations de l'employé au RPP - ligne 308

17 Employee's CPP contributions - line 308 / Cotisations de l'employé au RPP - ligne 308

18 Employee's EI premiums - line 312 / Cotisations de l'employé à l'AE - ligne 312

20 RPP contributions - line 207 / Cotisations à la RPA - ligne 207

52 Parole adjustment - line 208 / Facteur d'ajustement - ligne 208

55 Employee's PFP premiums - see over / Cotisations de l'employé au RPAP - voir au verso

Income tax deducted - line 437 / Impôt sur le revenu retenu - ligne 437

1,300.00

24 EI insurable earnings / Gains assurables d'AE

26 CPP/OPF pensionable earnings / Gains ouvrant droit à pension - RPP/ROO

44 Union dues - line 212 / Cotisations syndicales - ligne 212

46 Charitable donations - line 348 / Dons de bienfaisance - ligne 348

50 RPP or OPIP registration number / N° d'ajustement d'un RPA ou d'un RPOO

56 PFP insurable earnings / Gains assurables du RPAP

Table with 4 columns: Box - Case, Amount - Montant. Rows for Other information (see over) and Autres renseignements (voir au verso).

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OTTAWA 67S HOCKEY TEAM

U504-P

12 Social Insurance number / Numéro d'assurance sociale

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14 Province of employment / Province d'emploi  
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Employee's name and address - Nom et adresse de l'employé  
Last name (in capital letters) - Nom de famille (en lettres majuscules)

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Employment income - line 101 / Revenu d'emploi - ligne 101

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46 Charitable donations - line 348 / Dons de bienfaisance - ligne 348

50 RPP or OPIP registration number / N° d'ajustement d'un RPA ou d'un RPOO

56 PFP insurable earnings / Gains assurables du RPAP

Table with 4 columns: Box - Case, Amount - Montant. Rows for Other information (see over) and Autres renseignements (voir au verso).

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 Year/Année: 2012  
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 For English information see back of copy 2 / Renseignements en français : verso de la copie 2

Employer's name - Nom de l'employeur: **OTTAWA 67'S LIMITED PARTNERSHIP**  
 C888-4

Social insurance number / Numéro d'assurance sociale: [REDACTED]

Employee's name and address - Nom et adresse de l'employé  
 Last name (in capital letters) - Nom de famille (en lettres majuscules): [REDACTED]  
 First name - Prénom: [REDACTED]  
 Initials - Initiales: [REDACTED]

Employment income - Revenu d'emploi - ligne 101: **50.00**

Income tax deducted - Impôt sur le revenu retenu - ligne 437: [REDACTED]

Eligible earnings - Gains assurables d'AT: **50.00**

Employee's CPP contributions - Cotisations de l'employé au RPP - ligne 308: [REDACTED]

Employee's EI premiums - Cotisations de l'employé à l'EI - ligne 312: **92**

RPP contributions - Cotisations à un RPA - ligne 207: [REDACTED]

Pension adjustment - Facteur d'équivalence - ligne 200: [REDACTED]

Employee's PPIP premiums - Cotisations de l'employé au RPAAP - voir au verso: [REDACTED]

Other information (see over) / Autres renseignements (voir au verso): [REDACTED]

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 Year/Année: 2012  
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 For English information see back of copy 3 / Renseignements en français : verso de la copie 2 3

Employer's name - Nom de l'employeur: **OTTAWA 67'S LIMITED PARTNERSHIP**  
 C888-4

Social insurance number / Numéro d'assurance sociale: [REDACTED]

Employee's name and address - Nom et adresse de l'employé  
 Last name (in capital letters) - Nom de famille (en lettres majuscules): [REDACTED]  
 First name - Prénom: [REDACTED]  
 Initials - Initiales: [REDACTED]

Employment income - Revenu d'emploi - ligne 101: **50.00**

Income tax deducted - Impôt sur le revenu retenu - ligne 437: [REDACTED]

Eligible earnings - Gains assurables d'AT: **50.00**

Employee's CPP contributions - Cotisations de l'employé au RPP - ligne 308: [REDACTED]

Employee's EI premiums - Cotisations de l'employé à l'EI - ligne 312: **92**

RPP contributions - Cotisations à un RPA - ligne 207: [REDACTED]

Pension adjustment - Facteur d'équivalence - ligne 200: [REDACTED]

Employee's PPIP premiums - Cotisations de l'employé au RPAAP - voir au verso: [REDACTED]

Other information (see over) / Autres renseignements (voir au verso): [REDACTED]

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# Employers' Guide Payroll Deductions and Remittances

This is Exhibit "P" referred to in the  
affidavit of Brendan O'Grady  
sworn before me, this 15<sup>th</sup>  
day of June, 2016.  
[Signature]  
A commissioner for taking affidavits



## Remittance due dates

In Chapter 8, you will find more information on remitting payroll deductions. It talks about the different remitter types and due dates, how to make a remittance, and the forms to use.

If a due date falls on a Saturday, a Sunday, or a public holiday recognized by the CRA, your remittance is due on the next business day. For a list of public holidays, go to [www.cra.gc.ca/duedates](http://www.cra.gc.ca/duedates).

### View remitting requirements

You can view your remitting requirements at:

- [www.cra.gc.ca/mybusinessaccount](http://www.cra.gc.ca/mybusinessaccount), if you are the business owner; or
- [www.cra.gc.ca/representatives](http://www.cra.gc.ca/representatives), if you are an authorized employee or representative.

### Remittance thresholds for employer source deductions

Remitter types	AMWA <sup>1</sup>	Due dates
Regular remitter	Less than \$25,000	We have to receive your deductions on or before the 15th day of the month after the month you paid your employees.
Quarterly remitter	Less than \$1,000 <sup>2</sup> and less than \$3,000	If you are eligible for quarterly remitting, we have to receive your deductions on or before the 15th day of the month immediately following the end of each quarter. The quarters are: <ul style="list-style-type: none"> <li>■ January to March;</li> <li>■ April to June;</li> <li>■ July to September; and</li> <li>■ October to December.</li> </ul> The due dates are April 15, July 15, October 15, and January 15.
Accelerated remitter threshold 1	\$25,000 to \$99,999.99	We have to receive your deductions by the following dates: <ul style="list-style-type: none"> <li>■ For remuneration paid in the first 15 days of the month, remittances are due by the 25th day of the same month.</li> <li>■ For remuneration paid from the 16th to the end of the month, remittances are due by the 10th day of the following month.</li> </ul>
Accelerated remitter threshold 2	\$100,000 or more	You have to remit your deductions through a Canadian financial institution so that we receive them within three working days following the last day of the following pay periods: <ul style="list-style-type: none"> <li>■ the 1st through the 7th day of the month;</li> <li>■ the 8th through the 14th day of the month;</li> <li>■ the 15th through the 21st day of the month; and</li> <li>■ the 22nd through the last day of the month.</li> </ul>

1. Average monthly withholding amount

2. This is a monthly withholding amount (MWA), not an AMWA. For more information, go to Chapter 8 starting on page 46.

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## Chapter 1 – General information

### Do you need to register for a payroll program account?

You need to register for a payroll program account if you:

- pay salaries or wages;
- pay tips or gratuities;
- pay bonuses or vacation pay;
- provide benefits or allowances to employees; or
- need to report, deduct and remit amounts from other types of remuneration (such as pension or superannuation).

If you need a payroll program account and you already have a business number (BN), you only need to add a payroll program account to your existing BN. If you don't have a BN, you must ask for one and register for a payroll program account before the date your first remittance is due.

For information on the BN and Canada Revenue Agency (CRA) accounts or to register online, go to [www.cra.gc.ca/bn](http://www.cra.gc.ca/bn). You can also read Booklet RC2, *The Business Number and Your Canada Revenue Agency Program Accounts*.

Payroll deductions can be complicated. If you are having trouble with them, go to [www.cra.gc.ca/payroll](http://www.cra.gc.ca/payroll) or call 1-800-959-5525.

### Contacts and authorized representatives

As a business owner, partner, director, trustee, or officer of a business, you can authorize representatives, including your employees, an accountant, a bookkeeper, a lawyer, a payroll provider, or a firm, to act on your behalf.

You can authorize a representative (including an employee) using the "Authorize or manage representatives" online service at [www.cra.gc.ca/mybusinessaccount](http://www.cra.gc.ca/mybusinessaccount) or by sending a completed Form RC59, *Business Consent*, to your tax centre. Online authorization gives your representative immediate access to your business accounts.

"Authorize or manage representatives" lets you view the representatives we have on record for your business, as well as add, modify or cancel a representative's authorization.

Alternatively, your representative can submit an authorization request or delete an authorization online at [www.cra.gc.ca/representatives](http://www.cra.gc.ca/representatives).

Representatives can access most of the services offered in My Business Account through Represent a Client at [www.cra.gc.ca/representatives](http://www.cra.gc.ca/representatives).

### Employment in Quebec

The Quebec provincial government administers its own provincial pension plan called the Quebec Pension Plan (QPP), its own provincial income tax, and the Quebec Parental Insurance Plan (QPIP), which also is sometimes called the Provincial Parental Insurance Plan (PPIP).

Employers with employees in Quebec have to deduct contributions for the QPP instead of the Canada Pension Plan (CPP), if the employment is pensionable under the QPP. Employers have to take deductions for both the QPIP and employment insurance (EI), if the employment is insurable.

Send the QPP, QPIP, and Quebec provincial income tax deductions to Revenu Québec, and send the EI and federal tax deductions to the CRA.

Visit Revenu Québec at [www.revenuquebec.ca/en/default.aspx](http://www.revenuquebec.ca/en/default.aspx), get their Guide TP-1015.G-V, *Guide for Employers: Source Deductions and Contributions*, or write to them at, 3800 rue de Marly, Québec QC G1X 4A5, if one of the following situations applies and you need more information:

- the employee has to report to your place of business in Quebec; or
- the employee does not have to report to your place of business, but you pay the employee from your place of business in Quebec.

### Are you an employer?

We generally consider you to be an employer if:

- you pay salaries, wages (including advances), bonuses, vacation pay, or tips to your employees; or
- you provide certain taxable benefits, such as an automobile or allowances to your employees.

An individual is an employee if the worker and the payer have an employer-employee relationship. This relationship is referred to in this guide as employment under a contract of service. Although a written contract might mean that an individual is self-employed (and therefore working under a contract for services), we cannot consider the individual as self-employed if there is evidence of an employer-employee relationship.

#### Note

You may not have to deduct EI premiums if you hire family members or non-related employees. For more information, see page 20.

If you or a person working for you is not sure of the worker's employment status, either one of you can request a ruling to determine the status. If you are a business owner, you can use the "Request a CPP/EI ruling" service in My Business Account. For more information, go to [www.cra.gc.ca/mybusinessaccount](http://www.cra.gc.ca/mybusinessaccount). You can also use Form CPT1, *Request for a Ruling as to the Status of a Worker Under the Canada Pension Plan and/or the Employment Insurance Act*, and send it to your tax services office. For more information on employment status, see Guide RC4110, *Employee or Self-Employed?*

### Employment by a trustee

A trustee includes a liquidator, a receiver, a trustee-manager, a trustee in bankruptcy, an assignee, an executor, an administrator, a sequestrator, or any other person who performs a function similar to the one a trustee performs. A trustee does the following:

- authorizes a payment or causes a payment to be made for another person; and

- administers, manages, distributes, winds up, controls, or otherwise deals with another person's property, business, estate, or income.

The trustee is jointly and severally, or solidarily, liable for deducting and remitting the income tax, CPP, and EI for all payments the trustee makes.

### Trustee in bankruptcy

Under the *Canada Pension Plan* and the *Employment Insurance Act*, the trustee in bankruptcy is the agent of a bankrupt employer in the event of an employer's liquidation, assignment, or bankruptcy.

If a bankrupt employer has deducted CPP contributions, EI premiums, or income tax from amounts employees received before the bankruptcy but has not remitted these amounts to us, the trustee must hold the amounts in trust. These amounts are not part of the estate in bankruptcy and should be kept separate.

If a trustee continues to operate the bankrupt employer's business, the trustee must get a new business number. The trustee has to continue to deduct and remit the necessary CPP contributions, EI premiums, and income tax according to the bankrupt employer's remittance schedule. T4 information returns (slips) should be prepared and filed in the usual way.

#### Note

Amounts a trustee pays to employees of a bankrupt corporation to settle claims for wages that the bankrupt employer did not pay are taxed as "other income." However, this income does not require CPP, EI, and income tax withholdings. The trustee has to report these payments on T4A information returns (slips). For details, see Guide RC4157, *Deducting Income Tax on Pension and Other Income, and Filing the T4A Slip and Summary*.

### All other trustees

If a trustee continues to operate the employer's business, the trustee needs a new business number. The trustee has to continue to deduct and remit the necessary CPP contributions, EI premiums, and income tax according to the employer's remittance schedule. T4 slips should be prepared and filed in the usual way.

Fees paid to executors, liquidators, or administrators are either income from office or employment or business income, depending on whether the executor or administrator acts in this capacity in the regular course of business.

For more information about fees paid to an executor, liquidator, or administrator of an estate and whether they should be included in insurable employment, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Tenure of office."

### Payer of other amounts

A payer of other amounts can be an employer, a trustee, an estate executor, a liquidator, an administrator, or a corporate director who pays other types of income related to an employment. This income can include pension or superannuation, lump-sum payments, self-employed commissions, annuities, retiring allowances, or any other

type covered in this guide or in Guide RC4157, *Deducting Income Tax on Pension and Other Income, and Filing the T4A Slip and Summary*. These amounts have to be reported on a T4A slip, with the exception of retiring allowances that are reported on the T4 slip. See Guide RC4120, *Employers' Guide – Filing the T4 Slip and Summary* for more information.

## What are your responsibilities?

You are responsible for deducting, remitting, and reporting payroll deductions. You also have responsibilities in situations such as hiring an employee, when an employee leaves or if the business ceases its operations.

The following are the responsibilities of the employer and, in some circumstances, the trustee and payer:

- Open and maintain a payroll program account. If you meet the conditions on page 6 for opening an account, you must register for one.
- Get your employee's social insurance number (SIN). Every employee must give you his or her SIN to work in Canada. For more information, see "Social insurance number" on page 8.
- Get a completed federal Form TD1, *Personal Tax Credits Return*, and, if applicable, a provincial or territorial Form TD1. New employees or recipients of other amounts such as pension income must fill out this form. For more information, see page 26.
- Deduct CPP contributions, EI premiums, and income tax from remuneration or other amounts, including taxable benefits and allowances, you pay in a pay period. You should hold these amounts in trust for the Receiver General and keep them separate from the operating funds of your business. Make sure these amounts are not part of an estate in liquidation, assignment, receivership, or bankruptcy.
- Remit these deductions along with your share of CPP contributions and EI premiums. The CPP and EI chapters of this guide explain how to calculate your share of contributions and premiums. Chapter 8 explains how and when to remit these amounts.
- Report the employee's income and deductions on the appropriate T4 or T4A slip. You must file an information return on or before the last day of February of the following calendar year. For more information, see Guide RC4120, *Employers' Guide – Filing the T4 Slip and Summary*, and Guide RC4157, *Deducting Income Tax on Pension and Other Income, and Filing the T4A Slip and Summary*.
- Prepare a *Record of Employment (ROE)* when an employee stops working and has an interruption of earnings. For more information, see page 24.
- Keep records of what you do because our officers can ask to see them. For more information, see "Keeping records" on page 8.

#### Notes

If you are an employer who is resident outside of Canada and you do not have a place of business in Canada, you still have the same responsibilities as Canadian employers, regardless of whether the services

of the Canadian resident employee are performed in Canada or outside Canada. For more information about CPP coverage by an employer resident outside Canada, see page 19.

You have to deduct CPP on a non-resident employee's remuneration in the same way you would for a resident employee unless he or she comes from a country where a social security agreement has been signed with Canada. For more information, see "Non-resident employees who perform services in Canada" on page 29.

## Keeping records

You have to keep your paper and electronic records for at least six years after the year they relate to. If you want to destroy them before the six-year period is over, fill out Form T137, *Request for Destruction of Records*, and send it to your tax services office. For more information, go to [www.cra.gc.ca/records](http://www.cra.gc.ca/records).

## Social insurance number

As an employer, you have to ask your employees for their SIN within three days of when they start to work for you, and record their number. If an employee does not give you his or her SIN, you have to be able to show that you made a reasonable effort to get it. An example of a reasonable effort would be if, after asking your employee for his SIN many times, you decide to contact him in writing to request his SIN. Make note of the dates you asked for the SIN verbally, and keep copies of any written requests. If you do not make a reasonable effort to get a SIN, you may have to pay a penalty of \$100 for each number you don't try to get.

Employees who are in pensionable or insurable employment also have to give you their SIN within three days of starting to work for you and they can be penalized \$100 for each time they don't provide it.

Under the *Department of Employment and Social Development Act*, an employee who does not have a SIN when they start working for you has to apply for one and give it to you within three days after they receive it. As an employer, you must inform Service Canada within six days of your employee starting to work for you that this individual did not give you his or her SIN. If your employee needs a SIN, refer them to their Service Canada Centre. To find the nearest Service Canada Centre, visit [www.servicecanada.gc.ca](http://www.servicecanada.gc.ca).

Make sure the employee gives you their correct name and SIN. You may ask for other types of identification, such as a birth certificate or a certificate of citizenship or permanent residence, before finalizing their employment documents. An incorrect SIN can affect an employee's future Canada Pension Plan benefits if their record of earnings is not accurate. Also, if you report an incorrect SIN on a T4 slip that has a pension adjustment amount, the employee may receive an inaccurate registered retirement savings plan (RRSP) deduction limit statement and the related information on the employee's notice of assessment will be inaccurate.

When an employee has an interruption of earnings, you have to record the correct SIN on a *Record of Employment* for employment insurance purposes (for details on the record of employment, see page 24). If you don't provide a correct

record of employment, you could be fined up to \$2,000, imprisoned for up to six months, or both.

### Notes

Even if you have not received your employee's SIN, you still have to make deductions and remit them, and file your information returns on or before the last day of February of the following calendar year. If you don't, you might get a penalty for late filing.

If you filed a T4 slip without a SIN but received it after, file an amended T4 slip and include the SIN. See Guide RC4120, *Employers' Guide – Filing the T4 Slip and Summary* for instructions on how to amend a T4 slip.

For more information, see the current version of Information Circular IC82-2, *Social Insurance Number Legislation that Relates to the Preparation of Information Slips* or visit Service Canada at [www.servicecanada.gc.ca](http://www.servicecanada.gc.ca).

## SIN beginning with the number 9

An eligible person who is not a Canadian citizen or a permanent resident of Canada and who applies for a SIN will get one beginning with the number 9.

If you hire a person whom you know is not a Canadian citizen or permanent resident, make sure that:

- the person's SIN begins with 9;
- the SIN has not expired; and
- the person has a valid work permit issued by Citizenship and Immigration Canada.

### Notes

Social insurance numbers beginning with a 9 are valid only until the expiry date shown on the Citizenship and Immigration Canada document authorizing the person to work in Canada. You must see the employee's existing immigration document authorizing him or her to work in Canada (for example, work permit, study permit) and verify that it has not expired.

If the immigration document has expired, ask the employee to contact Citizenship and Immigration Canada to get a valid document.

If the person has a SIN that begins with the number 9 and it does not have an expiry date, the SIN is not valid. Refer the person to the nearest Service Canada Centre.

Your employees have to inform you of any new expiry date for their SIN within three days after they receive it.

If the eligible person then becomes a Canadian citizen or permanent resident of Canada, they will receive a permanent SIN.

## Payroll deductions tables

The payroll deductions tables help you calculate CPP contributions, EI premiums, and the amount of federal, provincial (except Quebec), and territorial income tax that you have to deduct from amounts you pay each pay period.

### Note

A pay period means the period for which you pay earnings or other remuneration to an employee.

The CRA encourages employers to take advantage of our electronic payroll deductions services:

- **Payroll Deductions Online Calculator (PDOC)** – You can use this application to calculate payroll deductions for all provinces and territories except Quebec. It calculates payroll deductions for the most common pay periods (such as weekly or biweekly), based on exact salary figures. You will find the PDOC at [www.cra.gc.ca/pdoc](http://www.cra.gc.ca/pdoc).
- **Payroll Deductions Tables (T4032)** – Use these tables to calculate payroll deductions for the most common pay periods. They are available at [www.cra.gc.ca/payroll](http://www.cra.gc.ca/payroll).
- **Payroll Deductions Supplementary Tables (T4008)** – Use these tables to calculate payroll deductions for irregular pay periods (for example, 10 times per year or daily). They are available at [www.cra.gc.ca/payroll](http://www.cra.gc.ca/payroll).
- **Payroll Deductions Formulas for Computer Programs (T4127)** – You may want to use these formulas instead of the tables to calculate your employees' payroll deductions. This guide contains formulas to calculate CPP contributions, EI premiums, and federal, provincial (except Quebec), and territorial income tax. They are available at [www.cra.gc.ca/payroll](http://www.cra.gc.ca/payroll).

All the payroll deductions tables are available for each province and territory (except Quebec) and for employees working in Canada beyond the limits of any province, or outside Canada.

## Which tax tables should you use?

### Employment income

When you pay employment income such as salaries, wages, or commissions, you have to determine your employee's province or territory of employment so you can withhold the proper deductions. This depends on whether your employee physically reports for work at your establishment or "place of business."

For income tax, CPP and EI withholding purposes, an "establishment of the employer" is any place or premises in Canada that is owned, leased or rented by you and where one or more employees report to work or from which one or more employees are paid.

This does not have to be a permanent physical location. For example, the place of business for a construction company can be one or more construction sites or the place of business for a carnival can include a shopping mall parking lot. In these examples, the employee's province or territory of employment would be the one in which the field office or shopping mall is located.

For more information on which tax tables to use, see Appendix 1 on page 53.

### Employee reports to your establishment

If your employee reports to your establishment in person, the employee's province or territory of employment is the one in which it is located. There is no minimum amount of time the employee has to report to that place.

### Example 1

Your head office is in Ontario, but you need your employee to report to your place of business in Manitoba. In this case, use the *Manitoba Payroll Deductions Tables*.

### Example 2

Your employee lives in Quebec, but you need your employee to report to your place of business in New Brunswick. In this case, use the *New Brunswick Payroll Deductions Tables*.

### Example 3

Your employee works from a home office in Alberta, but occasionally has to report to your Alberta office. You pay your employee from your head office in Ontario. Use the *Alberta Payroll Deductions Tables* since the employee sometimes reports to your Alberta office.

### Employee does not report to your establishment

If your employee does not have to report to your establishment in person (for example, the employment contract says the employee works from a home office), the employee's province or territory of employment is the one from where your employee's salary and wages are paid. This will normally be the location of your payroll department or payroll records.

### Example 4

Your employee does not have to report to any of your places of business, but you pay the employee from your office in Quebec. In this case, use the *Quebec Payroll Deductions Tables*. The employee does not have to pay CPP contributions, but may have to pay Quebec Pension Plan (QPP) contributions.

### No establishment in Canada

If your employees are working in Canada but you do not have a place of business or an employer's establishment in Canada, use the *Payroll Deductions Tables for In Canada beyond the limits of any province/territory or outside Canada* when deducting income tax at source.

### Example 5

Your Canadian resident employees work as salespeople in Ontario and British Columbia. They work from their home offices and report directly to your business located outside Canada. In this case, use the *Payroll Deductions Tables for In Canada beyond the limits of any province/territory or outside Canada*.

### Special situations

- a) If an employee reports to your place of business for part of a pay period in one province or territory and part in another, use the tables for where the employee spent the most time.
- b) An employee who lives in one province or territory but reports to your place of business in another might have too much tax deducted. If so, he or she can ask you to reduce tax deductions by getting a letter of authority from any tax services office. For more information, see "Letter of authority" on page 28.

The opposite could also occur: an employee might not have enough tax deducted. In these situations, the employee should ask you to deduct more tax by filling in the "Additional tax to be deducted" section of a new Form TD1, *Personal Tax Credits Return* and giving it to you.

### Non-employment income

If you pay amounts other than employment income, such as pension income, retiring allowance, or RRSP, use the provincial or territorial table of the recipient's province or territory of residence. For more information on which tax tables to use, see Appendix 1 on page 53.

### If an employee leaves

If an employee leaves, we suggest you calculate the employee's earnings for the year to date and give the employee a T4 slip. Keep our copy of the slip and include it with your T4 Summary when you file it on or before the last day of February of the following year.

In addition, you have to prepare and give a *Record of Employment (ROE)* to each former employee. Generally, you have to send it to them within five calendar days of either the employee's interruption of earnings, or the date you become aware of the interruption of earnings, but special rules may apply. For more information, visit Service Canada at [www.servicecanada.gc.ca/roeweb](http://www.servicecanada.gc.ca/roeweb), or get the publication called *How to Complete the Record of Employment Form*, on their website at [www.servicecanada.gc.ca/eng/services/ei/employers/roe/resources/roe\\_guide/index.shtml](http://www.servicecanada.gc.ca/eng/services/ei/employers/roe/resources/roe_guide/index.shtml) or by calling Service Canada at 1-800-622-6232.

### If you do not have any employees for a period of time

Inform us by using the "Provide a nil remittance" service at [www.cra.gc.ca/mybusinessaccount](http://www.cra.gc.ca/mybusinessaccount) or [www.cra.gc.ca/representatives](http://www.cra.gc.ca/representatives), by calling our TeleReply service, or by sending us your completed remittance form and indicating when you expect to make deductions next. To find out how to use our TeleReply service, see page 50.

### Changes to your business entity

#### If your business stops operating or the partner or proprietor dies

If your business stops operating or the partner or proprietor dies, you should do the following:

- Remit all CPP contributions, EI premiums, and income tax deductions withheld for the former employees to your tax centre within seven days of the day your business ends.
- Calculate the pension adjustment (PA) that applies to your former employees who accrued benefits for the year under your registered pension plan (RPP) or deferred profit sharing plan (DPSF). For information on how to calculate pension adjustments, see Guide T4084, *Pension Adjustment Guide*.
- Fill out and file all T4 or T4A slips and summaries using electronic filing methods or on paper, and send them to the Ottawa Technology Centre (at the address located at the end of this guide) within 30 days from the date your

business ends (or 90 days from the date a partner or the sole proprietor dies). If you have to prepare more than 50 slips for a calendar year, you must file the return electronically over the Internet in eXtensible mark-up language (XML) or with Web Forms. For more information, go to [www.cra.gc.ca/iref](http://www.cra.gc.ca/iref).

- Give copies of the T4 or T4A slips to your former employees.
- Prepare and give a ROE to each former employee, generally, within five calendar days. For more information, see "Record of employment (ROE)" on page 24.
- When the owner of a sole proprietorship dies, a final income tax and benefit return has to be filed. This return is due by June 15 of the year following death, unless the date of death is between December 16 and December 31, in which case the final return is due six months after the date of death. For more information, see Guide T4011, *Preparing Returns for Deceased Persons*.
- Close the business number and all CRA business accounts after all the final returns and all the amounts owing have been processed.

To close your payroll program account, you can use the "Request to close payroll account" service in My Business Account at [www.cra.gc.ca/mybusinessaccount](http://www.cra.gc.ca/mybusinessaccount). An authorized representative can use this service through "Represent a Client" at [www.cra.gc.ca/representatives](http://www.cra.gc.ca/representatives).

To find out how to fill out and file the T4 or T4A slips and summary, you can:

- go to [www.cra.gc.ca/payroll](http://www.cra.gc.ca/payroll);
- go to [www.cra.gc.ca/tx/bsnss/tpcs/pyrll/vds-eng.html](http://www.cra.gc.ca/tx/bsnss/tpcs/pyrll/vds-eng.html);
- see Guide RC4120, *Employers' Guide – Filing the T4 Slip and Summary*; or
- see Guide RC4157, *Deducting Income Tax on Pension and Other Income, and Filing the T4A Slip and Summary*.

For more information, call 1-800-959-5525.

#### If you change your legal status, restructure, or reorganize

If you change your legal status, restructure, or reorganize, we consider you to be a new employer. You may need a new business number (BN) and a new payroll program account. Call 1-800-959-5525 to let us know if your business status has changed or will change in the near future.

#### Note

Amalgamations have different rules. For more information, see the next section, "If your business amalgamates."

The following are examples of changes to a business status:

- You are the sole proprietor of a business and you decide to incorporate.
- You and a partner own a business. Your partner leaves the business and sells his half interest to you, making you a sole proprietor.

- A corporation sells its property division to another corporation.
- One corporation transfers all of its employees to another corporation.

When a change happens, a new (successor) employer is created. A successor employer who has acquired all or part of a business, and who has immediately succeeded the former (predecessor) employer as the new employer of an employee, may, under certain circumstances, take into consideration the CPP/QPP, EI, and PPIP deductions already withheld by the previous employer and continue withholding and remitting those deductions as if there were no change in employer. If employees have already paid the maximum deductions, take no further deductions for the year.

If the situation just described does not apply, you must continue to deduct CPP/QPP, EI, and PPIP. You cannot take into consideration any deductions taken by the previous employer.

As stated in the previous section called "If your business stops operating or the partner or proprietor dies," the predecessor company has to do the following:

- send us their final remittances;
- calculate any pension adjustment;
- fill out and file all slips and summaries;
- give employees their copies of T4 or T4A slips;
- prepare and give their employees a record of employment;
- deregister their business number; and
- close all program accounts.

For more information about legal status, restructure, or reorganization, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Employer restructuring/Succession of employers."

### If your business amalgamates

If your business amalgamates with another, special rules apply. In this case, you, as the successor employer, can keep the business number (BN) of one of the corporations, or you can apply for a new one. If one of the corporations is non-resident, however, you have to apply for a new BN.

Since no new employer exists for CPP and EI purposes, continue deducting normally, taking into account the deductions and remittances that occurred before the amalgamation. These remittances will be reported under the payroll program account of the successor BN.

If you had previously been granted a reduced employer's EI premium rate, you will need to contact Employment and Social Development Canada to make sure you are still eligible for the reduced rate.

With an amalgamation, the predecessor corporations do not have to file T4 returns for the period leading up to the amalgamation. The successor corporation files the T4 returns for the entire year.

## Filing information returns

You have to file a T4 or T4A information return, as applicable, and give information slips to your employees each year, on or before the last day of February of the following calendar year that the information return applies to. If the last day of February is a Saturday or a Sunday, your information return is due the next business day.

For information on how to report the employees' income and deductions on the appropriate slips and summary, go to [www.cra.gc.ca/slips](http://www.cra.gc.ca/slips) or see Guide RC4120, *Employers' Guide – Filing the T4 Slip and Summary* or Guide RC4157, *Deducting Income Tax on Pension and Other Income, and Filing the T4A Slip and Summary*.

## Penalties and interest

### Failure to deduct

We can assess a penalty of 10% of the amount of CPP, EI, and income tax you did not deduct.

If you are assessed this penalty more than once in a calendar year, we will apply a 20% penalty to the second or later failures if they were made knowingly or under circumstances of gross negligence.

### Failure to remit and remitting late

We can assess a penalty when:

- you deduct the amounts, but do not send them to us; or
- you deduct the amounts, but send them to us late.

If the remittance due date is a Saturday, a Sunday, or a public holiday recognized by the CRA, your remittance is due on the next business day.

The penalty is:

- 3% if the amount is one to three days late;
- 5% if it is four or five days late;
- 7% if it is six or seven days late; and
- 10% if it is more than seven days late, or if no amount is remitted.

Generally, we only apply this penalty to the part of the amount you failed to remit that is more than \$500. However, we will apply the penalty to the total amount if the failure was made knowingly or under circumstances of gross negligence.

In addition, if you are assessed this penalty more than once in a calendar year, we may apply a 20% penalty on the second or later failures if they were made knowingly or under circumstances of gross negligence.

#### Note

We will charge you a fee for any payment that your financial institution refuses to process. If your payment is late, we can also charge you a penalty and interest on any amount you owe.



## Interest

If you do not pay an amount, we may apply interest from the day your payment was due. The interest rate we use is determined every three months, based on prescribed interest rates. Interest is compounded daily. We also apply interest to unpaid penalties. For the prescribed interest rates we use, go to [www.cra.gc.ca/interestrates](http://www.cra.gc.ca/interestrates).

For due dates, see pages 4 and 46.

## Obligations and liabilities

### Offences and punishment

If you do not comply with the deducting, remitting, and reporting requirements, you may be prosecuted. You could be fined from \$1,000 to \$25,000, or you could be fined and imprisoned for a term of up to 12 months.

### Director's liability

If a corporation (including for-profit or non-profit) does not deduct, remit, or pay amounts held in trust for the Receiver General (CPP, EI, and income tax), the directors of the corporation at the time of the failure are jointly and severally, or solidarily, liable along with the corporation, to pay the amount due. This amount includes penalties and interest.

However, if the directors take action to ensure the corporation makes the necessary deductions or remittances, we will not hold the directors personally responsible. For more information, see the current version of Information Circular IC89-2, *Directors' Liability*.

### Cancel or waive penalties or interest

The CRA administers legislation, commonly called the taxpayer relief provisions, that gives the CRA discretion to cancel or waive penalties or interest when taxpayers are unable to meet their tax obligations due to circumstances beyond their control.

The CRA's discretion to grant relief is limited to any period that ended within 10 years before the calendar year in which a request is submitted.

For penalties, the CRA will consider your request only if it relates to a tax year ending in any of the 10 calendar years before the year in which you make your request. For example, your request made in 2016 must relate to a penalty for a tax year ending in 2006 or later.

For interest on a balance owing for any tax year, the CRA will consider only the amounts that accrued during the 10 calendar years before the year in which you make your request. For example, your request made in 2016 must relate to interest that accrued in 2006 or later.

For more information about relief from penalties or interest, go to [www.cra.gc.ca/taxpayerrelief](http://www.cra.gc.ca/taxpayerrelief). To submit your request for relief, use Form RC4288, *Request for Taxpayer Relief – Cancel or Waive Penalties or Interest*.

## How to appeal a payroll assessment or a CPP/EI ruling

If you receive a payroll assessment because your payment was not applied to your account correctly, before you file an appeal, we recommend that you first call or write to the tax services office or tax centre to discuss it. Many disputes are resolved this way and can save you the time and trouble of appealing.

If you receive a payroll assessment for CPP contributions, EI premiums, or income tax that you do not agree with, or you have received a ruling letter and you disagree with the decision, you have 90 days after the date of the notice of assessment or notification of the ruling to appeal.

To appeal a CPP/EI ruling decision or payroll deductions assessment, you can:

- access My Business Account at [www.cra.gc.ca/mybusinessaccount](http://www.cra.gc.ca/mybusinessaccount), if you are a business, and select "Register a formal dispute (Appeal)" for your payroll account;
- access Represent a Client, at [www.cra.gc.ca/representatives](http://www.cra.gc.ca/representatives). If you represent a business, select "Register a formal dispute (Appeal)" for a payroll account. If you represent an individual, select "Register my formal dispute," and then choose "CPP/EI ruling" in the subject area;
- access My Account at [www.cra.gc.ca/myaccount](http://www.cra.gc.ca/myaccount), if you are an individual, select "Register my formal dispute," and choose "CPP/EI ruling" in the subject area;
- use Form T400A, *Objection – Income Tax Act* (income tax only);
- use Form CPT100, *Appeal of a Ruling Under the Canada Pension Plan and/or Employment Insurance Act*, to appeal a CPP/EI ruling;
- use Form CPT101, *Appeal of an Assessment Under the Canada Pension Plan and/or Employment Insurance Act*, to appeal a payroll deductions assessment; or
- write to the chief of appeals at your tax services office or tax centre explaining why you do not agree with the ruling or payroll deductions assessment and provide all relevant facts. Include a copy of the CPP/EI ruling letter or payroll notice of assessment. The addresses of our tax services offices and tax centres are available at [www.cra.gc.ca/tso](http://www.cra.gc.ca/tso). The addresses of our tax centres are also listed at the end of this guide.

For more information on how to appeal a payroll deductions assessment of income tax, see Booklet P148, *Resolving Your Dispute: Objection and Appeal Rights Under the Income Tax Act*.

For more information on how to appeal a CPP/EI ruling decision or a payroll deductions assessment of CPP or EI, see Booklet P133, *Your Appeal Rights – Canada Pension Plan and Employment Insurance Coverage*.

## Chapter 2 – Canada Pension Plan contributions

For Canada Pension Plan (CPP) purposes, contributions are not calculated from the first dollar of pensionable earnings. Instead, they are calculated using the amount of pensionable earnings minus an exempt amount that is based on the period of employment.

### Impact of contribution errors

If used improperly, some payroll software programs, in-house payroll programs, and bookkeeping methods can calculate unwarranted or incorrect refunds of CPP contributions for both employees and employers. The improper calculations treat all employment as if it were full-year employment, which incorrectly reduces both the employee's and employer's contributions.

For example, when a part-year employee does not qualify for the full annual exemption, a program may indicate that the employer should report a CPP overdeduction in box 22, "Income tax deducted," of the T4 slip. This may result in an unwarranted refund of tax to the employee when the employee files his or her income tax and benefit return.

When employees receive refunds for CPP overdeductions, their pensionable service is adversely affected. This could affect their CPP income when they retire. In addition, employers who report such overdeductions receive a credit they are not entitled to because the employee worked for them for less than 12 months.

### When to deduct CPP contributions

You have to deduct CPP contributions from an employee's pensionable earnings if that employee:

- is in pensionable employment during the year; and
- is not considered to be disabled under the CPP or the Quebec Pension Plan (QPP); and
- is 18 to 70 years old even if the employee is receiving a CPP or QPP retirement pension. Exception: do not deduct CPP if the employee is 65 to 70 years old, and gives you Form CPT30, *Election to Stop Contributing to the Canada Pension Plan, or Revocation of a prior Election* with parts A, B and C completed.

#### Notes

For more information, see "Starting and stopping CPP deductions" on page 15.

For more information about pensionable earnings, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Pensionable and insurable earnings."

### Employment in Quebec

Quebec employers deduct QPP contributions instead of CPP contributions.

The contribution rates for QPP are higher than those for CPP. Although the year's maximum pensionable earnings (\$53,600 for 2015) and annual basic exemption (\$3,500) for both plans are the same, an employee paying into the QPP

will pay contributions at a higher rate (5.25% for 2015) compared to the rate for an employee who pays into the CPP (4.95% for 2015).

For more information on deducting and remitting the QPP, see Guide TP-1015.G-V, *Guide for Employers: Source Deductions and Contributions*, which you can get from Revenu Québec at [www.revenuquebec.ca/en/default.aspx](http://www.revenuquebec.ca/en/default.aspx).

You may have a place of business in Quebec and in another province or territory. If you transfer an employee from Quebec to another province or territory, you can take into account the QPP contributions you deducted from that employee throughout the year when calculating the maximum CPP contributions to deduct. In addition to deducting CPP/QPP contributions and EI/QPIP premiums you will also have to prepare two T4 slips. It is important that you calculate and report the proper deductions and insurable/pensionable earnings on both T4 slips. For more information, see Guide RC4120, *Employers' Guide – Filing the T4 Slip and Summary*.

### Amounts and benefits from which you have to deduct CPP contributions

You generally deduct CPP contributions from the following amounts and benefits:

- salary, wages, bonuses, commissions, or other remuneration (including payroll advances or earnings advances), and wages in lieu of termination notice;
- cash and non-cash taxable benefits and allowances, except certain housing and utility benefits paid to the clergy. The personal use of an employer's automobile and employer-provided parking are examples of taxable benefits. For more information, see Guide T4130, *Employers' Guide – Taxable Benefits and Allowances*;
- honorariums from employment or office, a share of profit that an employer paid, incentive payments, director's fees, management fees, fees paid to board or committee members, and executor's, liquidator's, or administrator's fees earned to administer an estate (as long as the executor, liquidator, or administrator does not act in this capacity in the regular course of business). For more information on whether employment of an individual who is in tenure of office is pensionable, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Tenure of office;"
- certain tips and gratuities received for services performed. For more information on when you have to deduct CPP contributions on tips and gratuities, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Tips and gratuities;"
- payments received from a supplementary unemployment benefit plan (SUBP) that does not qualify as a SUBP under the *Income Tax Act*, even if the plan is registered with Service Canada;
- benefits received from certain wage-loss replacement plans; for more information, see page 38;
- benefits derived from security option plans; and

- the salary you continue to pay to an employee before or after a workers' compensation board claim is decided, as well as:
  - any advance or loan you make that is more than the amount awarded under the claim;
  - any advance or loan not repaid to you; or
  - a top-up amount you pay your employee, after a claim is decided, that is in addition to the benefits paid by a workers' compensation board.

## Employment, benefits, and payments from which you do not deduct CPP contributions

### Employment

Do not deduct CPP contributions from payments for the following types of employment:

- employment in agriculture, or an agricultural enterprise, horticulture, fishing, hunting, trapping, forestry, logging, or lumbering, when you:
  - pay your employee less than \$250 in cash remuneration in a calendar year; or
  - employ your employee for a period of less than 25 working days in the same year on terms providing for cash remuneration—the working days do not have to be consecutive;

#### Notes

In a calendar year, if your employee reaches both minimums—\$250 or more in cash remuneration and works 25 days or more—the employment is pensionable starting from the first day of work. Deduct CPP contributions if your employee's pensionable earnings are more than the CPP basic exemption for the same period.

For more information on when these types of employment are pensionable, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Agriculture and horticulture."

- casual employment if it is for a purpose other than your usual trade or business;
- employment as a teacher on exchange from a foreign country;
- employment of a spouse or common-law partner if you cannot deduct the remuneration paid as an expense under the *Income Tax Act*;
- employment of your child or a person whom you maintain if no cash remuneration is paid;
- employment of a person in a rescue or disaster operation, as long as you do not regularly employ that person for that purpose. For more information, see "Emergency services volunteers" on page 42;
- employment of a person at a circus, fair, parade, carnival, exposition, exhibition, or other similar activity, except for entertainers, if that person:
  - is not your regular employee; and
  - works for less than seven days in the year.

#### Notes

If your employee works seven days or more, the employment is pensionable from the first day of work. Deduct CPP contributions if your employee's pensionable earnings are more than the CPP basic exemption for the same period.

For more information on when these types of employment are pensionable, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Circus and fair."

- employment by a government body as an election worker if the worker:
  - is not a regular employee of the government body; and
  - works for less than 35 hours in a calendar year.

#### Note

If your employee works 35 hours or more, the employment is pensionable from the first hour of work. Deduct CPP contributions if your employee's pensionable earnings are more than the CPP basic exemption for the same period.

- employment of a member of a religious order who has taken a vow of perpetual poverty. This applies whether the remuneration is paid directly to the order, or the member pays it to the order.
- employment in Canada by a foreign government or an international organization, except when the foreign government or international organization enters into an agreement with the government of Canada.

## Benefits and payments

Do not deduct CPP contributions from:

- pension payments, lump-sum payments from a pension plan, death benefits, amounts that a trustee allocated under a profit sharing plan or that a trustee paid under a deferred profit sharing plan, and benefits received under a registered supplementary unemployment benefit plan (SUBP) that qualifies as a SUBP under the *Income Tax Act*;
- payments you make after an employee dies, except for amounts the employee earned and was owed before the date of death;
- an advance or loan you pay to an employee, before or after a workers' compensation board claim is decided that is equal to the benefits awarded under the claim. For information on situations when CPP contributions are required, see "Amounts and benefits from which you have to deduct CPP contributions" on page 13; for information on workers' compensation claims, see page 39;
- benefits received from certain wage-loss replacement plans; for more information, see page 38;
- amounts for the residence of a clergy member if he or she receives a tax deduction for the residence; and
- amounts received on account of an earnings loss benefit, supplementary retirement benefit or permanent impairment allowance payable to the taxpayer under Part 2 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*.

## CPP contribution rate and maximum

You have to deduct CPP contributions from your employee's pensionable earnings. As an employer, you must contribute an amount equal to the CPP contributions that you deduct from your employees' remuneration.

Each year, we determine:

- the maximum pensionable earnings from which you deduct CPP (\$53,600 for 2015);
- the year's basic exemption, which is a base amount from which you do not deduct CPP contributions (\$3,500 for 2015 – see Appendix 2); and
- the rate you use to calculate the amount of CPP contributions to deduct from your employees' remuneration (4.95% for 2015).

### Note

Different rates apply for employees working in Quebec. See "Employment in Quebec" on page 13.

### Example

CPP contributions you deducted from your employee's salary in the month .....	\$240.40
Your share of CPP contributions .....	\$240.40
Total amount you remit for CPP contributions .....	\$480.80

You stop deducting CPP contributions when the employee's annual earnings reach the maximum pensionable earnings or the maximum employee contribution for the year (\$2,479.95 for 2015)

The annual maximum pensionable earning (\$53,600 for 2015) applies to each job the employee holds with different employers (different business numbers). If an employee leaves one employer during the year to start work with another employer, the new employer also has to deduct CPP contributions without taking into account what the previous employer paid. This is the case even if the employee has contributed the maximum amount during the previous employment. If your business went through a restructure or reorganization, see page 10.

The employee's contribution rate for the next year can be found in the *Payroll Deductions Tables*, which are usually available in mid-December or at [www.cra.gc.ca/payroll](http://www.cra.gc.ca/payroll) under "All rates."

### Notes

If you pay an amount to a former employee and you have to deduct CPP contributions, use the current rate in effect when you make the payment.

Any overpayments will be refunded to employees when they file their income tax and benefit returns. However, there is no provision in the CPP that would allow us to refund or credit the employer for his or her contributions in those circumstances.

## Calculating the CPP deductions

To determine the amount of CPP contributions to deduct, use one of the following tools:

- the Payroll Deductions Online Calculator (PDOC);

- the *Payroll Deductions Tables* (T4032);
- the *Payroll Deductions Supplementary Tables* (T4008); or
- the *Payroll Deductions Formulas for Computer Programs* (T4127).

### Note

The payroll deductions tables break the CPP basic yearly exemption down by pay periods.

To find out which method is best for you, see "Payroll deductions tables" on page 8.

You can also use a manual method to calculate your employee's CPP deductions. For a single pay period, use the calculation in Appendix 2 on page 54. For multiple pay periods, or to verify the CPP contributions deducted at the end of the year before filling out the T4 slip, use the calculation in Appendix 3 on page 55.

### Notes

A pay period means the period for which you pay earnings or other remuneration to an employee.

Once you have established your type of pay period, the pay-period exemption (see Appendix 2) must remain the same, even when an unpaid leave of absence occurs, or when earnings are paid for part of a pay period.

## Starting and stopping CPP deductions

There might be special situations where you may have to start or stop deducting CPP in the year for a particular employee. In these situations, you also have to prorate the maximum CPP contribution for the year to make sure you have not under or over deducted.

### Note

In some cases, the requirements are different for the Quebec Pension Plan. For information, see Guide TP-1015.G-V, *Guide for Employers: Source Deductions and Contributions*, which you can get from Revenu Québec (see page 6).

## Special situations

### Your employee turns 18 in the year

Start deducting CPP contributions in the first pay dated in the month after the employee turns 18. When you prorate, use the number of months after the month the employee turns 18 (see example 1);

### Your employee turns 70 in the year

Deduct CPP contributions up to and including the last pay dated in the month in which the employee turns 70. When you prorate, use the number of months up to and including the month the employee turns 70 (see example 2);

### Your employee gives you a completed Form CPT30

By filling out this form and giving it to an employer, the employee can either stop or restart their CPP contributions.

### Stopping CPP contributions

An employee is eligible to stop his or her CPP contributions under the following conditions:

- the employee is 65 to 70 years of age;

- the employee receives a CPP or QPP retirement pension;
- the employee is receiving, or will receive pensionable employment earnings that require CPP contributions; and
- the employee gives you a copy of Form CPT30 with parts A, B and C completed. By filling out the form in this manner, the employee is making an "election."

This "election" is effective the first day of the month following when you receive the completed form. You will deduct CPP contributions, up to and including the last pay dated in the month the employee gives you the form. When you prorate, use the number of months up to and including the month before the election becomes effective (see example 3).

**Note**

The election to stop contributing to the CPP does not affect the salary or wages of an employee working in Quebec or an employee who is considered to be disabled under the CPP or QPP, nor do they affect the salary and wages of a person who has reached 70 years of age. Do not deduct CPP contributions from the salary and wages that you pay these employees.

**Restarting CPP contributions**

An employee is eligible to restart his or her CPP contributions under the following conditions:

- the employee filed a Form CPT30 "election" with an employer in a prior year;
- the employee is receiving, or will receive pensionable employment earnings that require CPP contributions; and
- the employee gives you a copy of Form CPT30 with parts A, B and D completed. By filling out the form in this manner, the employee is "revoking their election."

This "revocation" is effective the first day of the month following when you receive the completed form. You will restart CPP contributions in the first pay dated in the month after the employee gives you the form. When you prorate, use the number of months that includes the month the revocation becomes effective.

Go to [www.cra.gc.ca/cppchanges-employers](http://www.cra.gc.ca/cppchanges-employers), to find detailed information such as:

- what to do if you receive a form that is dated in the past or is post-dated;
- what to do if you have deducted CPP contributions after the "election" became effective; and
- what to do when filling in boxes 16 and 26 of the employee's T4 slip.

**Note**

For more information on benefit entitlement, contact Service Canada or go to [www.esdc.gc.ca/en/cpp/index.page](http://www.esdc.gc.ca/en/cpp/index.page).

**Your employee is considered to be disabled under the CPP**

An employee who is considered to be disabled under the CPP does not have to contribute to the CPP. Deduct

CPP contributions up to and including the last pay dated in the month in which the employee becomes or is considered to be disabled according to the letter issued to the employee by Service Canada. When prorating, use the number of months up to and including the month the employee was considered to be disabled.

**Note**

If the employee is no longer considered disabled under the CPP, start deducting CPP contributions on the first pay dated in the month after the employee is no longer considered disabled. When prorating, use the number of months after the month the employee ceased to be disabled.

**Your employee dies in the year**

Deduct CPP contributions up to and including the last pay dated in the month in which the employee dies. Also deduct CPP contributions from any amounts and benefits that are earned or owed to the employee on the date of death. When prorating, use the number of months up to and including the month of death.

**Checking the amount of CPP you deducted**

1) Prorate the maximum CPP contribution for the year by following these steps:

**Step 1:** Deduct the year's basic exemption (\$3,500 for 2015) from the year's maximum pensionable earnings (\$53,600 for 2015).

**Step 2:** Multiply the result of Step 1 by the number of pensionable months.

**Step 3:** Divide the result of Step 2 by 12 (months).

**Step 4:** Multiply the result of Step 3 by the CPP rate that applies for the year (4.95% for 2015).

To find out about the previous and current exemptions, maximums, and rates, go to [www.cra-arc.gc.ca/tx/bsnss/tpcs/pyrll/clctng/cpp-rpc/cnt-chrt-pf-eng.html](http://www.cra-arc.gc.ca/tx/bsnss/tpcs/pyrll/clctng/cpp-rpc/cnt-chrt-pf-eng.html).

2) Calculate the CPP contribution per pay period using Appendix 2, and withhold the amount calculated until one of the following happens:

- the maximum prorated contribution for the year is reached; or
- the last pay period for which deductions are required is completed.

3) The correct amount of CPP contributions will be 1) or 2), whichever is the lowest.

**Example 1**

Brent turned 18 on June 15, 2015. He receives \$1,000 every two weeks (\$26,000 a year). This amount is less than the maximum pensionable earnings (\$53,600 for 2015) that requires CPP contributions.

**Prorated maximum contribution for 2015:**

$(\$53,600 - 3,500) \times 6/12 \times 4.95\% = \$1,239.98$   
(6/12 represents the number of pensionable months divided by 12).

Brent's maximum CPP contribution for 2015 is \$1,239.98.

**Pay period calculation:**

**January to June 2015**  
No CPP contributions

**July to December 2015**

■ Pay period: biweekly

■ Earnings: \$1,000

■ Brent's first pay in July is July 3, for the period June 20 to July 3.

Using the calculation in Appendix 2, Brent's CPP contributions for each pay are calculated as follows:

Step 1: Brent's pensionable earnings ..... = \$1,000.00

Step 2: Basic exemption for the period from the table in Appendix 2 ..... = \$134.61

Step 3: Pensionable earnings minus basic exemption ..... = \$865.39

Step 4: CPP contribution rate for 2015 ..... = 4.95%

Step 5: CPP contribution per pay period ..... = \$42.84

You will have to start deducting \$42.84 from each of Brent's pays, beginning with the one dated July 3 (the month after Brent turns 18). His actual contributions for the year will be \$42.84 × 13 (biweekly pay periods) = \$556.92.

This does not exceed the prorated maximum contribution of \$1,239.98; therefore, the correct amount of CPP has been deducted.

When you fill out Brent's T4 slip at the end of the year, report \$26,000 in box 14, \$556.92 in box 16, and \$13,000 in box 26. Fill in the rest of his T4 slip in the usual way.

**Example 2**

Maria turned 70 on February 15, 2015. She receives \$1,076.92 per week (\$56,000 per year). This amount is more than the maximum pensionable earnings (\$53,600 for 2015) that requires CPP contributions.

**Prorated maximum contribution for 2015:**  
( $\$53,600 - 3,500$ ) × 2/12 × 4.95% = \$413.33 (2/12 represents the number of pensionable months divided by 12).

Maria's CPP contributions for 2015 should not be more than \$413.33.

**Pay period calculation:**

**January to February 2015**

■ Pay period: weekly

■ Earnings: \$1,076.92

■ Maria's last pay in February is February 27, covering the period February 21 to February 27

**March to December 2015**

No CPP contributions

Using the calculation in Appendix 2, Maria's CPP contributions for each pay are calculated as follows:

Step 1: Maria's pensionable earnings ..... = \$1,076.92

Step 2: Basic exemption for the period from the table in Appendix 2 ..... = \$67.30

Step 3: Pensionable earnings minus basic exemption ..... = \$1,009.62

Step 4: CPP contribution rate for 2015 ..... = 4.95%

Step 5: CPP contribution per pay period ..... = \$49.98

Maria's CPP contributions will be \$49.98 each pay, up to and including her pay dated February 27 (the month in which she turns 70). Her actual contributions for the year will be \$49.98 × 9 (weekly pay periods) = \$449.82.

Since this is more than the prorated maximum CPP contribution of \$413.33, you should stop deducting when the maximum contribution is reached. If you deducted \$449.82, you will have to reimburse your employee for the difference. For more information, see "CPP overpayment" on page 18.

When you fill out Maria's T4 slip at the end of the year, report \$56,000 in box 14, \$413.33\* in box 16, and \$8,933.33\* ( $53,600 \times 2/12$ ) in box 26. Fill in the rest of her T4 slip in the usual way.

\* These were calculated using the maximum pensionable earnings of \$53,600 for 2015.

**Example 3**

Catherine is 64 years old and receives a CPP retirement pension. On July 23, 2015, she turned 65 and elected to stop paying CPP contributions. She gave you a signed and completed Form CPT30, *Election to Stop Contributing to the Canada Pension Plan, or Revocation of a Prior Election*, that same day.

Catherine receives \$1,000 every two weeks (\$26,000 a year). This amount is less than the maximum pensionable earnings (\$53,600 for 2015) that requires CPP contributions.

**Prorated maximum contribution for 2015:**  
( $\$53,600 - 3,500$ ) × 7/12 × 4.95% = \$1,446.64 (7/12 represents the number of pensionable months divided by 12).

Catherine's maximum CPP contribution for 2015 is \$1,446.64.

**Pay period calculation:**

**January to July 2015**

■ Pay period: biweekly

■ Earnings: \$1,000

■ Catherine's last pay in July has a pay date of July 31, covering the period July 4 to July 17.

**August to December 2015**

No CPP contributions

Using the calculation in Appendix 2, Catherine's CPP contributions for each pay are calculated as follows:

Step 1: Catherine's pensionable earnings ..... = \$1,000.00

Step 2: Basic exemption for the period from the table in Appendix 2 ..... = \$134.61

Step 3: Pensionable earnings minus basic exemption ..... = \$865.39

Step 4: CPP contribution rate ..... = 4.95%

Step 5: CPP contribution per pay period ..... = \$42.84

You have to deduct CPP contributions from each of Catherine's pays, up to and including the last pay dated in the month she gives the election to you. Her actual contributions for the year will be  $\$42.84 \times 16$  (biweekly pay periods) =  $\$685.44$ .

This does not exceed the prorated maximum contribution of  $\$1,446.64$ ; therefore, the correct amount of CPP has been deducted.

When you fill out Catherine's T4 slip at the end of the year, report  $\$26,000$  in box 14,  $\$685.44$  in box 16, and  $\$16,000$  in box 26. Fill in the rest of her T4 slip in the usual way.

For more information about the new CPP rules, go to [www.cra.gc.ca/cppchanges-employers](http://www.cra.gc.ca/cppchanges-employers).

## Commissions paid at irregular intervals

If an employee always gets paid on commission and is paid only after selling something (which does not occur regularly), you have to prorate the annual basic exemption amount for the number of days in the year between the commission payments to determine the maximum contribution amount.

### Example

Sylvie, your employee, works on commission. You pay her only when she sells something. On June 1, 2015, you paid her a  $\$1,800$  commission. The last time you paid her a commission was March 16, 2015. There are 76 days between these two payments.

Calculate the required contribution for 2015 as follows:

- Prorate the basic yearly exemption:  
 $76 \div 365$  (days)  $\times$   $\$3,500$  =  $\$728.76$
- You have to deduct CPP contributions of:  
 $\$1,800 - \$728.76$  =  $\$1,071.24$
- $\$1,071.24 \times 4.95\%$  =  $\$53.03$

## CPP overpayment

If, during a year, you have overdeducted CPP contributions from your employee's remuneration (for example, the maximum amount of pensionable earnings was reached, or the employee was not employed in pensionable employment), you should reimburse the employee the amount deducted in error and adjust your payroll records to reflect the reduced deduction. This will result in a credit on your CRA payroll program account equal to the employee and employer part of the overdeduction. You may then reduce a future remittance in the same calendar year.

Do not include the reimbursed amount on the T4 slip. If you cannot reimburse the overpayment, show the total CPP contributions deducted and the correct pensionable earnings on the employee's T4 slip. If you reported the employee's overpayment on the T4 slip, you can ask for a refund by filling out Form PD24, *Application for a Refund of Overdeducted CPP Contributions or EI Premiums*. Make your

request no later than four years from the end of the year in which the overpayment occurred.

## Recovering CPP contributions

If you receive a notice of assessment or if you discover that you have underdeducted CPP contributions, you are responsible for remitting the balance due (both the employer's and employee's shares).

You can recover the employee's contributions from later payments to the employee. The recovered contribution can be equal to, but not more than, the amount you should have deducted from each payment. However, you cannot recover a contribution amount that has been outstanding for more than 12 months. As well, you cannot adjust the employee's income tax deduction to cover the CPP shortfall.

If you should have made a deduction in a previous year and you recover it through an additional deduction in the current year, do not report the recovered contributions on the current year's T4 slip. You may have to amend your employee's T4 slip. For more information on how to amend a T4 slip, see Guide RC4120, *Employers' Guide – Filing the T4 Slip and Summary*.

The recovered amount does not affect the current year-to-date CPP contributions.

### Example

- a) You did not deduct or remit CPP contributions that should have been deducted as follows:

Month	CPP
September	\$23.40
October	\$23.40
November	\$24.10
December	\$24.70
<b>Total</b>	<b>\$95.60</b>

- b) After auditing the records, we issue a notice of assessment as follows:

	Employee	Employer	Total
CPP contributions	\$95.60	\$95.60	\$191.20
Penalties and interest are added to the total.			

- c) The following year, you can recover the employee's contribution of  $\$95.60$  as follows:

	Current contribution	Recovered contribution	Employee's deduction
April	\$24.70 +	\$23.40 (for September)	= \$48.10
May	\$24.70 +	\$23.40 (for October)	= \$48.10
June	\$25.10 +	\$24.10 (for November)	= \$49.20
July	\$25.10 +	\$24.70 (for December)	= \$49.80
<b>Total</b>		<b>\$95.60</b>	

For more information on the pensionable and insurable earnings review (PIER), see Chapter 4.

## CPP coverage by an employer resident outside Canada

If you are an employer who does not have a place of business in Canada, you can apply to have employment that you provide in Canada (for resident or non-resident employees) covered under the CPP. This coverage is optional. Even if your country does not have a social security agreement with Canada, you can apply for coverage by filling out Form CPT13, *Application for an Employer Resident Outside Canada to Cover Employment in Canada Under the Canada Pension Plan*.

## Canada's social security agreements with other countries

Canada has reciprocal social security agreements with other countries. These agreements ensure that only one plan covers an employee—the CPP or a foreign social security plan.

To find out which country has CPP coverage provisions with Canada and to get the specific CPT application form number, see Appendix 4 on page 56.

You can get an application form for coverage or for extending coverage under the CPP by going to [www.cra.gc.ca/forms](http://www.cra.gc.ca/forms).

For additional information, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) then "Employment outside Canada" and choose "Canada's international social security agreements."

### Note

If you have questions about coverage under the QPP in other countries, send them to the following address:

Bureau des ententes de sécurité sociale  
Régie des rentes du Québec  
1055 René-Lévesque Blvd. East, 13th Floor  
Montréal QC H2L 4S5

## Chapter 3 – Employment insurance premiums

You have to deduct employment insurance (EI) premiums from each dollar of insurable earnings up to the yearly maximum. After you have deducted the maximum for the year, do not deduct any more premiums, even though the excess remuneration is still considered insurable. For 2015, the maximum annual insurable earnings are \$49,500.

### When to deduct EI premiums

You have to deduct EI premiums from an employee's insurable earnings if that employee is in insurable employment during the year.

Insurable employment includes most employment in Canada under a contract of service (see "Are you an employer?" on page 6). There is no age limit for deducting

EI premiums. Some employment outside Canada is also insurable (see page 43).

### Notes

If the employee is a student, you will have to deduct EI premiums for each type of remuneration that is insurable, as you would for any other employee.

Certain workers who are not employees might be considered to be in insurable employment. Examples are taxi drivers and drivers of other passenger-carrying vehicles, barbers and hairdressers, and fishers (see Chapter 7 for those special situations).

For more information about insurable earnings, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Pensionable and insurable earnings."

## Amounts and benefits from which you have to deduct EI premiums

You generally deduct EI premiums from the following amounts and benefits:

- salary, wages, bonuses, commissions, or other remuneration (including payroll advances or earnings advances), and wages in lieu of termination notice;
- most cash taxable benefits and allowances, including certain rent-free and low-rent housing if paid as cash or a subsidy, the value of board and lodging if cash earnings are also paid in the pay period (other than an exempt allowance paid to an employee at a special work site or remote work location);
- employer contributions to an employee's registered retirement savings plan (RRSP) except where employees cannot withdraw amounts from a group RRSP until they retire or cease to be employed, or if the RRSP agreement allows the employee to withdraw an amount from the RRSP under the Home Buyer's Plan (HBP) or the Lifelong Learning Plan (LLP);
- gifts, prizes, and awards paid in cash;
- honorariums, a share of profit that an employer paid, incentive payments, management fees, and other fees if paid in the course of insurable employment;
- stipends, fees or remuneration paid to elected or appointed officials who hold an office in a union or an association of unions or who hold a position within a federal, provincial, or territorial government or agency. For more information on whether employment of an individual who is in tenure of office is insurable, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Tenure of office;"
- certain tips and gratuities received for services performed. For more information on when EI premiums have to be deducted on tips and gratuities, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Tips and gratuities;"
- remuneration received while on vacation, furlough, sabbatical, sick leave, or for vacation pay;
- benefits received from certain wage-loss replacement plans; for more information, see page 38; and



- the salary you continue to pay to an employee before or after a workers' compensation board claim is decided, as well as:
  - any advance or loan you make that is more than the amount awarded under the claim; and
  - any advance or loan not repaid to you.

**Note**

If you pay any of these amounts to a former employee and you have to deduct EI premiums, use the current rate in effect when you make the payment.

## Employment, benefits, and payments from which you do not deduct EI premiums

### Employment

Even if there is a contract of service, payments for the following types of employment are not insurable and EI premiums are not required to be deducted:

- casual employment if it is for a purpose other than your usual trade or business. For more information about casual employment, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Casual employment;"
- employment when you and your employee do not deal with each other at arm's length. There are two main categories of employees who could be affected:
  - related persons: individuals connected by a blood relationship, marriage, common-law relationship, or adoption. In cases where the employer is a corporation, the employee is considered related to the corporation when he or she is related to a person who either controls the corporation or is a member of a related group that controls the corporation. However, these individuals can be in insurable employment if you would have negotiated a similar contract with a person whom you deal with at arm's length.
  - non-related persons: an employment contract between you and a non-related employee can be non-insurable if it is apparent from the circumstances of employment that you were not dealing with each other in the way arm's length parties normally would.

For more information, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Meaning of "not dealing at arm's length" for purposes of the *Employment Insurance Act* (EIA)."

If you are not sure whether you should deduct EI premiums when employing related persons (family members) or non-related employees whose circumstances of employment are unusual, we suggest you use our "Request a CPP/EI ruling" service at [www.cra.gc.ca/mybusinessaccount](http://www.cra.gc.ca/mybusinessaccount) or [www.cra.gc.ca/representatives](http://www.cra.gc.ca/representatives) to request a ruling, or you fill out Form CPT1, *Request for a Ruling as to the Status of a Worker Under the Canada Pension Plan and/or the Employment Insurance Act* and send it to the CPP/EI Rulings Division of your tax services office.

**Note**

If you deducted EI premiums and don't think you should have, you can ask for a refund of the

EI premiums. Normally we have to complete a ruling to confirm the employee's working relationship with you first.

- when a corporation employs a person who controls more than 40% of the corporation's voting shares. This includes employment of a person who entered into an agreement or registered with Service Canada to receive employment insurance special benefits. Go to [www.servicecanada.gc.ca](http://www.servicecanada.gc.ca) for more information about applying for these special benefits.
- employment of an individual holding an office in the private, municipal, or academic sectors. This includes mayors, municipal councillors, school commissioners, chiefs of Indian bands, band councillors, executors, liquidators, or administrators for settling estates, corporation directors, or any other position when a person is elected or appointed to that office. For more information about whether employment of an individual who is in tenure of office is insurable, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Tenure of office;"
- employment that is an exchange of work or services;
- employment in agriculture, horticulture, or an agricultural enterprise when:
  - the person receives no cash remuneration; or
  - works less than seven days with the same employer during the year;

**Notes**

If the employee works seven days or more, the employment is insurable from the first day of work.

For more information on when these types of employment are insurable, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Agriculture and horticulture."

- employment of a person in connection with a circus, fair, parade, carnival, exposition, exhibition, or other similar activity, except for entertainers, if that person:
  - is not your regular employee; and
  - works for less than seven days in the year.

**Notes**

If the employee works seven days or more, the employment is insurable from the first day of work.

For more information on when these types of employment are insurable, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Circus and fair."

- employment of a person in a rescue or disaster operation, as long as you do not regularly employ that person for that purpose. For more information, see "Emergency services volunteers" on page 42;
- employment by a government body as an election worker if the worker:
  - is not a regular employee of the government body; and
  - works for less than 35 hours in a calendar year;

**Note**

If the employee works 35 hours or more, the employment is insurable from the first hour of work.

- employment in Canada under an exchange program if the employer paying the remuneration is not resident in Canada;
- employment of a member of a religious order who has taken a vow of poverty. This applies whether the remuneration is paid directly to the order, or the member pays it to the order;
- any employment when premiums have to be paid according to the unemployment insurance laws of any state of the United States, the District of Columbia, Puerto Rico, or the U.S. Virgin Islands, or according to the *Railroad Unemployment Insurance Act* of the United States;
- employment in Canada of a non-resident person if the unemployment insurance laws of any foreign country require premiums to be paid for that employment;
- employment in Canada by a foreign government or an international organization, except when the foreign government or international organization agrees to cover its Canadian employees under Canada's EI legislation (in this case, the employment is insurable if Employment and Social Development Canada agrees); or
- employment under the "Self-employment assistance" and "Job creation partnerships" benefits established by the Canada Employment Insurance Commission under section 59 of the *Employment Insurance Act*, or under a similar benefit that a provincial or territorial government or other organization provides and is the subject of an agreement under section 63 of the *Employment Insurance Act*.

**Benefits and payments**

Do not deduct EI premiums from:

- a payment made under a registered supplementary unemployment benefit plan that qualifies as a SUBP under the *Income Tax Act* or is registered with Service Canada, and covering periods of unemployment resulting from a temporary stoppage of work, training, sickness, injury, or quarantine;
- any non-cash benefit, except the value of board and lodging when cash remuneration is also paid in a pay period;
- monies earned (such as salary, banked overtime, bonus, vacation, etc.) before the death of an employee and not yet paid at the time of death;
- employer contributions to an employee's group RRSP where access is restricted and does not permit employees to withdraw the amounts until they retire or cease to be employed or if the RRSP agreement allows the employee to withdraw an amount from the RRSP under the Home Buyers' Plan (HBP) or the Lifelong Learning Plan (LLP);
- amounts received on account of an earnings loss benefit, supplementary retirement benefit, or permanent impairment allowance payable to the taxpayer under

Part 2 of the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*;

- any amount excluded as income under paragraph 6(1)(a) or 6(1)(b) or subsection 6(6) or (16) of the *Income Tax Act*;
- a retiring allowance (for information on what a retiring allowance includes, see page 35);
- amounts you pay to an employee to cover the waiting period or to increase the maternity, parental, or compassionate care benefits if the following two conditions are met:
  - the total amount of your payment and the EI weekly benefits combined do not exceed the employee's normal weekly gross salary; and
  - your payment does not reduce any other accumulated employment benefits such as banked sick leave, vacation leave credits, or retiring allowance;
- an advance or loan you pay to employees before or after a workers' compensation board claim is decided that is equal to the benefits awarded under the claim (see page 40);
- a top-up amount you pay to your employee, after the claim is decided, that is in addition to the benefits paid by a workers' compensation (see page 39);
- top-ups to wage-loss replacement plan benefits from which you do not have to deduct EI premiums (see page 38).
- benefits received from certain wage-loss replacement plans; for more information, see page 38;
- amounts that a trustee allocated under a profit sharing plan or that a trustee paid under a deferred profit sharing plan.

**EI premium rate and maximum**

You have to deduct EI premiums from your employee's insurable earnings. As an employer, you must contribute 1.4 times\* the amount of the EI premiums that you deduct from your employee's remuneration.

\* The rate may be less than 1.4 (see page 22).

Each year, we determine:

- the maximum annual insurable earnings from which you deduct EI (\$49,500 for 2015); and
- a premium rate that you use to calculate the amount to deduct from your employees (1.88% for 2015—for Quebec, use 1.54%).

**Note**

Different EI rates apply for employees working in Quebec because of the Quebec Parental Insurance Plan (QPIP). See "Employment in Quebec" on page 22.

**Example**

EI premiums you deducted from your employees	
in the month.....	\$195.50
Your share of EI premiums (x 1.4).....	\$273.70
Total amount you remit for EI premiums.....	\$469.20

You stop deducting EI premiums when the employee's annual earnings reach the maximum insurable earnings or the maximum employee premium for the year (\$930.60 for 2015).

The annual maximum for insurable earnings (\$49,500 for 2015) applies to each job the employee holds with different employers (different business numbers). If an employee leaves one employer during the year to start work with another employer, the new employer also has to deduct EI premiums without taking into account what the previous employer paid. This is the case even if the employee has paid the maximum premium amount during the previous employment. If your business went through a restructure or reorganization, see page 10.

The employee's EI premium rate for the next year can be found in the *Payroll Deductions Tables*, which are usually available in mid-December at [www.cra.gc.ca/payroll](http://www.cra.gc.ca/payroll).

#### Notes

If you pay an amount to a former employee and you have to deduct EI premiums, use the current rate in effect when you make the payment.

Any overpayments will be refunded to employees when they file their income tax and benefit returns. There is no provision in the *Employment Insurance Act* that provides a credit or refund to the employer in such circumstances.

#### Example

Hassan makes \$30,000 of insurable earnings in Ontario, and after changes his province of employment to Quebec. He then makes an additional \$40,000 with the same employer.

Hassan's maximum premium is calculated as follows:

Total insurable earnings.....	\$49,500.00
In Ontario:.....	$30,000 \times 1.88\% = \$564.00$
In Quebec:.....	$19,500 \times 1.54\% = \$300.30$
Total premiums.....	<u>\$864.30</u>

## Employment in Quebec

Maternity, parental, and adoption benefits for residents of Quebec are administered by the province of Quebec under the Quebec Parental Insurance Plan (QPIP). QPIP replaces similar benefits that Quebec residents previously received under the *Employment Insurance Act*. Because of this, all employers who have employees working in Quebec (regardless of the employee's province or territory of residence) have to deduct a reduced EI premium using a reduced EI premium rate (1.54% for 2015) as well as QPIP premiums.

The maximum annual EI premium that an employee working in Quebec will pay on insurable earnings in 2015 is \$762.30.

For information on deducting and remitting the QPIP, see Guide TP-1015.G-V, *Guide for Employers: Source Deductions and Contributions*, which you can get from Revenu Québec at [www.revenuquebec.ca/en/default.aspx](http://www.revenuquebec.ca/en/default.aspx).

You may have a place of business in Quebec and in another province or territory. If you transfer an employee from Quebec to another province or territory, in addition to

deducting CPP/QPP contributions and EI/QPIP premiums you will also have to prepare two T4 slips. It is important that you calculate and report the proper deductions and insurable/pensionable earnings on both T4 slips. For more information, see Guide RC4120, *Employers' Guide – Filing the T4 Slip and Summary*.

## Reducing the rate of your EI premiums if you have a short-term disability plan

Some employers provide a wage-loss replacement plan for short-term disability to their employees. If the plan meets certain standards established by the *Employment Insurance Regulations*, the employer's EI premiums could be paid at a reduced rate (less than 1.4 times the employee's premiums).

To benefit from a reduced employer premium rate, you have to register with the EI Premium Reduction Program by submitting:

- an initial application, which you can find in Service Canada's publication called *Reducing Your Employment Insurance (EI) Premiums*; and
- a copy of the short-term disability plan provided to your employees.

You can get the guide at your Service Canada Centre or by contacting:

Service Canada  
EI Premium Reduction Program  
P.O. Box 11000  
Bathurst NB E2A 4T5

Telephone: 1-800-561-7923

Fax: 506-548-7473

Website: [www.servicecanada.gc.ca/prp](http://www.servicecanada.gc.ca/prp)

The employer's EI premiums are reduced only in respect of employees covered by the approved plan (this includes employees serving an eligibility period under the plan of three months or less). These employees will continue to be reported under the current payroll program account, which will be set at a reduced rate. An officer of the EI Premium Reduction Program will ask you to open an additional payroll program account under your business number (BN) to make a separate remittance for employees not covered by the plan.

You have to file a separate T4 information return for each payroll program account under your BN:

- For employees covered under an approved plan, report their income and deductions using your payroll program account at the reduced EI premium rate (for example, RP0001).
- For employees who are not covered by the plan, report their income and deductions using your payroll program account at the standard rate of 1.4 times the employees' premiums (for example, RP0002).

Where an employee was transferred between both accounts in the same calendar year, file a separate T4 slip for each account.

## Calculating EI deductions

To determine the amount of EI premiums to deduct, use one of the following tools:

- the Payroll Deductions Online Calculator (PDOC);
- the *Payroll Deductions Tables* (T4032);
- the *Payroll Deductions Supplementary Tables* (T4008); or
- the *Payroll Deductions Formulas Computer Programs* (T4127).

To find out which method is best for you, see "Payroll deductions tables" on page 8.

You can also use a manual method to calculate your employee's EI deductions if you pay your employees more than the maximum amount that appears in Section C of the Guide T4032, *Payroll Deductions Tables*.

## EI overpayment

If, during a year, you overdeducted EI premiums from your employee (for example, the maximum amount of insurable earnings was exceeded, or the employee was not employed in insurable employment), reimburse the employee the amount deducted in error and adjust your payroll records in the same year the overpayment was made to reflect the reduced deduction. This will result in a credit on your payroll program account equal to the employee and employer portion of the overdeduction. You may reduce a future remittance in the same calendar year by that amount.

Do not include the reimbursed amount on the T4 slip. If you cannot refund the overpayment, show the total EI premiums deducted and the correct insurable earnings on the employee's T4 slip.

If you reported the employee's overpayment on the T4 slip, you can ask us for a refund by filling out Form PD24, *Application for a Refund of Overdeducted CPP Contributions or EI Premiums*. Make your request no later than three years from the end of the year in which the overpayment occurred.

## Recovering EI premiums

If you receive a notice of assessment or discover that you have underdeducted EI premiums, you are responsible for remitting the balance due (both the employer's and employee's shares).

You can recover the employee's premiums from later payments to the employee. The recovered premium can be equal to, but not more than the premium you should have deducted from each payment of remuneration.

However, you cannot recover a premium that has been outstanding for more than 12 months. As well, you cannot adjust the employee's income tax deduction to cover the EI premium shortfall.

If you should have made a deduction in a previous year and you recover it through an additional deduction in the current year, do not report the recovered premium on the current year's T4 slip. You may have to amend your employee's T4 slip. For information on how to amend a

T4 slip, see Guide RC4120, *Employers' Guide – Filing the T4 Slip and Summary*.

The recovered amount does not affect the current year-to-date EI premiums.

### Example

- a) You did not deduct or remit EI premiums that you should have deducted as follows:

Month	EI
September	\$74.00
October	\$74.00
November	\$78.00
December	\$75.00
<b>Total</b>	<b>\$301.00</b>

- b) After auditing the records, we issue a notice of assessment as follows:

	Employee	Employer	Total
EI premiums	\$301.00	\$421.40	\$722.40

The employer premiums are 1.4 times the employee premiums.

Penalty and interest are added to the total.

- c) The following year, you can recover the employee's premiums of \$301.00 as follows:

	Current premium	Recovered premium	Employee's deduction
April	\$74.00 +	\$74.00 (for September)	= \$148.00
May	\$78.00 +	\$74.00 (for October)	= \$152.00
June	\$80.00 +	\$78.00 (for November)	= \$158.00
July	\$80.00 +	\$75.00 (for December)	= \$155.00
<b>Total</b>		<b>\$301.00</b>	

### Note

Details on the pensionable and insurable earnings review (PIER) are in Chapter 4.

## Establishing the number of insurable hours

Hours of work are used to determine if workers are entitled to benefits and for how long. Employers have to keep records.

### Note

For information on how to report the total hours of insurable employment, contact your Service Canada Centre or visit [www.servicecanada.gc.ca](http://www.servicecanada.gc.ca).

The number of insurable hours is determined as follows:

- For an employee who is paid hourly – The number of insurable hours is the number of hours actually worked and paid.
- For an employee who is not paid hourly – If the employer knows the number of hours that the employee actually worked and for which he or she was paid, we consider the employee to have that number of insurable hours. For example, an employee who is paid on an annual basis, but whose employment contract specifies

32 hours as the usual hours of work per week, would be credited with 32 insurable hours.

#### Note

If the employer does not know the actual number of hours worked, the employer and the employee can agree on the number of insurable hours of work for which he or she is paid. For example, an agreement on hours on the value of piecework would determine the number of insurable hours. However, if no contract or agreement on hours exists or can be reached, we determine the number of insurable hours by dividing the insurable earnings by the minimum wage. The result cannot be more than seven hours per day or 35 hours per week.

- **Hours limited by federal or provincial statutes** – Full-time employees who are limited by law to less than 35 hours per week will be credited 35 insurable hours per week. Part-time employees in these circumstances are credited with a proportionate number of hours.
- **Military and police** – Full-time members of the Canadian Forces or a police force will be credited 35 insurable hours per week, unless the employer keeps and provides the actual number of hours worked.
- **Overtime hours accumulated and paid at a later date or paid on termination of employment** – One hour of overtime work equals one hour of insurable employment, even if the rate of pay is higher. Overtime hours accumulated and paid at a later date, or paid on termination of employment, are equally insurable when the parties can establish the effective hours worked. The insurable hours will be the hours actually worked and not the hours accumulated at a rate greater than the regular one.

#### Example

An employee works 20 hours of overtime, so he accumulates 30 hours (1.5 times the number of hours worked). At the end of the year, the worker asks his employer to be paid for his accumulated hours. The number of insurable hours will correspond to the actual hours worked, which is 20 hours in this case.

- **Worker called in to work** – The number of insurable hours equals the number of hours paid.
- **Stand-by hours** – Stand-by hours are insurable if:
  - the stand-by hours are paid at a rate equal to or above the rate paid for the hours the employee would have worked; or
  - the employee is present at the employer's premises, waiting for the employer to request his services, as required under a contract of employment, and these hours are paid, regardless of the rate paid.
- **Public holiday** – One hour of work on a public holiday equals one hour of insurable employment, even if the rate of pay is higher. When a public holiday is paid in straight time and a person doesn't work on the holiday, the insurable hours will be the hours the person would have normally worked.

- **Paid leave** – One hour of vacation time taken, paid sick leave, or compensatory time off is considered to be one insurable hour.
- **Remuneration paid with no hours attached** – An employee who receives vacation pay without actually taking any leave does not generate any insurable hours. This also applies to such remuneration as bonuses, gratuities, and lieu-of-notice payments.

For more information on how to determine hours of insurable employment, go to [www.cra.gc.ca/cppeexplained](http://www.cra.gc.ca/cppeexplained) and choose "Insurable hours."

## Record of employment (ROE)

Generally, you have to prepare and give an ROE to your employee within five days after the employee's interruption of earnings or the day you become aware of the interruption or the date he or she stops working for you. This is considered an interruption of service and includes situations where employment ends or the employee leaves because of pregnancy, injury, illness, adoption leave, layoff, leave without pay, or dismissal. For more information, see page 10.

#### Note

A different deadline may apply if you file your ROE electronically.

The employee needs the ROE to file a claim for employment insurance (EI) benefits. It is used to determine if he or she is entitled to EI benefits, and for how long.

When filling out the ROE you will have to determine the number of insurable hours. Also, there are consequences for not filing the ROE.

To create a ROE for your employee, you can use Service Canada's online ROE web service, your payroll provider's ROE Secure Automated Transmission, or fill out a paper *Record of Employment (ROE)*.

For more information on the ROE, go to Service Canada at [www.servicecanada.gc.ca/eng/services/ei/employers/roe/index.shtml](http://www.servicecanada.gc.ca/eng/services/ei/employers/roe/index.shtml) or call 1-800-622-6232.

## Chapter 4 – Pensionable and insurable earnings review (PIER)

Each year, we check the calculations you made on the T4 slips that you filed with your T4 Summary. We do this to make sure the pensionable and insurable earnings you reported agree with the deductions you withheld and remitted.

We check the calculations by matching the pensionable and insurable earnings you reported with the required Canada Pension Plan (CPP) contributions or employment insurance (EI) premiums shown in the Guide T4032, *Payroll Deductions Tables*. We then compare these required amounts with the CPP contributions and EI premiums reported on the T4 slips.

If there is a deficiency between the CPP contributions or EI premiums required and those you reported, we print the

## Appendix 1 – Which payroll table should you use?

Your employee is a...	Employee reports for work at an establishment of the employer in Canada	Employee works in Canada, but does not report for work at an establishment of the employer	Employee works in Canada, but employer does not have an establishment in Canada
Resident of Canada	Use the payroll deductions tables for the province or territory where the employee reports for work.	Use the payroll deductions tables for the province or territory where the employer's establishment is located and from which the employee's salary is paid.	Use the payroll deductions tables for <i>In Canada beyond the limits of any province/territory or outside Canada</i> .
Deemed resident or sojourner (see Note)	Use the payroll deductions tables for <i>In Canada beyond the limits of any province/ territory or outside Canada</i> .	Use the payroll deductions tables for <i>In Canada beyond the limits of any province/territory or outside Canada</i> .	Use the payroll deductions tables for <i>In Canada beyond the limits of any province/territory or outside Canada</i> .
Part-year resident, for the part of the year he/she is resident in Canada (see Note)	Use the payroll deductions tables for the province or territory where the employee reports for work.	Use the payroll deductions tables for the province or territory where the employer's establishment is located and from which the employee's salary is paid.	Use the payroll deductions tables for <i>In Canada beyond the limits of any province/territory or outside Canada</i> .
Part-year resident, for the part of the year he/she is non-resident (see Note)	Use the payroll deductions tables for the province or territory where employment duties are performed.	Use the payroll deductions tables for the province or territory where employment duties are performed.	Use the payroll deductions tables for the province or territory where employment duties are performed.
Non-resident, including a commuter (see Note)	Use the payroll deductions tables for the province or territory where employment duties are performed.	Use the payroll deductions tables for the province or territory where employment duties are performed.	Use the payroll deductions tables for the province or territory where employment duties are performed.
<b>Note</b> For more information about residency status, see Income Tax Folio S5-F1-C1, <i>Determining an Individual's Residence Status</i> .			

## Appendix 2 – Calculation of CPP contributions (single pay period)

You can use this calculation to determine the CPP contributions you should deduct for your employee for a single pay period. To determine the CPP contributions for multiple pay periods, or to verify the annual contribution at year's end, use Appendix 3 on the next page.

**Note**

Before using this calculation, read "Starting and stopping CPP deductions" on page 15.

**Step 1 – Calculate the employee's pensionable earnings for the pay period.**

Enter the employee's gross pay for the period ..... \$ \_\_\_\_\_ 1  
 Enter any taxable benefits and allowances for the period..... \$ \_\_\_\_\_ 2  
 Line 1 plus line 2 ..... \$ \_\_\_\_\_ 3  
 Enter any income from Employment, benefits, and payments from which you do not deduct  
 CPP contributions, described in Chapter 2 of this guide..... \$ \_\_\_\_\_ 4  
 Pensionable earnings (line 3 minus line 4) ..... \$ \_\_\_\_\_ 5

**Step 2 – Enter the basic exemption for the pay period. Use the table below, or the following equation:**

Annual basic exemption (\$3,500 for 2015) divided by the number of pay periods in the year ..... \$ \_\_\_\_\_ 6

**Step 3 – Line 5 minus line 6 ..... \$ \_\_\_\_\_ 7**

**Step 4 – Enter CPP contribution rate (4.95% in 2015)..... \_\_\_\_\_ 8**

**Step 5 – CPP contribution to be deducted (line 7 multiplied by line 8)..... \$ \_\_\_\_\_ 9**

### Employee's basic CPP exemption for various 2015 pay periods

Pay period	Basic exemption
Annually (1)	\$3,500.00
Semi-annually (2)	\$1,750.00
Quarterly (4)	\$875.00
Monthly (12)	\$291.66
Semi-monthly (24)	\$145.83
Bi-weekly (26)	\$134.61
Bi-weekly (27)	\$129.62
Weekly (52)	\$67.30
Weekly (53)	\$66.03
22 pay periods	\$159.09
13 pay periods	\$269.23
10 pay periods	\$350.00
Daily (240)	\$14.58
Hourly (2,000)	\$1.75

## Appendix 3 – Calculation of CPP contributions (multiple pay periods or year-end verification)

Use this calculation to determine an employee's CPP contributions over multiple pay periods, or to verify an employee's CPP contributions at year-end before you fill out and file the T4 slips. This is the same calculation we use in Chapter 7 of the Guide T4127, *Payroll Deductions Formulas for Computer Programs*. This optional calculation is the **only one we authorize**. You can get the information you need to fill in this calculation from each employee's payroll master file.

Using the calculation will help you avoid the possibility of receiving a pensionable and insurable earnings review (PIER) report.

**Note**

Before using this calculation to determine an employee's CPP contributions over multiple pay periods, read "Starting and stopping CPP deductions" on page 15.

To calculate or verify contributions, follow these steps:

**Step 1** – Enter the salary, wages, benefits, and allowances for the total period of employment from the employee's payroll master file that you will include in box 14 "Employment income" of the T4 slip ..... \$ \_\_\_\_\_ **1**

**Step 2** – Subtract from line 1 the following earnings of the employee:

- the amount the employee received before and including the month the employee turned 18 ..... \$ \_\_\_\_\_
- the amount the employee received after the month the employee turned 70 ..... \$ \_\_\_\_\_
- the amount the employee received after the effective date of the employee's completed and signed election Form (CPT30) to stop contributing to the CPP ..... \$ \_\_\_\_\_
- the amount the employee received before and including the month in which the employee provided you with a completed and signed revocation Form (CPT30) to start contributing to the CPP ..... \$ \_\_\_\_\_
- the amount the employee received during the months the employee was considered to be disabled under CPP or QPP ..... \$ \_\_\_\_\_
- any income from Employment, benefits, and payments from which you do not deduct CPP contributions, described in Chapter 2 of this guide ..... \$ \_\_\_\_\_

Total earnings that do not require CPP contributions ..... \$ \_\_\_\_\_ **2**

**Step 3** – Pensionable earnings for the period of employment (to a maximum of \$53,600 for 2015)  
Line 1 minus line 2 ..... \$ \_\_\_\_\_ **3**

**Step 4** – Enter the basic exemption for the pay period (see table on previous page) ..... \$ \_\_\_\_\_

Multiply by the number of pay periods of pensionable earnings (related to the amount on line 3). Make sure not to include pay periods that apply to the earnings listed in Step 2 above..... x \_\_\_\_\_

Basic exemption that applies to the period of pensionable employment (for more information, see Chapter 2). This amount cannot be more than the maximum yearly basic exemption of \$3,500 ..... \$ \_\_\_\_\_ **4**

**Step 5** – CPP contributory earnings for the period of pensionable employment – Line 3 minus line 4..... \$ \_\_\_\_\_ **5**

**Step 6** – Enter the CPP contribution rate for the year (4.95% for 2015) ..... x \_\_\_\_\_ **6**

**Step 7** – Employee's required CPP contributions for the period of pensionable employment (maximum \$2,479.95 for 2015) – Line 5 multiplied by the rate on line 6..... \$ \_\_\_\_\_ **7**

**Step 8** – Enter the CPP contributions from the employee's payroll master file that you deducted for the period of pensionable employment ..... \$ \_\_\_\_\_ **8**

**Step 9** – Line 7 minus line 8. The result should be zero ..... \$ \_\_\_\_\_ **9**

If the amount on line 9 is **positive**, you have underdeducted contributions. If this is the case, add line 8 and line 9 and include the total in box 16, "Employee's CPP contributions," of the T4 slip.

**Note**

If the amount on line 9 is **negative**, you may have overdeducted contributions. If this is the case, check the employee's master file to make sure that the amounts on line 1 and line 3 are correct. For more information on refunding CPP overpayments, see page 18.



## Appendix 4 – Canada's social security agreements with other countries

Country	Date in force	CPT form number
Antigua and Barbuda	January 1, 1994	111
Austria	November 1, 1987	112
Barbados	January 1, 1986	113
Belgium	January 1, 1987	121
Brazil	August 1, 2014	168
Bulgaria	March 1, 2014	170
Chile	June 1, 1998	114
Croatia	May 1, 1999	115
Cyprus	May 1, 1991	116
Czech Republic	January 1, 2003	137
Denmark	January 1, 1986	117
Dominica	January 1, 1989	118
Estonia	November 1, 2006	142
Finland	February 1, 1988	128
France	March 1, 1981	52
Germany	April 1, 1988	130
Greece	December 1, 1997	54
Grenada	February 1, 1999	119
Guernsey	January 1, 1994	120
Hungary	October 1, 2003	141
Iceland	October 1, 1989	49
India	August 1, 2015	169
Ireland	January 1, 1992	50
Israel	September 1, 2003	140
Italy	January 1, 1979	51
Jamaica	January 1, 1984	57
Japan	March 1, 2008	122
Jersey	January 1, 1994	120
Korea (South)	May 1, 1999	58

Country	Date in force	CPT form number
Latvia	November 1, 2006	143
Lithuania	November 1, 2006	144
Luxembourg	April 1, 1990	60
Macedonia	November 1, 2011	163
Malta	March 1, 1992	61
Mexico	May 1, 1996	62
Morocco	March 1, 2010	166
Netherlands	April 1, 2004	63
Norway	January 1, 2014	127
Philippines	March 1, 1997	64
Poland	October 1, 2009	161
Portugal	May 1, 1981	55
Romania	November 1, 2011	165
St. Kitts and Nevis	January 1, 1994	65
Saint Lucia	January 1, 1988	67
Saint Vincent and the Grenadines	November 1, 1998	66
Serbia	December 1, 2014	162
Slovakia	January 1, 2003	138
Slovenia	January 1, 2001	68
Spain	January 1, 1988	125
Sweden	April 1, 2003	129
Switzerland	October 1, 1995	69
Trinidad and Tobago	July 1, 1999	70
Turkey	January 1, 2005	72
United Kingdom	April 1, 1998	71
United States	August 1, 1984	56
Uruguay	January 1, 2002	136

## Appendix 5 – Calculation of employee EI premiums (2015)

This year-end calculation will help you verify an employee's EI premiums before you fill out and file the T4 slips. This optional calculation is the **only one we authorize**. We based the calculation on information in this guide and in Chapter 8 of Guide T4127, *Payroll Deductions Formulas for Computer Programs*. You can get the information you need to fill in this calculation from each employee's payroll master file.

Using this calculation will help you avoid the possibility of receiving a pensionable and insurable earnings review (PIER) report.

To verify the EI deduction, follow these steps:

- Step 1** – Enter the insurable earnings for the year as indicated in each employee's payroll master file for the period of insurable employment. The amount should not be more than the maximum annual amount of \$49,500 (for 2015)..... \$ \_\_\_\_\_ **1**
- Step 2** – Enter the employee's EI premium rate for the year (1.88% for 2015 – for Quebec, use 1.54%) ..... × \_\_\_\_\_ **2**
- Step 3** – Multiply line 1 by line 2 to calculate the employee's EI premiums payable for the year. The amount should not be more than the maximum annual amount of \$930.60 (\$762.30 for Quebec) for 2015 ..... \$ \_\_\_\_\_ **3**
- Step 4** – Enter the employee's EI premium deductions for the period of insurable employment as indicated in the employee's payroll master file..... \$ \_\_\_\_\_ **4**
- Step 5** – Line 3 minus line 4. The result should be zero ..... \$ \_\_\_\_\_ **5**

If there is an amount on line 5 and it is **positive**, you have underdeducted. If this is the case, add line 4 and line 5 and include the total in box 18, "Employee's EI premiums," of the T4 slip.

**Note**

If the amount on line 5 is **negative**, you have overdeducted premiums. If this is the case, check the employee's payroll master file to make sure that the amount on line 1 is correct. For more information on refunding EI overpayment, see page 23.

## Appendix 6 – Special payments chart

This chart will help you determine whether or not to deduct CPP, EI, and income tax on the following special payments you make to your employees.

Special payments	CPP contributions <sup>1</sup>	EI premiums <sup>1</sup>	Tax deductions
Advances	Yes	Yes	Yes
Benefits under the <i>Employment Insurance Act</i>	No	No	Yes
Bonuses and retroactive pay increases	Yes	Yes	Yes
Casual employment if it is for a purpose other than your usual trade or business (even if there is a contract of employment)	No	No	No
Compassionate care benefits – amounts paid to cover the waiting period or to increase the benefit	Yes	Yes/No <sup>2</sup>	Yes
Corporate employee who controls more than 40% of the corporations voting shares receiving salary, wages or other remuneration	Yes	No	Yes
Director's fees paid to residents of Canada or to non-residents – Fee only	Yes <sup>3</sup>	No	Yes <sup>4</sup>
Director's fees paid to residents of Canada or to non-residents – Fee in addition to salary	Yes/No <sup>5</sup>	Yes/No <sup>5</sup>	Yes
Employees profit sharing plans (EPSP)	No	No	No
Employment in Canada by a foreign government or an international organization	Yes/No <sup>6</sup>	Yes/No <sup>7</sup>	Yes <sup>8</sup>
Employment in Canada of a non-resident person if the unemployment insurance laws of any foreign country require someone to pay premiums for that employment	Yes/No <sup>9</sup>	No	Yes <sup>9</sup>
Employment in Canada under an exchange program if the employer paying the remuneration is not resident in Canada	Yes/No <sup>10</sup>	No	Yes <sup>9</sup>
Employment of your child or a person that you maintain if no cash remuneration is paid	No	No	No
Employment that is in exchange of work or service (even if there is a contract of service)	Yes/No <sup>11</sup>	No	Yes/No <sup>12</sup>
Employment under the "Job creation partnerships" and "Self-employment assistance" employment benefits established by the Canada Employment and Immigration Commission under section 59 of the <i>Employment Insurance Act</i> , or under a similar benefit that a provincial government or other organization provides and is the subject of an agreement under section 63 or the <i>Employment Insurance Act</i>	Yes/No <sup>13</sup>	No	Yes/No <sup>14</sup>

<sup>1</sup> If you have already deducted the total yearly maximum contributions from the employee's income, do not deduct more contributions. Do not consider amounts deducted by previous employers during the same year unless there was a restructure or reorganization—see page 10.

<sup>2</sup> Do not deduct EI premiums if the following two conditions are met:

- the total amount of your payment and the EI weekly benefits combined do not exceed the employee's normal weekly gross salary; and
- your payment does not reduce any other accumulated employment benefits such as banked sick leave, vacation leave credits, or retiring allowance.

<sup>3</sup> Do not deduct CPP contributions when the employment is performed totally or partly outside Canada—see page 19.

<sup>4</sup> Do not deduct income tax if you estimate that the total fee paid in the year is less than the total claim amount on Form TD1.

<sup>5</sup> Determination to deduct CPP, EI or both depends on the status of the resident director's employment. For more information on director's fees, see page 32 of this guide.

<sup>6</sup> Deduct CPP contributions when the international organization or the foreign government agree to cover their employees. A list of the international organizations and foreign countries can be found under Schedules V and VII of the *Canada Pension Plan Regulations* (except for employment listed in Schedules VI and VIII).

<sup>7</sup> Deduct EI premiums when the foreign government or international organization agrees to cover its Canadian employees under Canada's EI legislation (in this case, the employment is insurable if Employment and Social Development Canada agrees).

<sup>8</sup> For more information on non-resident employees, see page 30.

<sup>9</sup> Deduct CPP contributions unless the worker has a certificate of coverage from the competent authority of his/her country confirming that the worker is contributing to a pension plan in his/her country. Do not deduct CPP contributions if the employer is not residing in Canada and does not have an establishment in Canada, unless the employer has filed Form CPT13.

<sup>10</sup> Do not deduct CPP contributions unless the employer has filed Form CPT13.

<sup>11</sup> Deduct CPP contributions unless the employment does not require CPP deductions, as indicated in Chapter 2.

<sup>12</sup> For more information about bartering, see archived Interpretation Bulletin IT-490, *Barter Transactions*. Do not deduct income tax unless the taxpayer is an employee and makes a regular habit of providing services for cash.

<sup>13</sup> Do not deduct CPP contributions on benefits paid by Employment and Social Development Canada or a provincial government. Deduct CPP contributions on payments made by an employer unless the individual is working as a self-employed individual or the employment does not require CPP contributions, as indicated in Chapter 2.

<sup>14</sup> Deduct income tax if the payment is considered government financial assistance, but if the payment is considered an inducement to earn business income, do not deduct income tax.

Special payments	CPP contributions <sup>1</sup>	EI premiums <sup>1</sup>	Tax deductions
Employment when employment insurance premiums have to be paid according to the unemployment insurance laws of any state of the United States, the District of Columbia, Puerto Rico, or the Virgin Islands, or according to the <i>Railroad Unemployment Insurance Act</i> of the United States	Yes/No <sup>10</sup>	No	Yes
Entertainment activity, employment in	Yes	Yes	Yes
Furlough, amounts received when on	Yes	Yes	Yes
Honorariums from employment or office	Yes	Yes	Yes
Incentive payments	Yes	Yes	Yes
Job creation Employment and Social Development Canada approved project, additional amounts that you as an employer pay while participating in a project	Yes/No <sup>16</sup>	No	Yes
Lost-time pay from a union, amounts received as	Yes	Yes	Yes
Maternity benefits – amounts paid to cover the waiting period or to increase the benefit	Yes	Yes/No <sup>2</sup>	Yes
Overtime pay, including banked overtime pay	Yes	Yes	Yes
Parental care benefits – amounts paid to cover the waiting period or to increase the benefit	Yes	Yes/No <sup>2</sup>	Yes
Payments under Part 2 of the <i>Canadian Forces Members and Veterans Re-establishment and Compensation Act</i> – amounts received on account of an earnings loss benefit, supplementary retirement benefit or permanent impairment allowance payable to the taxpayer	No	No	Yes
Qualifying retroactive lump-sum payments <sup>17</sup>	Yes	Yes	Yes
Retirement compensation arrangements (RCA)	No	No	Yes
Retiring allowances (also called severance pay)	No	No	Yes <sup>18</sup>
Sabbatical, remuneration received while on	Yes	Yes	Yes
Salary	Yes	Yes	Yes
Salary deferral – non-prescribed plans or arrangements – on amounts earned	Yes	Yes	Yes
Salary deferral – prescribed plans or arrangements – on amounts received	Yes/No <sup>16</sup>	Yes/No <sup>18</sup>	Yes
Sick leave, amounts received while on sick leave, sick leave credits, payments for	Yes	Yes	Yes
Spouse or common-law partner, employment of, if you cannot deduct the remuneration paid as an expense under the <i>Income Tax Act</i>	No	Yes/No <sup>19</sup>	Yes
Teacher on exchange from a foreign country, employment of	No	Yes/No <sup>20</sup>	Yes/No <sup>21</sup>
Tips and gratuities (controlled by employer)	Yes	Yes	Yes <sup>22</sup>
Tips and gratuities (direct tips or gratuities – not controlled by the employer)	No	No	No <sup>22</sup>
Vacation pay, public holidays, and lump-sum vacation payment	Yes	Yes	Yes <sup>1</sup>

<sup>15</sup> Deduct CPP contributions on payments made by an employer unless the individual is working as a self-employed individual or the employment does not require CPP contributions, as indicated in Chapter 2 of this guide.

<sup>16</sup> To determine if you have to deduct CPP, EI or both, see “Prescribed plans or arrangements” on page 37.

<sup>17</sup> Qualifying retroactive lump sum payments may require CPP and/or EI deductions in addition to income tax.

<sup>18</sup> Do not deduct income tax on the amount of retiring allowance that is transferred directly to the recipient’s RPP or RRSP (up to the amount of the employee’s available RRSP deduction limit)—see page 35 for details.

<sup>19</sup> Deduct EI premiums if you would have negotiated a similar contract with a person that you deal with at arm’s length.

<sup>20</sup> Deduct EI premiums, unless the worker is remunerated by an employer residing outside Canada.

<sup>21</sup> You have to deduct income tax on Canadian earnings, unless provisions of an income tax convention or treaty say otherwise.

<sup>22</sup> For more information on determining if the tips and gratuities are controlled or direct, go to [www.cra.gc.ca/tb/hm/xplnd/tps-eng.html](http://www.cra.gc.ca/tb/hm/xplnd/tps-eng.html).

Special payments	CPP contributions <sup>1</sup>	EI premiums <sup>1</sup>	Tax deductions
Vow of poverty – employment of a member of a religious order who has taken a vow of poverty. This applies whether the remuneration is paid directly to the order or the member pays it to the order.	No	No	Yes/No <sup>23</sup>
Wages	Yes	Yes	Yes
Wages in lieu of termination notice	Yes	Yes	Yes
Wage-loss replacement plans – Paid by the employer	Yes	Yes	Yes
Wage-loss replacement plans – Paid by third party/trustee and the employer: <ul style="list-style-type: none"> <li>■ funds any part of the plan; and</li> <li>■ exercises a degree of control over the plan; and</li> <li>■ directly or indirectly determines the eligibility for benefits.</li> </ul>	Yes	Yes	Yes
Workers' compensation claims – Employee's salary paid before or after a workers' compensation board claim is decided	Yes	Yes	Yes
Workers' compensation claims – Advances or loans equal to the workers' compensation benefits awarded	No	No	No
Workers' compensation claims – Amount paid in addition to an advance or loan before the claim is accepted	Yes	Yes <sup>24</sup>	Yes
Workers' compensation claims – Top-up amounts paid after the claim is accepted	Yes	No	Yes
Workers' compensation claims – Top-up amounts paid as sick leave after the claim is accepted	Yes	No	Yes

<sup>23</sup> Deduct income tax, unless the employer pays the remuneration directly to the order or the employee provides the employer with a letter of authority approved by a tax services office.

<sup>24</sup> An amount you pay in addition to an advance or loan is not a top-up amount if you pay it while waiting for a decision on a workers' compensation board claim. This amount is considered as employment income.

## Online services

### Handling business taxes online

Save time using the CRA's online services for businesses. You can:

- authorize a representative, an employee, or a group of employees, who has registered with Represent a Client, for online access to your business accounts;
- request or delete authorization online through Represent a Client, if you are a representative;
- change addresses;
- file or amend information returns without a web access code;
- register for online mail, get email notifications, and view your mail online;
- authorize the withdrawal of a pre-determined amount from your bank account;
- provide a nil remittance;
- request the transfer of a misallocated credit;
- enrol for direct deposit, update banking information, and view direct deposit transactions;
- request a refund;
- view your account balance and transactions;
- register a formal dispute (Appeal);
- request a CPP/EI ruling; and
- do much more.

To register or log in to our online services, go to:

- [www.cra.gc.ca/mybusinessaccount](http://www.cra.gc.ca/mybusinessaccount), if you are a business owner; or
- [www.cra.gc.ca/representatives](http://www.cra.gc.ca/representatives), if you are an authorized representative or employee.

For more information, go to [www.cra.gc.ca/businessonline](http://www.cra.gc.ca/businessonline).

### Receiving your CRA mail online

You, or your representative (authorized at a level 2), can choose to receive most of your CRA mail for your business online.

When you or your representative registers for online mail, we will no longer mail most correspondence items. Instead, an email notification will be sent to the email address(es) provided when there is new mail available to view online. To register, select the "Manage online mail" service and follow the easy steps.

Using our online mail service is faster and easier than managing paper correspondence.

### Authorizing the withdrawal of a pre-determined amount from your bank account

Pre-authorized debit (PAD) is an online, self-service, payment option. Through this option, you agree to authorize the CRA to withdraw a pre-determined payment from your bank account to pay tax on a specific date or dates. You can set up a PAD agreement using the CRA's secure My Business Account service at [www.cra.gc.ca/mybusinessaccount](http://www.cra.gc.ca/mybusinessaccount). PADs are flexible and managed by you. You can view historical records, modify, cancel, or skip a payment. For more information, go to [www.canada.ca/payments](http://www.canada.ca/payments) and select the "Pre-authorized debit."

### Electronic payments

Make your payment using:

- your financial institution's online or telephone banking services;
- the CRA's My Payment service at [www.cra.gc.ca/mypayment](http://www.cra.gc.ca/mypayment); or
- pre-authorized debit at [www.cra.gc.ca/mybusinessaccount](http://www.cra.gc.ca/mybusinessaccount).

For more information on all payment options, go to [www.canada.ca/payments](http://www.canada.ca/payments).

## For more information

### What if you need help?

If you need more information after reading this guide, go to [www.cra.gc.ca/payroll](http://www.cra.gc.ca/payroll) or call 1-800-959-5525.

### Direct deposit

Direct deposit is a faster, more convenient, reliable, and secure way to get your refunds directly into your account at a financial institution in Canada.

For more information, go to [www.cra.gc.ca/directdeposit](http://www.cra.gc.ca/directdeposit).

### Forms and publications

To get our forms and publications, go to [www.cra.gc.ca/forms](http://www.cra.gc.ca/forms) or call 1-800-959-5525.

### Electronic mailing lists

We can notify you by email when new information on a subject of interest to you is available on our website. To subscribe to our electronic mailing lists, go to [www.cra.gc.ca/lists](http://www.cra.gc.ca/lists).

### Teletypewriter (TTY) users

TTY users can call 1-800-665-0354 for bilingual assistance during regular business hours.

### Tax information videos

We have a number of tax information videos for small businesses on topics such as business income and expenses, GST/HST, and payroll. To watch our videos, go to [www.cra.gc.ca/videogallery](http://www.cra.gc.ca/videogallery).

### Service complaints

You can expect to be treated fairly under clear and established rules, and get a high level of service each time you deal with the Canada Revenue Agency (CRA); see the *Taxpayer Bill of Rights*.

If you are not satisfied with the service you received, try to resolve the matter with the CRA employee you have been dealing with or call the telephone number provided in the CRA's correspondence. If you do not have contact information, go to [www.cra.gc.ca/contact](http://www.cra.gc.ca/contact).

If you still disagree with the way your concerns were addressed, you can ask to discuss the matter with the employee's supervisor.

If you are still not satisfied, you can file a service complaint by filling out Form RC193, *Service-Related Complaint*.

If the CRA has not resolved your service-related complaint, you can submit a complaint with the Office of the Taxpayers' Ombudsman.

For more information, go to [www.cra.gc.ca/complaints](http://www.cra.gc.ca/complaints) or see Booklet RC4420, *Information on CRA – Service Complaints*.

### Reprisal complaint

If you believe that you have experienced reprisal, fill out Form RC459, *Reprisal Complaint*.

For more information about reprisal complaints, go to [www.cra.gc.ca/reprisalcomplaints](http://www.cra.gc.ca/reprisalcomplaints).

### Addresses

#### Ottawa Technology Centre

875 Heron Road  
Ottawa ON K1A 1A2

#### Tax services offices

To find out where to send your requests, go to [www.cra.gc.ca/tso](http://www.cra.gc.ca/tso) or call 1-800-959-5525.

#### Tax centres

Jonquière Tax Centre  
2251 René-Lévesque Boulevard  
Jonquière QC G7S 5J1

Shawinigan-Sud Tax Centre  
4695 12e Avenue  
Shawinigan-Sud QC G9P 5H9

St. John's Tax Centre  
290 Empire Avenue  
St. John's NL A1B 3Z1

Sudbury Tax Centre  
1050 Notre Dame Avenue  
Sudbury ON P3A 5C1

Summerside Tax Centre  
275 Pope Road  
Summerside PE C1N 6A2

Surrey Tax Centre  
9755 King George Boulevard  
Surrey BC V3T 5E1

Winnipeg Tax Centre  
66 Stapon Road  
Winnipeg MB R3C 3M2

### Publications for employers

- Guide T4032, *Payroll Deductions Tables*
- Guide RC4120, *Employers' Guide – Filing the T4 Slip and Summary*
- Guide T4130, *Employers' Guide – Taxable Benefits and Allowances*
- Guide RC4157, *Deducting Income Tax on Pension and Other Income, and Filing the T4A Slip and Summary*
- Guide RC4110, *Employee or Self-Employed?*

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# ARCHIVED - Athletes and Players Employed by Football, Hockey and Similar Clubs

## Archived content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

### What the "Archived Content" notice means for interpretation bulletins

NO: IT-168R3

DATE: May 13, 1991

SUBJECT: INCOME TAX ACT

### **Athletes and Players Employed by Football, Hockey and Similar Clubs**

REFERENCE: Section 6 (subsection 2(3), sections 8, 115 and 212 and paragraphs 18(1)(p) and 125(7)(d) and the definitions of "retirement compensation arrangement" and "salary deferral arrangement" in subsection 248(1))

### Application

This bulletin cancels and replaces Interpretation Bulletin IT-168R2 dated November 28, 1984. Current revisions are designated by vertical lines.

### Summary

This bulletin deals with the taxation of Canadian resident athletes and players (and prospective athletes and players) employed by professional sports clubs, such as football, hockey and similar clubs that participate in leagues having regularly scheduled games. In this bulletin, these individuals are referred to as "players". The bulletin discusses the items to be included in the income for tax purposes of such players and the timing and manner of these inclusions, as well as the deductibility by these players of certain expenses. The taxation of non-resident players is briefly discussed. Finally, the bulletin explains the tax treatment applicable to players who receive employment income through a corporation rather than from the sports club directly.

### Discussion and Interpretation

1. For tax purposes, a player's income from employment includes any of the following items received in respect of employment:

(a) salaries, including income from personal service contracts, (see 7 below),

This is Exhibit Q referred to in the affidavit of Brendan O'Grady

sworn before me, this 15<sup>th</sup> day of June, 2016

Zachary  
A commissioner for taking Affidavits

- (b) bonuses - for good performance, for allstar rating, for signing contracts, etc.,
- (c) fees - for promotional activities or other special services performed on behalf of the club,
- (d) living and travelling allowances (see 2 below),
- (e) honoraria,
- (f) payment for time lost from other employment,
- (g) commuting expenses,
- (h) free use of automobiles,
- (i) awards - including cash and the fair market value of bonds, automobiles and other merchandise.
- (j) payments made by a club on a player's behalf that would otherwise be a non-deductible expense to the player, such as agents' fees, legal fees, income taxes, fines, etc.,
- (k) other benefits.

2. Players' living and travelling expenses that are borne by the club are treated as follows:

(a) Non-accountable allowances paid to players, including those paid in the training and tryout period, are income to the player unless they are exempt by virtue of:

- (i) subparagraphs 6(1)(b)(vii) and (vii.1) (see the current versions of IT-522 and IT-272 on the subject of travelling expenses for employees), or
- (ii) Subsection 6(6) (see also the current version of IT-91, Employment at Special Work Sites).

Where a non-accountable allowance is income to a player, the player may deduct reasonable expenses to the extent that the requirements of paragraph 8(1)(h) are met.

(b) Reimbursement of a player's properly vouchered travelling expenses incurred for away-from-home games, or any other bona fide club business away from the club's home base, are not considered to be income to the extent that the expenses are reasonable in the circumstances. Similar expenses paid directly by the club are also not considered to be income of the player. However, amounts paid by the club in respect of the player (or reimbursed to the player) for personal travelling, such as for personal vacations or for family members, are considered to be income from the player's employment.

(c) The value of dining and dormitory facilities that are available to all players during the training and tryout period are not regarded as income to the players provided that the amounts are reasonable in the circumstances. Where a player lives in the general location of the training and tryout camp, and for personal reasons commutes daily from home, any allowance paid to the player for travelling, meals, etc., will be considered to be for personal living expenses and will be included in the player's income; the employee will not be eligible to claim expenses pursuant to paragraph 8(1)(h) against this income.

## Deferred Income

3. A contract of employment may state that part of the player's remuneration will be payable on a deferred basis, referring either to a part of regular salary, or to some special amount such as an annual bonus. Deferring (or advancing) payments such as salary or bonus can affect the player's level of income for tax purposes in a year. Because of the variety of arrangements that may be made, each case must be considered separately, with due regard to the terms of the employment contract and of any trust or other agreement entered into by either party pursuant to that contract, including an employee benefit plan. Plans or arrangements to defer the salary or wages of a professional athlete for services as such with a team that participates in a league having regularly scheduled games are exempted from the rules in the Act applicable to a "salary deferral arrangement", as defined in subsection 248(1). Such plans or arrangements will also be excluded from the provisions in the Act applicable to a "retirement compensation arrangement", as defined in subsection 248(1), provided, in the case of a Canadian team, that the custodian of the plan or arrangement is a trust company licensed to do business in Canada and carries on business through a fixed place of business in Canada. In such cases, the plan or arrangement is treated as an employee benefit plan; see the current version of IT-502.

4. Generally, however, the player should include deferred remuneration in income for the year in which the player actually or constructively receives it, rather than for the year in which it was earned but not received. Where the year of inclusion in income is after the player has ceased to be employed by a particular club, subsection 6(3) is applicable. (See the current version of IT-196.)

#### Non-Residents

5. Where a player or former player is a non-resident or ceases to be a resident of Canada and receives remuneration or deferred remuneration on account of services performed in Canada for a Canadian club, the player will be liable for tax on that income pursuant to subsection 2(3), as calculated under section 115, except where the payment is one of those specified in section 212 to which Part XIII tax is applicable (for example, a retiring allowance or deferred profit sharing plan payments). Non-residents are also liable, by virtue of paragraph 115(2)(c.1), for tax on payments received for agreeing to enter into a contract for services to be performed in Canada (i.e. signing bonuses), for undertaking not to enter into such a contract with another party or as remuneration for duties or services to be performed in Canada, if the amount so received is deductible by the payer in computing income for Canadian income tax purposes. Consideration must also be given to the various tax treaties Canada has with other countries.

#### Deductions from Income

6. Players employed by sports clubs are limited to the same deductions from employment income as are available to any other employee by virtue of section 8. For example, fines paid by players personally are not deductible. Legal fees incurred in the negotiation of player contracts are also not deductible since paragraph 8(1)(b) stipulates that to be deductible, the fees must be incurred in collecting salary or wages owed by an employer or former employer or, after 1989, paid to collect or establish a right to such amounts.

#### Personal Services Business

7. Rather than employing a player directly, a sports club or organization may retain the services of a corporation with which the player is in turn engaged under a personal service contract. Income from such personal service contracts may be reported by a corporation if the services are in fact provided through the corporation and documentary evidence supports that fact. Such income will be considered to be income from a personal services business carried on by the corporation if it meets the definition of "personal services business". If it does, such income is taxed at full corporate rates. (If it does not, it may qualify for the small business deduction, provided the corporation is a Canadian-controlled private corporation.) Paragraph 125(7)(d) defines the expressions "personal services business" and "incorporated employee". These definitions deal with situations where a corporation has been interposed in what would normally constitute an employee-employer relationship. As a general rule, a corporation will be treated as carrying on a personal services business where a player:

(a) is, or is related to, a "specified shareholder" of the corporation, as defined in subsection 248(1), or

(b) provides services to a person or partnership that, in the absence of the corporation, would reasonably be regarded as the services of an officer or employee of the person or partnership.

An exception is provided where the corporation employs, throughout the year, more than 5 full-time employees or where the services are provided to an "associated corporation". For a discussion of the terms "personal services business" and "specified shareholder", see the current version of IT-73. The meaning of "associated corporation" is discussed in the current version of IT-64.

8. Paragraph 18(1)(p) restricts the deduction of expenses of a personal services business of a corporation to:

(a) the remuneration and the cost of other benefits or allowances provided to an "incorporated employee",

(b) certain expenses of the corporation associated with selling property or negotiating contracts that are ordinarily deductible from employment income, and

(c) amounts paid for legal expenses incurred by the corporation in collecting amounts owing for services rendered.

Paragraph 18(1)(p) ensures that the use of a personal services corporation does not permit the deduction of an expense which would not have been deductible had the income been earned directly by the player.

#### Endorsements and Public Appearances

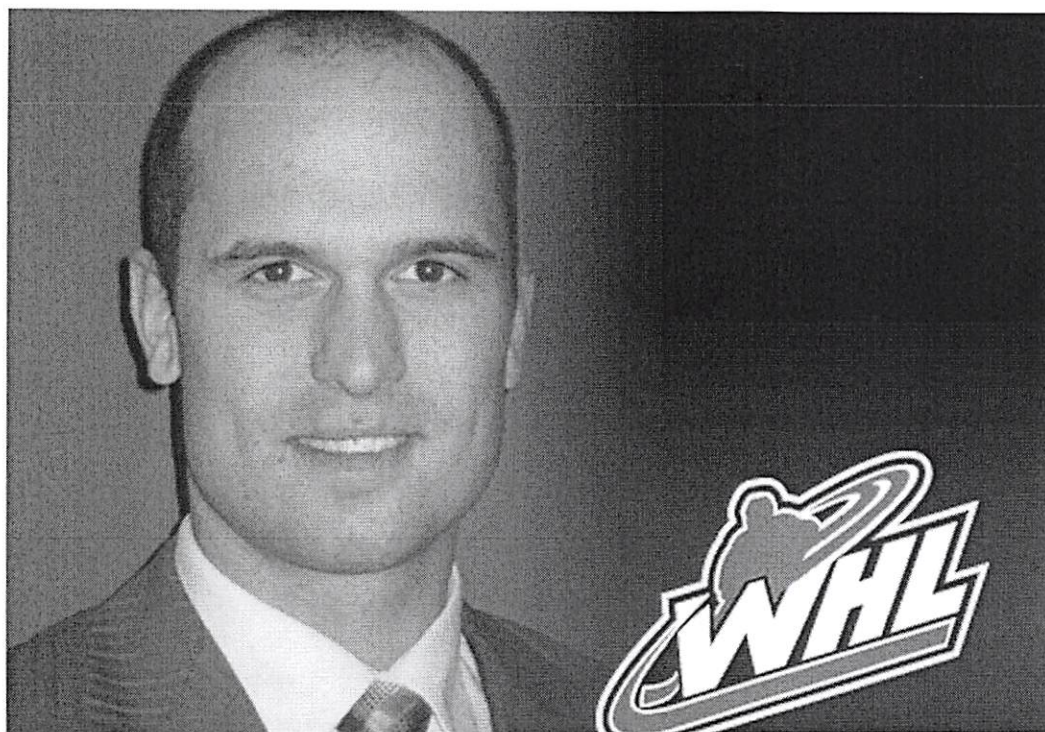
9. Notwithstanding the above, income from the player's personal endorsements and public appearances negotiated between the player and third parties is business income against which necessary and reasonable expenses may be claimed. The contract may be structured to allow the income to be earned either directly by the player as business income or by a corporation as active business income subject to the small business deduction. Expenses claimed against such income could include costs of negotiating these endorsements and public appearance contracts, office

expenses, travel expenses and accounting fees. Such income earned by a corporation is not income from a personal services business.

Date modified: 2002-09-04

# Learning About the Western Hockey League and Major Junior Hockey

By Travis Hair @NewTravisHair on Feb 23, 2010, 7:51p 1



Tyler Boldt, the Western Hockey League's Manager of Player Development & Recruitment via [www.whl.ca](http://www.whl.ca)

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Part of the benefit of being in a network like SBNation is that we get some opportunities that a lot of other bloggers and writers might not get. One of those is that sometimes we can get interviews with players and prospects of your team. Some of those opportunities have started to come my way lately, but as with many things you have to start small. That's why we've just started breaking into some of the Major Junior leagues to get player interviews. I realized something though when I started seeing these chances come in, and that's the fact that I know nothing about junior hockey. I know that they play hockey. That's really about it. Here in Arizona we don't get a whole lot of exposure to that area of the game. I also figured I wasn't the only one that had no idea what Junior Hockey was all about.

In an effort to educate all of us Junior deprived fans, I got an interview (with help from Derek Zona of **Copper & Blue**) with the Western Hockey League's (WHL) Manager of Player Development

This is Exhibit P referred to in the affidavit of Brendan O'Grady sworn before me, this 15<sup>th</sup> day of June 2016  
Tyler Boldt  
 A commissioner for taking affidavits

and Recruitment, Tyler Boldt, to talk anything and everything Junior Hockey. It's a pretty long interview, but I learned a ton about how juniors work and hopefully you will too. The quick highlights are that the WHL provides an astounding 21% of all the NHL's players (**See complete list here**) including our own **Shane Doan** who played for, and now owns part of, the Kamloops Blazers. Another important thing to read about is the amazing education opportunities that many don't realize these kids get. So read on for the entire interview.

**Travis Hair:** Here in the United States we have a pretty clear idea of how the progression for kids to get into pro sports works for baseball, basketball and football in that they play little league, go to high school, usually go to college and then get drafted from there. Can you explain how the process is different for hockey when kids go through juniors?

**Tyler Boldt:** Sure, for us in the Western Hockey League we're obviously the Western Provinces and then everything west of Minnesota down to Texas. The progression basically works the same in both countries where players will play in their minor hockey leagues, whether that's midgets or bantams. From there we have the WHL bantam draft, which takes place when the players are 15 years old. It works the same way as the NHL draft, obviously not the same media attention, but the same round by round procedure where all the 15 year old players that are wanted are picked team by team. You can start playing in the league when you're 16, and play right through until you're 20, so 5 years. Then if you're a blue chip prospect you get picked by an NHL team when you're 17 or 18 and sign shortly thereafter. Then start playing in the NHL or go through the minor pro leagues like the AHL.

**Hair:** So how does it work for a kid who's 17 or 18 that gets drafted by an NHL team that comes to camp at the beginning of the season? Typically they come to camp and don't make the team right away and we return them to their WHL team. Is there a difference between prospects that have been drafted and the other players?

**Boldt:** There's really very little difference, other than skill level, between the guys that get returned and the other guys on the team. For players that get drafted into the NHL, nothing changes in terms of their status in our league. For instance if a guy got drafted when



he was 17 the team would have his rights for two years while he tries to make the team and get a pro contract. If they don't sign him in those two years then the team would just continue to scout him while he comes back and continues to play. What we usually see is that once they play their 19 year old season, either they'll sign their entry level deal and go to the NHL, or more likely AHL, or if they don't sign then they'll just come back as a free agent and play their 20 year old season.

**Hair:** But once they do sign their entry level deal they can no longer play in junior?

**Boldt:** Nope, nope. They're still eligible to play for us. For example, **Josh Gorges**, who went to San Jose's camp as a free agent when he was 18 and they signed him right out of camp, but he still came back and played for Kelowna for a couple more years after. You can play in the WHL under an NHL contract.

**Hair:** What about how life works for the kids in your league? A lot of them are 16, 17 years old, still high school age. How does education work for those guys?

**Boldt:** Yeah, they're still in high school full time. There's an expectation that they graduate on time, with good marks. Each team in our league has an individual education adviser that works in the school. The guys attend regular classes, they don't have their own classes or anything like that. They do have an individual team adviser though that helps them make sure they're choosing the right classes. The big thing with parents too is making sure that these classes will transfer back to the players' home high school. So the education adviser is working closely with each player to make sure they've got the right courses and the time table works. On the actual marks side of things we actually have, a co-worker of mine who's the Director of Education Services, Jim Donlevy. He works with each individual adviser and we watch transcripts of each kid and we make sure everyone is online to graduate on time. So we expect them to graduate at the end of their grade 12 year, if not before, and their expected to at least retain the grades they come into the league with and if they begin slipping they'll get a little pat on the back to make sure they keep working on it.

**Hair:** The WHL is obviously the Western Hockey League is Western

Canada, but what are the other leagues up in Canada?

**Boldt:** There's the WHL and then you've got the Ontario Hockey League (OHL) which is Ontario and then a few teams in the States. Two in Michigan and one in Erie Pennsylvania. And then there's the Quebec Major Junior Hockey League (QMJHL) which is in Quebec and the Maritime provinces as well as one team in Maine. The three leagues make up the Canadian Hockey League (CHL)

**Hair:** How many teams then is that in the CHL?

**Boldt:** There are 60 total teams, but we don't all play each other in league play. The WHL plays the team in its own league and then the individual league champions meet each year at the Memorial Cup, which is the CHL Championship.

**Hair:** So It's a fairly large number of kids then that are playing Major Junior hockey?

**Boldt:** Absolutely, stretching across coast-to-coast. Each of the leagues operate independently, with their own constitutions and their own guidelines, but there is a general set of rules set by the CHL that we all follow.

**Hair:** To tie that back into the education questions, when you've got that many kids, obviously they aren't all going to make it to the NHL. How do the leagues help them if they want to go to college, or transition into a life after hockey?

**Boldt:** One thing we think makes the WHL unique is that it's the number one league to get kids ready for professional hockey. But besides that is our post-secondary scholarship program. How that works is that for each year that you play in the league you get one year books and tuition to a post secondary institution. So for a kid, or a player like myself, I played in the league from when I was 16 until I was 20 years old, the full 5 years. I didn't really have any professional teams that were really super interested in me other than some tryouts, so instead I went to school. I went for 4 and a half years, and I could have gone for 5. Fully paid for books included. That's how we set our guys up, because like you said, the competition is so intense. I think there have been studies on the actual percentage of kids that actually make it. So what this does is it's more or less a plan B. If you don't make it to pros, then you get your school paid for. It amazing,

our teams spend millions and our league spends more than a million every year just for the scholarship program.

**Hair:** I've got some other questions sent in by readers that I'll try and put in some logical order here. First, were do the players live when they come to play for your teams?

**Boldt:** Each kid would be billeted with a family in the town where they'll be playing. Each team has a billet coordinator that works around town finding families involved. For young players like rookies and high schoolers, they'll be paired with a roommate, another player on the team, and they'll live with a family. All the players go to the same high school so they're all in the same area. The families get paid by the club to make sure that the players are getting fed and all that kind of stuff.

**Hair:** Some of the other bloggers on the network have talked to college programs about why going that route was a better choice in their opinion. So I'll kind of turn that question around, what are the benefits of going through juniors rather than maybe to college right away?

**Boldt:** I won't comment directly on the college programs, but I'll outline a few major points about us. In our league we play a 72 game schedule from September to March and then playoffs after that. So we believe that sets up our guys that are looking to play professionally to be ready for a longer schedule. And with a frequent practices on your days off and play 3 days a week. We think that really suits players that are looking to play professionally. As well, the coaching in our league. In our league we have 22 teams, 9 of which have head coaches with extensive NHL experience. We think that sets us apart from most leagues. We just actually did a press release that stated 21% of the NHL came directly from the WHL. So if you think of the grand scheme of things that's 1 in 5 of the NHL players come from our league. So we think the coaching in the league as well as the developmental atmosphere best suits the guys to play in the NHL. And then as well when you combine that with the scholarship program we talked about they still get that college education if it's something they want to do. Those are just the big reasons, I could talk at you for hours about what makes our league so good. Those are the major points though, top end facilities, coaching the schedule and the scholarships are what really set us apart.

**Hair:** How do teams go about finding the players that they want to pick for their teams? With all the Midget and Bantam teams in Western Canada and the United States that has to be a huge undertaking. With how many kids are drafted that has to be a lot to go to all these rinks scouting trying to find the kids you want to pick.

**Boldt:** I'll tell you what, our teams have very extensive scouting teams that go to Manitoba, British Columbia and the provinces as well as down into the United States. They do exactly what you say. They go to a ton of rinks. It's amazing just how much hockey those guys watch. We're coming up to the Bantam Draft here at the end of April. Coming up to that date, each of the four Western Provinces will hold a camp for draft eligible players. Obviously our scouts will be sent to each of those camps. Then April 9th to 11th we're holding a United States camp in Anaheim and so that gets a lot of top end U.S born players and that gives all our staff a good weekend to see the players. Aside from that though all it is a ton of hard work by our staffs working all over Western North America. Our scouts get a lot of little tournaments and things to go to, but a lot of the work is just going to individual games from Arizona, Dallas, Denver and then to Minnesota, Washington and the Provinces. It's just an amazing amount of work put in by our scouts and our staffs.

**Hair:** All of your players receive stipends. How much do the players get? Is it just enough to kick around town? Or is it a substantial amount?

**Boldt:** [laughing] It's about enough to go to the movies once a week. The amount changes year by year. A 16 year old player gets \$160 a month. So they get 80 dollar checks every 2 weeks less taxes. And then it goes up so that by the time you're 19 you get \$240 a month. Basically we call it an allowance because it's really just enough money so that the players aren't bugging their parents for money too much. So they're not really making any money.

**Hair:** Well with them not really making much money, how do you handle player injuries? It's hockey and they're trying to learn the NHL game, injuries happen. How to teams handle the healthcare of the guys?

**Boldt:** Everything is fully covered through Hockey Canada (the US has a similar program through USA Hockey) everybody is fully

insured for absolutely everything. That includes dental and as well as any other injuries that they get. Obviously we also have a full time training staff for every team that takes care of things. Each team also has the team dentist and team doctor that they have in town to help any time there's an injury. Cost wise it doesn't cost our players a dime for any of the injuries. Whether it's a broken bone or a torn ligament or a lost tooth, nobody pays a dime for anything. Then they're worked on by the staff specifically set up for the team so when the guys need an x-ray or an MRI they can get them right away. Same for the kids coming from U.S. markets, they don't pay a dime for their medical care.

**Hair:** Another reader question here. When rule changes happen in the NHL, like adding the trapezoid to limit goalie movement, do the Junior leagues also alter their rules to better prepare the players?

**Boldt:** Absolutely. We follow just about every NHL rule change that comes through. We're under that obstruction memorandum right now, which calls an awful lot of hooking penalties now. Our rink dimensions are the same as the NHL, with the exception of a couple of our rinks. We do though have a no-touch icing which is one difference, but we do have the delay of game penalty when a guy shoots the puck over the glass from his own end. We follow the icing restrictions where you can't change when your team has iced the puck. So we do follow the NHL rules as close as we can. Like you said, for the exact reason of preparing our players for the NHL. We also follow the same overtime format and the same playoff format.

**Hair:** So when we talked about the Memorial Cup earlier, that's not the only playoff? Each league has its own playoffs and champion from those?

**Boldt:** Oh yeah. When we talk about the Memorial Cup, a lot of sports people say it's one of the hardest trophies to win because not only do you have to play four rounds in your own league, but then another week and a half long tournament with the other league champions to get the Memorial Cup.

**Hair:** So it's the three league champions as well as the host city's team is that right?

**Boldt:** Yep. This year it's Brandon, Manitoba hosting it. They're a

WHL franchise and they're hosting it for the first time in a real long time. So they'll host and then each league will have a representative.

**Hair:** Okay, one last question, though it might be a long one. How exactly do trades and transfers work in your league?

**Boldt:** All trades will be within the same league, unless there's some sort of extenuating circumstances. But generally we just stay within our league. You can trade a player for a player or a player for draft picks. It works pretty similar to any of your other professional leagues. When we're dealing with school-age kids though, teams are as respectful as possible. There are some times where school age guys are traded, but again teams try to be respectful of players that are in school and the younger players you don't want to move around too much. The clubs though do have the freedom to, for the most part, to make any transactions they need to.

**Hair:** So the sense that I'm getting then is that while the teams in the league are a business and want to make money, the bigger issue is that they want to make sure that they're taking responsibility for the kids get getting them ready to play professionally. Is that pretty accurate?

**Boldt:** Absolutely. There is outside competition between teams for players. Both between leagues and internal competition in the league between the teams to get the players they want. So wants to be known as a team that prepares players and treats them respectfully, doing things right for both the players and the team. If a team doesn't think a player is a good fit, they do what they can to make that player happy. In the end the track record of players that used to play for your team are the best recruiting tools. That's, like with college recruiting, why you see the teams that are perpetually better than other teams because of their track record. So in our league teams do their best to treat players well because when it comes down to recruiting you want to have those stories. You want to limit bad press, which fortunately our teams don't really get any of that. So a lot of it comes down to recruiting and wanting to set themselves up for that.

I'd like to thank Tyler for taking the time to talk to me and teach me a bit about the WHL. If you have more questions drop a comment or an email and if we have enough we'll run another Q&A with your

This is Exhibit 5 referred to in the  
 affidavit of Brendan O'Grady  
 sworn before me, this 15<sup>th</sup>  
 day of June, 2016  
[Signature]  
 A commissioner for taking affidavits

## THE GLOBE AND MAIL

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# Franchise values a good indication of a rosy future

**DAVID NAYLOR**

From Friday's Globe and Mail

Published Friday, May 20, 2005 12:00AM EDT

Last updated Tuesday, Mar. 17, 2009 3:14PM EDT

Soaring franchise values, successful expansion, a thrilling product and eye-popping attendance. Those things may represent a wishful fantasy for the National Hockey League these days, but they paint a very accurate picture of the state of junior hockey.

In a year that has been mostly doom and gloom for the business of hockey, the Memorial Cup, the championship of junior hockey, which starts this weekend, will demonstrate there is a bright side.

The tournament's host team, the London Knights, are not only the Canadian Hockey League's top-ranked team, but also one of its flourishing business success stories. The Knights, owned and operated by former NHLers Mark and Dale Hunter, who bought team five years ago, sold out all 44 regular-season games at the 9,100-seat John Labatt Centre. With a new building and a great on-ice team, their success is a model for a business that is attracting everyone from retired players such as Bobby Smith and Patrick Roy to seasoned entrepreneurs.

"Dale and I always believed in getting into things we know and that way you control your own destiny," said Mark Hunter, who serves as the Knights' general manager. Dale is the head coach.

"Buying into the NHL was not something we could do financially, but in major junior we could do it and use our hockey background to recruit players," he said.

"We felt this was an untapped market. With a new rink, we knew that if you put a good product on the ice and got involved in the community and showed that you want to win, things would go well."

The Knights' success story is not the only one at this year's Canadian junior hockey championship tournament.

Quebec-league champion Rimouski Océanic, playing in one of the smallest markets in junior hockey but featuring superstar Sidney Crosby, have been among the league's toughest tickets -- both at home and away. (The Océanic take on the Knights in the first game of the tournament tomorrow.)

The Ottawa 67's boast a living legend in head coach Brian Kilrea and have set multiple league attendance records in recent years. And the Western Hockey League's Kelowna Rockets, the

Memorial Cup defending champions, sold out 32 of 36 home dates this season, averaging 6,150 in a building that seats slightly more than 6,000.

"Everything has lined up rather well," said Canadian Hockey League president David Branch, who also serves as commissioner of the Ontario Hockey League.

While some have tried to link record-breaking attendance in each of the Ontario, Quebec and Western leagues this past season to the NHL lockout, junior hockey attendance was trending strongly upward long before the NHL shutdown.

Overall 2004-05 regular-season attendance came very close to crossing the eight million mark for the first time, winding up at 7,993,705.

The NHL may represent the end goal for most coaches and players in the CHL, but hockey's top rung would love to be as popular across its respective markets as junior hockey is.

"Junior hockey is everything, to a certain extent, that the NHL aspires to be," 67's owner Jeff Hunt said.

It wasn't that long ago that junior teams routinely sold for less than \$1-million. This past winter, however, groups lined up in Saint John and St. John's to buy \$3-million expansion teams.

In Ontario, two clubs -- Belleville and Oshawa -- were reportedly sold for \$4-million each last summer. And estimates as to the value of clubs such as Ottawa or London range toward \$10-million.

"We could add five franchises tomorrow if we wanted," Branch said.

The soaring franchise values in junior hockey is part supply and demand but also largely the story of a business model that works.

While major-junior hockey has benefited from many of the same factors that have produced new revenues in the NHL -- expansion into new markets and the construction of new buildings, to name only two -- it's largely been immune to the things that have crippled professional hockey.

The biggest of those is runaway salaries. Junior hockey teams pay most players between \$50 and \$150 a week, and pay for their accommodation with local families.

(Rare players such as Crosby earn as much as \$30,000 a year, while others are paid perks such as travel and accommodation for families or use of cars. Since the players who receive such goodies generally sell lots of tickets, the leagues aren't heavy handed on such practices.)

Scholarship programs paid out to players who attend college or university after their junior careers have added significantly to the cost of doing business -- about \$50,000 a team in the Western Hockey League this season. However, overall club expenses remain between \$1-million at the low



end and \$3-million at the high.

"We've been very disciplined in our business model that deals with our major costs, travel and operating expenses," WHL president Ron Robison said. "The key is we haven't allowed the larger markets to dictate to the smaller markets on any of the economic issues."

The WHL recently hatched the league's 21st franchise in Chilliwack, B.C., for \$2.2-million to a group that includes New York Rangers GM Glen Sather and former Vancouver Canucks GM Brian Burke.

Such sums have helped attract a new breed of owners focused on creating long-term value. And there has been plenty of new blood in the ownership ranks, with nine of 20 teams in the OHL alone changing hands in the past five years.

"With all due respect to the guys who built the sport, what we're finding is a more sophisticated breed of owner who has experience in other businesses," said Hunt, who made his fortune in carpet cleaning before buying the 67's in 1998.

"They bring a more sophisticated and better financed approach to their [hockey] businesses.

"They'll pump money into a facility or marketing or entertainment value. These are guys who invest first and look for a return rather than just hoping things improve."

The CHL has followed in the NHL's footsteps in plotting a very aggressive expansion strategy. However, the NHL focused its expansion on non-traditional markets where fans had to be sold on the game.

Junior hockey, conversely, has responded to the demand for its product within hockey-mad Canada and border areas of the United States, resulting in a much more successful outcome.

Teams such as Halifax, Calgary and Barrie, Ont., represent some of the CHL's most successful franchises.

"With the fan base we have in Newfoundland, we felt it was something we could justify in the long term," said Brad Daubin, governor for the St. John's Fog Devils, who will begin play this fall. "We look at Halifax and the tremendous success the Mooseheads have had.

"If we could replicate their success and become embedded in the community the way they are, that would be great."

### **Junior hockey's money game**

The cost of buying an existing Canadian major-junior hockey team or obtaining an expansion franchise has risen dramatically over the past 30 years.

2005 - Chilliwack, B.C.	*\$2.2-million
2005 - Saint John Sea Dogs	*\$3-million
2005 - St. John's Fog Devils	*\$3-million
2004 - Belleville Bulls	\$4-million
2004 - Oshawa Generals	\$4-million
2002 - Saginaw Spirit	\$2.5-million
2001 - St. Michael's Majors	\$2.5-million
2000 - Vancouver Giants	\$2-million
2000 - Tri-City Americans	\$1.77-million
1999 - Red Deer Rebels	\$3.2-million
1998 - Brampton Battalion	*\$1.5-million
1998 - Mississauga Ice Dogs	*\$1.5-million
1998 - St. Michael's Majors	*\$1.5-million
1996 - Kootenay Ice	*\$750,000
1995 - Calgary Hitmen	*\$750,000
1991 - Gatineau Olympiques	\$550,000
1989 - Plymouth Whalers	*\$758,000
1975 - Windsor Spitfires	\$75,000

\*Expansion team

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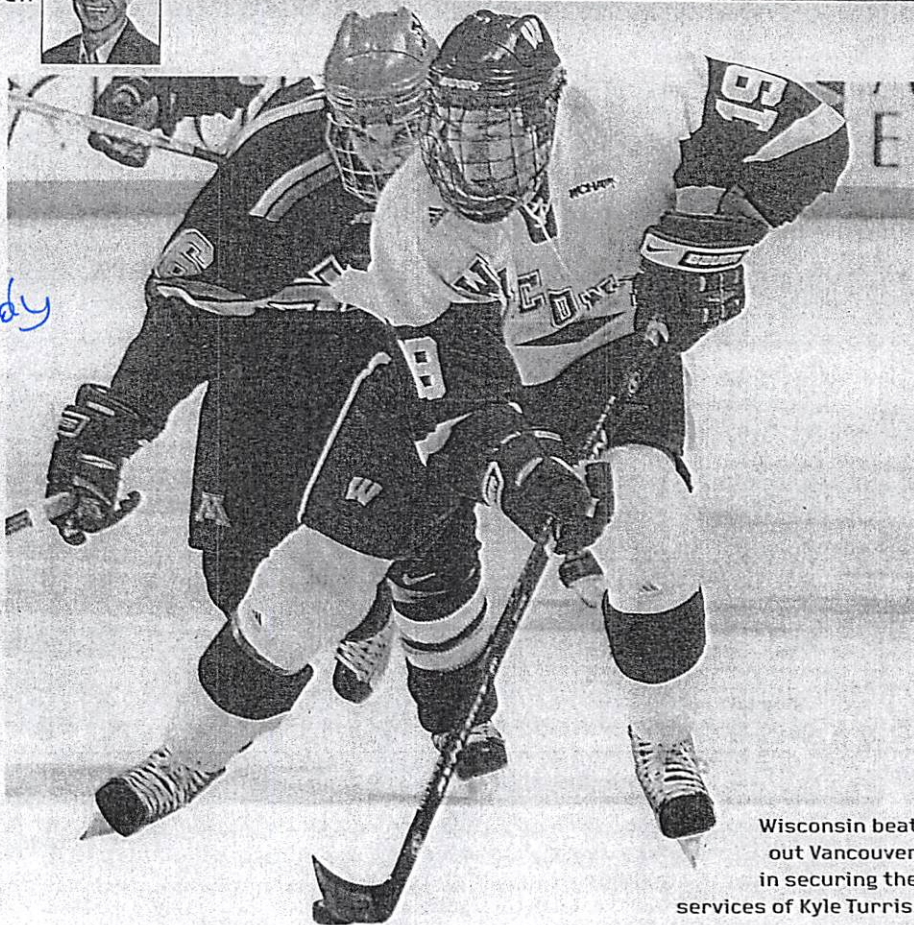
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This is Exhibit T referred to in the affidavit of Brendan O'Grady sworn before me, this 15th day of June, 2016

*[Signature]*  
A commissioner for taking affidavits



Wisconsin beat out Vancouver in securing the services of Kyle Turris.

## JUNIOR-A LEADERS FEELING THE FREEZE

**YOU'LL BE PLEASED TO KNOW** that 11 months before the first puck is dropped, the 2009 World Junior Championship in Ottawa is sold out of tickets, which will go a long way to fulfilling the \$12.5-million commitment the host city made to Hockey Canada when it bid for the event.

That's substantially more than the \$10 million Vancouver committed in 2006, but probably not as much as the cities tripping over themselves to host the event in 2010 and 2012 will have to guarantee. Yes, times are good for Hockey Canada and the Canadian Hockey League, largely because Hockey Canada gets 50 percent of all the profits and the CHL takes 35 percent.

Forget for a moment that nary a penny of this money will actually go to improving the lot of the players who are generating it. Once the untold millions pour in, there's a pretty good chance the average major junior player will still be making the \$50 a week he has been paid for the past two decades, and that primarily the best players — most of whom turn pro and never cash in — will receive full university scholarships. You never know, though, perhaps the operators of junior teams will find it in their hearts to give players more than five bucks a week in gas money.

And there's another group that's feeling a little disenfranchised over all this — the operators of junior-A leagues in Canada. The way many of them see it, Hockey Canada panders to the CHL (Western League, Ontario League and Quebec League) at their expense, largely because Hockey Canada's partnership with the CHL is so lucra-

tive. Or as Kevin Abrams, the director of the Ottawa District Jr. A Hockey Association said recently, "Just follow the money."

The operators of junior-A leagues have been a little cranky lately because they feel the cozy relationship between Hockey Canada and the CHL has taken away the choice for many teenage players. This, they claim, has frozen their leagues out when it comes to competing for players, giving major junior operators a huge recruiting advantage that is not only unfair, but maybe illegal. They'd love to go to court over the issue, but who has \$500,000 lying around to pay lawyers?

"It's almost criminal that this is going on," said Alberta Junior League president Craig Cripps, "particularly with the knowledge of Hockey Canada."

The subject of their ire is the Canadian Development Model (CDM). It's a program, adopted by Hockey Canada three years ago, that president Bob Nicholson claims focuses on player development. But junior-A operators say it stacks the deck in favor of the three major junior leagues.

"The CDM is CHL-driven, not Hockey Canada-driven," said British Columbia Jr. League president John Grisdale. "Hockey Canada is the facilitator because they have to be the facilitator."

And it's hard to argue that isn't the case, considering:

- Under the CDM, the only 15-year-old players who can play any level of junior hockey are those deemed "exceptional." In the three years of the rule's existence, John Tavares of the OHL's Oshawa Generals has been the only one.

But those who are exceptional are going to play major junior, not junior-A, B, C or D. Not only does it take players from those leagues who are capable of playing, it forces all 15-year-olds to play midget hockey, where costs can run a family more than \$5,000 a year. Players in any level of junior hockey play for free.

- Major junior teams are allowed four 16-year-old players, but levels below that are allowed only two.

- At any level below major junior, players younger than 17 are not allowed to play outside their designated area. But in the CHL, a 16-year-old from Manitoba can play in British Columbia or a 16-year-old from California can play in Alberta. When Sidney Crosby was 15, he was barred from playing in the Ontario Provincial Jr. A League because of that provision and wound up playing high school hockey much further away at Shattuck-St. Mary's in Minnesota.

"We still have pictures of him in a Georgetown Raiders jacket," said OPJHL commissioner Bob Hooper.

- Despite the fact players can't play major junior until they are 16, that doesn't stop the WHL from having a 14-year-old draft. That gives teams the better part of a year to cajole and pressure players into taking the major junior route instead of playing junior-A and keeping their U.S. scholarship possibilities open. Junior teams are allowed to call up 15-year-old players for as many as five games, but once a player plays a single game in major junior, he seriously jeopardizes his eligibility to play U.S. college hockey.



## Junior-A operators are getting weary of seeing other leagues get (draft) money

When current Wisconsin Badger Kyle Turris was drafted as a 15-year-old, the WHL's Vancouver Giants relentlessly pursued his services, but were thwarted. They weren't about to let the same thing happen with Gary Nunn, who attended a training camp at 15, but had every intention of taking a scholarship with Minnesota State at Mankato. When Nunn showed up to camp, the Giants cajoled the 15-year-old into signing a letter of intent, just in case, saying it would never be submitted to the league. **But mysteriously, the NCAA found out about it and ruled Nunn would have to sit out one full season. That left him no choice but to join the Giants this year.**

The junior-A operators in Canada argue their option allows players to go either the major junior or U.S. college route, but in its attempts to have a monopoly over players, the CHL takes that option away. Grisdale estimates about 85 percent of the bantam-aged players drafted by the WHL end up playing games as 15-year-olds, basically wiping out their chances to go the college route.

And while it has nothing to do with the CDM, junior-A operators are getting a little weary of seeing other leagues get money from the NHL for draft picks they provide for free. For example, in the past five drafts, the Salmon Arm

Silverbacks of the BCHL have had eight players drafted, including first-rounders Riley Nash, Travis Zajac and Kris Chucks.

That's more than the Kingston Frontenacs, Guelph Storm, Owen Sound Attack, Rouyn-Noranda Huskies, Regina Pats, Brandon Wheat Kings, Lethbridge Hurricanes, Tri-City Americans, Barrie Colts, Drummondville Voltigeurs, Cape Breton Screaming Eagles, Chicoutimi Saguenéens, Acadie-Bathurst Titan, Victoriaville Tigres and Val d'Or Foreurs have had taken, yet CHL teams receive millions in development money from the NHL.

Among European leagues, whose teams receive \$200,000 for each player who signs an NHL pact, the only teams that have had more picks than Salmon Arm are Dukla Trencin, IFK

Helsinki, Jokerit, Ilves, Karpat Oulu, Central Arna, Yaroslavl, Frolunda and Sodertalje.

Nicholson said he's "disappointed" that junior-A owners have aired their beefs publicly, particularly considering Hockey Canada is in the process of doing a thorough review of the CDM. But he stands by his organization's concern for player development and there is little reason to believe he is insincere. Nicholson said that before the CDM, a total 1,200 of 15- and 16-year-olds were playing junior hockey, a number he sees as alarmingly high.

But the end simply doesn't justify the means. To arbitrarily take options away from players is just plain wrong, particularly when leagues such as the CHL gain from the leg up they have on the others. **TM**

### FROM THE PHILADELPHIA FLYERS LOCKER ROOM

## Settlemyre born to be a Flyer

**Y**ou could say Derek Settlemyre bleeds orange and black. Not only has he been with the Philadelphia organization – either with the AHL Phantoms or the Flyers – since 1994-95, but his father – Dave “Sudsy” Settlemyre – was a head trainer for the Flyers as well. Today, Sudsy remains active with the Flyers alumni, and son, Derek, 37, is in his second year as head man with the team. We caught up with Derek to chat about the resurgent Flyers:

**THN:** What is it about the Flyers that inspires such loyalty?

**DS:** It's funny, every team says 'We're like a family', but we actually are like a family. I used to visit my dad as a kid when he worked for the Flyers. I first met GM Paul Holmgren when I was seven, during his playing days. That's why so many ex-Flyers work for the team. They look after you, they do the right things.

**THN:** Last year was a rough year for the franchise, but this year the Flyers are doing better than anyone thought. Has it been a surprise?

**DS:** We knew we were going to be better with all of our new additions, but I don't think anyone thought we'd be doing this well. I will say this: in training camp, you could see a quiet confidence build-

ing in the team. The guys gelled quickly.

**THN:** The Flyers have a bunch of great young players such as Mike Richards and Jeff Carter. How have they taken to the pressure of leading?



**Derek Settlemyre**  
Equipment Manager



**DS:** They're both really matured quickly, even though they're still just in their early 20s. Richards he's not a rah-rah guy, he leads by example. Carter is pretty much the same way.

**THN:** The Atlantic Division is one of the strongest this season. What have intra-division games been like?

**DS:** The games have been great, really tough, and very physical. Lots of fights, too. All games in the NHL mean a lot, but the division ones this year have been very good and hard fought.

**THN:** When you get new players, how do you handle things in terms of finding out their equipment needs?

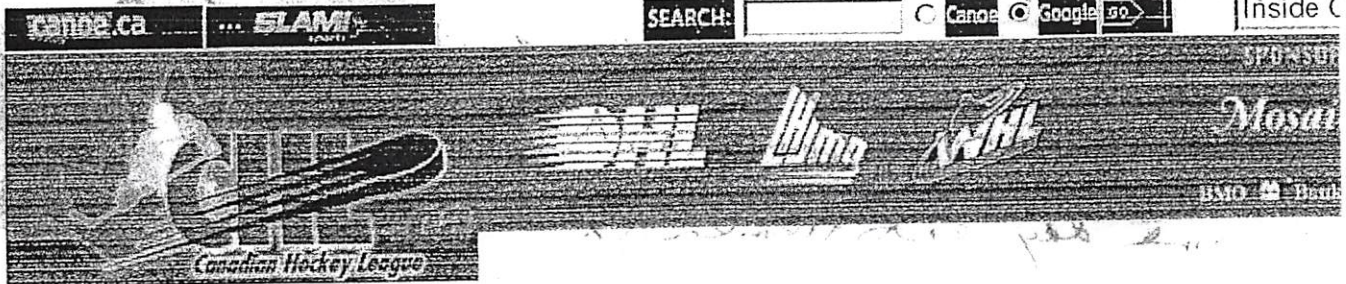
**DS:** Whenever there's a deal, all equipment managers do the same thing; they call the equipment manager from the team the player left, even before the player himself. We find out what they use and any special needs they have. When we got Daniel Briere, my first call was to Rip in Buffalo, then to Daniel.

### THE CHOICE OF PROFESSIONALS

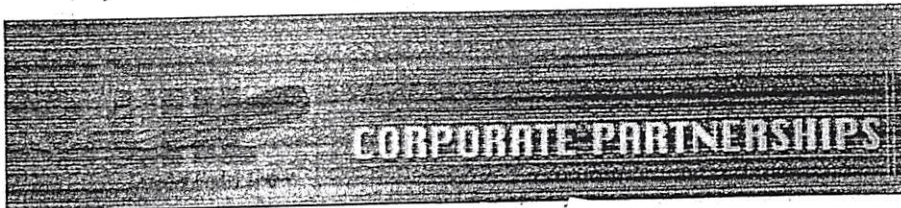
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## CHL Fast Facts

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- **Market Penetration** - 59 franchises: 50 teams in ten provinces, nine teams in five states. Canadian teams represent 71% of the nation's population
- **National Special Events** - CHL annually stages the Memorial Cup National Championship, the Top Prospects Game and the Canada Russia Series.
- **Consumer Reach/Growth** - a record 9+ million fans attended games during 2005/06, a 9.4% one year growth and the 17th consecutive year of record growth. This represents 45% more fans than attended Canadian NHL teams.
- **Age Demographics** - Spectators - 20% of fans are 12 - 18: 26% are 19 - 34: 48% are 25- 49: 34% are 40 - 59. Add the under 12's means that more than 50% of fans are under 35 years! Today's & Tomorrow's Consumers
- **Game Attendance** - 32% attend with friends: 33% with family: 22% with spouse. Social, Entertaining Atmosphere
- **Fan Appeal** - Highly Loyal, 88%: Product Satisfaction, 97%: Great Value, 71% indicate ticket pricing provides good family value: 48% are season ticket purchasers: 29% attend 1-12 games: 27% attend 13-30 games: 45% attend 31-36 games. Great environment for Corporate/Brand positioning
- **Entertainment Attraction** - CHL teams are the premiere sports/entertainment attraction in 44 of the 50 Canadian markets (NHL in 5

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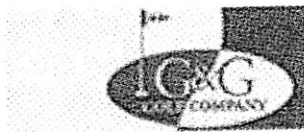
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William L. Daly | Deputy Commissioner

September 10, 2012

David Branch  
President  
Canadian Hockey League  
305 Milner Ave., Suite 200  
Scarborough, ON M1B 3V4

This is Exhibit "V" referred to in the  
affidavit of Brandon O'Grady  
sworn before me, this 15<sup>th</sup>  
day of June, 2016  
[Signature]  
A commissioner for taking affidavits

Re: CHL Agreement

Dear David:

We refer to the Agreement made, effective as of December 2, 2005 (with application retroactive to June 1, 2004) and extended on August 8, 2011, between the National Hockey League (the "NHL") and the Canadian Hockey League (the "CHL") (the "CHL Agreement"). Capitalized terms not otherwise defined herein shall have the respective meanings set forth in the CHL Agreement.

The parties hereby agree that the CHL Agreement shall be amended as follows:

1. The Term of the CHL Agreement, as set forth in Section A of the CHL Agreement, shall be extended by one (1) additional season to operate in effect for the 2012/13 season and shall expire on June 1, 2013.
2. The Total Grant paid by the NHL to the CHL, pursuant to Section B.5 of the CHL Agreement, shall not exceed \$9,860,000 for the 2012/13 season.
3. Notwithstanding any regulations to the contrary in Section C of the CHL Agreement, in the event of a work stoppage in the NHL during the 2012/13 season:
  - (a) Any player who played at age 18 for an NHL Club during the 2011/12 season may be assigned by his NHL Club to the AHL.
  - (b) Following the expiration of such work stoppage, NHL Clubs will be provided an opportunity to negotiate with and sign Unsigned Draft Choices playing in the CHL and may recall those Players and/or may recall Players already signed to NHL contracts, provided that all such activity shall be limited to the period within seven (7) days following the date on which Players are required to report to their respective NHL Clubs for purposes of preparing for and commencing the 2012/13 NHL Regular Season.

**National Hockey League**

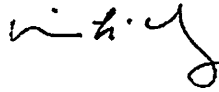
1185 Avenue of the Americas, New York, NY 10036 | 212.789.2120 | Fax: 212.789.2030

David Branch  
Re: CHL Agreement  
Page 2  
September 10, 2012

Except as expressly modified by the foregoing, the terms and conditions of the CHL Agreement shall remain in full force and effect.

Please confirm your agreement to the amendment of the CHL Agreement by signing below.

Sincerely,



William L. Daly

**AGREED AND ACCEPTED:**

**CANADIAN HOCKEY LEAGUE**

By: 

David Branch  
President

This is Exhibit "W" referred to in the  
 affidavit of Brendan O'Grady  
 sworn before me, this 15th  
 day of June, 2016  
Zilly  
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**THE GLOBE AND MAIL**

## WHL hammers Portland Winterhawks for league violations

### David Ebner

VANCOUVER — The Globe and Mail

Published Wednesday, Nov. 28, 2012 3:59PM EST

Last updated Wednesday, Nov. 28, 2012 10:44PM EST

The WHL hit the Portland Winterhawks with major sanctions Wednesday, after the team was found to have violated player-benefits rules – the second such punishment of a major-junior hockey program in the past four months.

The sanctions could spark a battle which would compound the existing unrest in major-junior hockey.

Representatives for the Winterhawks, the top team in the WHL this season, said the franchise is considering “options on how we will proceed.”

The Winterhawks say the issues mostly focused on paying for flights for families of players to come to Portland to watch games.

The team also paid for its captain’s cellphone for three seasons.

Compensation to players is severely restricted in major junior, as the teenagers receive only nominal pay, starting at about \$35 a week. They do, however, build up scholarship credits for postsecondary education.

For its sins, Portland was fined \$200,000, will lose nine WHL bantam draft picks (including its first-rounders for the next five years), and general manager/head coach Mike Johnston was suspended for the rest of the year.

Johnston led the Winterhawks to a 20-4-1-0 record, tops in the U.S. Division. The team has been buoyed by the play of potential No. 1 NHL draft pick Seth Jones, a defenceman who is the son of former NBA player Ronald (Popeye) Jones.

Wednesday’s disciplinary action could result in the powerful Portland franchise taking on the WHL establishment.

“We were extremely surprised at the excessive nature of the sanctions, and we don’t feel they are in line with the scope of the violations we were found to have committed,” Johnston said in a statement.

Turmoil has roiled major-junior hockey of late.

Four months ago, the Windsor Spitfires were blasted with the harshest punishment to be dropped on an OHL team: A \$400,000 fine, and five lost draft picks for player-recruitment violations. The fine was later reduced to \$250,000 when Windsor dropped its appeal.

More broadly, there was a recent failed effort to start a union for the young players across the WHL, OHL and QMJHL, but many people believe it will be revived with stronger leadership.

The tension that underpins much of the conflict is the competition between major-junior teams and the U.S. NCAA, both of which hotly recruit promising teenagers at the bantam level. If a player chooses major junior, he is not allowed play college hockey in the United States.

Indicative of the sensitive nature of the issues at play, several senior officials on different WHL teams reached by telephone Wednesday declined comment.

The WHL issued a statement – in which it noted it found no evidence of payments to players – and said it would not speak of the matter again.

“All WHL clubs understand that they are required to fully comply and respect our league regulations or they will face significant consequences,” commissioner Ron Robison said in the statement.

Portland has been revived under the leadership of its owner, Calgary oilman Bill Gallacher, who took over in the fall of 2008. Gallacher, an engineer by training, made his fortune in the oil sands and is chairman of Athabasca Oil Corp.

The Winterhawks missed the playoffs in Gallacher’s first season, but he poured money into the team, going on a hiring spree, starting with Johnston, who was brought in after being an associate coach in the NHL for nine seasons with the Vancouver Canucks and Los Angeles Kings.

The team has been revived – and made the WHL final the past two seasons, powered by talent such as winger Sven Baertschi, a Calgary Flames prospect who briefly sparkled in the NHL last year as an injury call-up and is currently in the AHL during the lockout.

Gallacher, according to the team website, “is providing the organization with all the necessary resources to return the Winterhawks to the elite status Portland fans remember.”

### Report Typo/Error

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## Topics

- [Mike Johnston](#)

## Next Story

# OHL Announces Fines / Sanctions



This is Exhibit X<sup>11</sup> referred to in the  
 affidavit of Brendan O'Grady  
 sworn before me, this 15<sup>th</sup>  
 day of June, 2016

Zey  
 A commissioner for taking Affidavits

The Ontario Hockey League, (OHL), has levied fines totaling \$400,000.00 against the Windsor Spitfires Hockey Club and taken away three 1<sup>st</sup> round draft selections and two 2<sup>nd</sup> round draft selections from the Spitfires.

"In 2009 the Board of Governors of the Ontario Hockey League developed the OHL ENFORCEMENT PROGRAM which is designed to address and attempt to eliminate violations of the RULES and impose appropriate penalties if violations occur. The enforcement process is an integral part of the process to ensure integrity and fair play among the MEMBER TEAMS. One of the fundamental principles of the enforcement process is to ensure that those MEMBER TEAMS that are abiding by the rules are not disadvantaged by their commitment to compliance", stated OHL Commissioner David Branch.

"The League conducted two separate investigations led by our Director of Security and Enforcement, and in considering all the facts, I was persuaded that the Windsor Spitfires Hockey Club violated the League's Player Benefit and Recruitment Rules and Policies. While the penalties may appear to be severe, the League and its Member Teams recognize for any such violations of our Recruitment / Benefit Rules and Policies, we must send a strong message to preserve the integrity of our League", concluded Branch.

In addition to the fine, the Windsor Spitfires shall forfeit 1<sup>st</sup> round selections in the annual OHL Priority Selection in the years 2013, 2014, 2016, and 2<sup>nd</sup> round selections in the OHL Priority Selection Process for the years 2015 and 2017.

## Ousted Oshawa Generals president awarded \$450,000

Jeff Mitchell

Oshawa This Week | Aug 21, 2013

OSHAWA -- A judge has ordered the Oshawa Generals to make good on a \$450,000 settlement with a former employee who sued the club for wrongful dismissal.

Although an agreement was struck in May to settle a long-running legal dispute between the Gens and former president Patricia Campbell, no payments had been made as of July, according to court records. Ms. Campbell's lawyers were back in Superior Court in Oshawa in July seeking an order for payment, the records indicate.

The July 19 ruling by Justice Hugh O'Connell orders the defendants to pay Ms. Campbell \$450,000. It was made on consent of both parties, the record indicates.

Generals owner Rocco Tullio declined to comment on the case, but wrote in an e-mail, "the Generals have agreed to pay Mrs. Campbell."

In a subsequent telephone interview he refused to comment further, saying the dispute is a remnant of the past.

"I don't want to dwell on the past," Mr. Tullio said. "We've got a great organization. We've got great people in place."

Ms. Campbell's lawyer, William Markle, declined comment, citing a confidentiality agreement. Ms. Campbell declined comment through her lawyer.

The July judgment is the latest development in the long-running saga, which began in 2008 when Ms. Campbell, the first woman to be named president of an Ontario Hockey League franchise, sued for \$1 million. Ms. Campbell alleged wrongful dismissal after being fired in January of 2008, claiming disagreements with ownership had created a dysfunctional corporate climate at the General Motors Centre.

The Generals fired back with a counterclaim in excess of \$1 million, alleging Ms. Campbell's dismissal was justified. Then co-owner John Davies at the time called the suit a "minor annoyance."

In May of this year the parties reached a settlement, avoiding a trial. In a letter dated May 8, 2013 Mr. Tullio acknowledged having reviewed the minutes of settlement and agreeing to them; he granted Mr. Davies, who is no longer associated with the team but was named as an individual defendant, authority to enter into an agreement with Ms. Campbell.

Minutes of settlement in the court file indicate the defendants agreed to make an initial payment of \$200,000 within 30 days of the agreement being signed, and to provide post-dated cheques for monthly payments of \$10,000 until the settlement was paid in full.

The June 19 deadline for payment of the \$200,000 passed without the money arriving, as did a June 1 date for the first \$10,000 installment, according to the court file. The July 1 date for the second \$10,000 payment also passed without remittance, according to an affidavit from Ms. Campbell's lawyers.

"The defendants defaulted on their initial payment, as well as their first monthly installment payment of \$10,665 and were given notice to rectify the default within 15 business days, which they failed to do," says a motion for judgment filed by Ms. Campbell's lawyers.

The settlement included a "consent to judgment" clause, agreed to by both parties, for payment of \$450,000 in the event there was a default on the payment schedule. That clause was enforced by Justice O'Connell in his July ruling.

Mr. Davies, reached by phone Aug. 19, had little to say about the dispute.

"Talk to Tullio. I haven't owned the hockey team for four years," he said.

"Gotta run," Mr. Davies said before abruptly hanging up.

Jeff Mitchell is the justice reporter for Metroland Media Group's Durham Region Division. He can be reached at

[jmitchell@durhamregion.com](mailto:jmitchell@durhamregion.com) . Follow [DurhamRegion.com](http://DurhamRegion.com) on [Twitter](#) and [Facebook](#)

This is Exhibit Y referred to in the  
affidavit of Brendan O'Grady  
sworn before me, this 15<sup>th</sup>  
day of June, 2016  
Z. G. J.  
A commissioner for taking affidavits



A judge has ordered the Oshawa Generals to make good on a \$450,000 settlement with TRish Campbell (middle) who sued the club for wrongful dismissal. Current Oshawa Generals owner Rocco Tullio (left) and former owner John Davies were ordered to pay the money during a July court date.

# Local auto dealer Mike Priestner now big wheel in WHL with Saskatoon Blades purchase



JIM MATHESON, EDMONTON JOURNAL

More from Jim Matheson, Edmonton Journal ([HTTP://EDMONTONJOURNAL.COM/AUTHOR/JIM-MATHESON-EDMONTON-JOURNAL](http://edmontonjournal.com/author/jim-matheson-edmonton-journal))

Published on: September 5, 2013 | Last Updated: September 5, 2013 8:19 PM MST

This is Exhibit 2 referred to in the affidavit of Brendan D'Amico 15th sworn before me, this 15th day of June, 2016  
*[Signature]*  
A commissioner for taking affidavits

Mike Priestner once worked for Peter Pocklington's Westown Ford on Argyll and now he's a hockey owner just like his old boss.

Not the NHL, the WHL. Not Wayne Gretzky but would-be 99s.

The 58-year-old Priestner, who went from selling Mustangs for Peter Puck in the late 70s to his current lot in life as the CEO of the Go Auto franchise with 30 dealerships across Western Canada, is a big wheel in junior hockey now. He plunked down about \$9 million to buy the venerable Saskatoon Blades from the Brodsky family, joining the 22-member WHL club. It was a bold move by the sharp Priestner, who simply picked up the phone one day and called the man who ran the show in Saskatoon for years, Jack Brodsky.

Next thing he knew, the Edmonton businessman was making a firm offer to Brodsky, whose family had owned the Blades since 1980. Priestner became an official hockey owner Wednesday when the WHL's board of governors voted him in as part of their fraternity. Nine million for a junior franchise is heavy coin, but Priestner shrugged it off.

"I think it's good value, long term. Their alumni is scary good, it's



unbelievable. There's a good, solid fan-base. It's an excellent Western League market," he said.

He laughs softly when asked about working for Pocklington, all those many years ago. "I was the new car manager for Peter in '77 or '78. He was only around there a bit, but he had an office behind mine. It was a lot nicer. Big bathroom, and a boardroom, for the day it was quite an impressive office," said Priestner, who wasn't about to follow in Puck's footsteps and consider buying into an NHL franchise.

"That's out my league," he said, with a laugh.

The Western League Blades are the perfect storm for him. He has lots of family there. "My son Colin is coming in as managing partner (he had a drink with your correspondent and CHED's Dan Tencer when the NHL draft was in Minnesota a few years back) and he's bought a house in Saskatoon and he's moving in in three weeks. I wouldn't call Saskatoon an out-of-town franchise at all," said Priestner. "Really this is the only one I would have considered buying."

He did try to buy the Kamloops Blazers half a dozen years ago, but current Dallas Stars' owner Tom Gaglardi got the junior club, bringing in partners Jarome Iginla, Mark Recchi, Shane Doan and Darryl Sydor. He says he had no burning desire to get another franchise when he lost out to Gaglardi. "No. I hadn't thought of it (another WHL club) until early July this year. Saskatoon's so close, five hours away. Saskatoon is a home market for us (cars)," he said. It also has a rink that holds more than 15,000. It's as big as the MTS Centre, home of the NHL Winnipeg Jets. "it is a great market for junior hockey."

Priestner certainly looked at the scorelines along with the bottom line when he bought the Blades. The club has a rich history (Wendel Clark, Bernie Federko, Brian Skrudland and Detroit coach Mike Babcock played there) but they're definitely in a major rebuild after going all-in last season as Memorial Cup host. They went with an older team and gave away a lot of kids/draft picks and Brodsky reportedly lost a fair chunk of money on the Mem Cup; not enough people in the seats. "Absolutely I knew that (the downturn in the team) There's no hiding

behind that. Everybody knows this is a rebuild and we have to be patient," said Priestner.

Priestner was once was a junior goalie for the Kamloops Chiefs, in the old Western Canada League. His boy James also played four WHL years as a gardien de but, also playing in Kamloops, for Gaglardi's Blazers.

How was the dad in net? "I was very average," said Priestner,.

Chances are, Priestner will not be an average hockey owner. He is very good at the car business, and he will have good people running his hockey operation. Former Oilers VP of communications Steve Hogle, who looked after their radio, TV, the team website, the game-night production and community/alumni relations will be the Blades' team president. He was looking for a new adventure.

"Steve's a 10 out of 10," said Priestner, whose son Colin will be heavily involved in the business end of things, as well. "Between the two, we've got a great set of personality skills to get this thing to the next level. I hope Colin's our top revenue producer. He's run four or five dealerships," said Mike.

Lorne Molleken will stay as the team's GM, leaving the on-ice product in his hands. Priestner isn't bringing in anybody else.

"I hope Lorne stays and he's part of the solution moving forward," said Priestner.

There is a feeling that Dean Clark, who coached in Kamloops and Prince George and worked as a salesman for Priestner's Kentwood Ford five years ago between WHL gigs, might pop into the picture down the road. But not this year.

Priestner is no novice to the WHL. "My boy James played in the league in Kamloops, Brandon and Prince George. I played in Kamloops in 1974, for Harvey Roy. And before that when I was 18 I played at University of Calgary for George Kingston. An incredible experience," said Priestner.

"I like the Western League. I met lots of kids many times at restaurants when James played..this (Blades' venture) is about the 95, 98 percent of kids that don't make the NHL. I just want them to have the best experience they can and want the kids to go home after the season and say I loved my time in Saskatoon," said Priestner.

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affidavit of Brendan O'Grady  
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# THE COMMERCIAL POTENTIAL OF JUNIOR HOCKEY IN CANADA

NOVEMBER, 2013

WHITE PAPER

TrojanOne  
CONSULTING GROUP

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## **Mitch Thompson**

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In 2013, I was fortunate enough to attend two major North American sports events that I consider to be 'bucket list' experiences as a sports fan. In May, TrojanOne hosted the 9th annual Canadian Sponsorship Forum in Saskatoon, held in conjunction with the MasterCard Memorial Cup - Canada's Junior Hockey championship tournament. As part of the conference experience, delegates attended a couple of games, including the championship tilt between the Portland Winterhawks and the eventual champions, the Halifax Mooseheads. In the championship, my colleagues and I witnessed June's first overall pick in the NHL Entry Draft, Nathan MacKinnon, notch a hat trick to end his junior career. It was his second hat trick of the tournament - and a performance I'm happy to say I saw live in person.

A few months later, a friend and I travelled to Baton Rouge, Louisiana to take in an SEC (Southeastern Conference) football game between the LSU Tigers and the Florida Gators. It was a genuine college football experience - including tailgating, 92,980 screaming fans, and a win for the 10th ranked home team.

Both games were special in their own right. For Canadians, seeing MacKinnon's performance - either in-person or on TV - offered a glimmer into his potential as an NHL player. For Americans, the significance of college football on a fall Saturday can be larger than life. Towns shut down while families and friends gather to tailgate, eat, drink and watch football all day long.

From a sports fan's perspective, it was interesting to observe the two environments and compare the passion levels of each sport's fan base. As a sponsorship and sports marketing professional, I couldn't help but think about the entities that benefit from that passion. I decided to explore the business side of junior hockey and college football in a bit more depth, and compare the two. Specifically, I wanted to see whether junior hockey has the potential to reach college football-like levels of success in Canada from a business perspective.



*A blurry image from my smart phone shows Halifax celebrating their championship.*



*Another smart phone shot - from the upper level at Tiger Stadium.*

## NCAA Football's Continued Business Success

The 2013 NCAA football season is in full swing, and the sport's commercial success has gained significant attention this fall. For the most part, the topic of conversation regarding the NCAA's business model has been around the concept of amateur student-athletes and whether or not it is right, or even legal, for schools and the NCAA to profit so immensely from ticket, sponsorship, and TV rights revenue while refusing to compensate athletes beyond tuition and related academic expenses. I will let lawyers and other vocal media personalities discuss the fairness and sustainability of the NCAA system. What is undeniable, however, is that college football has evolved into an incredibly successful sport.

Live attendance at games has reached incredible heights in recent years. In 2012, NCAA football attendance totaled almost 49 million across all 644 NCAA schools<sup>1</sup>. American universities spent a collective \$15 billion on sports facilities between 1995 and 2005<sup>2</sup>, with much of that investment supporting football stadium expansions. There are now six NCAA football stadiums with capacities exceeding 100,000.

In total, football programs in the NCAA's FBS conferences earn anywhere from \$3.6 million in revenue to \$103 million – with the average being \$25 million. The University of Texas's football program, which earned \$103 million in 2011-12, earned a \$77 million profit off this amount<sup>3</sup>.

While major NCAA conferences' American TV rights deals now

cover a variety of sports – with a typical focus on football and basketball – both the ACC and Pac-12 had football-only TV broadcast deals with ABC/ESPN as recently as 2011. The ACC's deal was worth approximately \$36.85M per year, while the Pac-12's was worth approximately \$25M per year<sup>4</sup>. How are TV networks able to justify these rights fee expenditures? Well, over \$1.1B was spent on NCAA football advertising in 2012<sup>5</sup>.

In many ways, college football's commercial success in the United States is not surprising. After all, football is America's favourite sport, and college football is the nation's first real chance to see tomorrow's NFL stars in action. College football is also popular because of the loyalty that fans have towards their alma maters and home states - a fan's favourite school represents a symbol of who they are and where they're from.

## Junior Hockey in Canada

In Canada, hockey is the hands-down favourite sport nationally. It is widely considered a sport that defines the country, and the NHL is undoubtedly the most popular professional sports league among Canadians.

In many ways, hockey is to Canada as football is to the United States. Further to that comparison, the Canadian Hockey League (CHL) appears to be the equivalent of NCAA football in the US. Like the NCAA, the CHL's reach expands across the entire country. Of the CHL's 52 Canadian teams,

30 are based in towns outside of Canada's top 25 largest metropolitan areas, with nine of ten Canadian provinces being represented.

Also as with NCAA football, the CHL's players represent the next wave of professional stars and players. Since 1980, the #1 overall pick in the NHL draft has been a CHL player 25 of 34 times. Over 55% of NHL opening day roster spots in 2013 were occupied by CHL alumni<sup>6</sup>.

Canadians have shown a passion for the level of hockey represented by the CHL. Each year in late December and early January, TSN airs live coverage of the IIHF World U20 Championship tournament, commonly known to Canadians as 'World Juniors'. In this tournament, the top hockey players, under the age of 20, from around the world represent their countries in a tournament to determine a winning country. Many of the 240 participating players are, in fact, CHL players (72 CHL players, and 7 former CHL players competed at the 2012-13 tournament)<sup>7</sup>.

Currently, six of TSN's top 10 most watched telecasts ever are games from this tournament<sup>8</sup>, with the 2011 gold medal game being the most-watched event ever on cable television in Canada (6.7 million viewers).

## The Business of the CHL

With Canadians' overall passion for hockey a given, and with junior hockey's quality of play and community relevance proven, the Canadian Hockey League's business success should surely reflect that of a major player in the Canadian sports landscape. While the CHL has experienced solid commercial success, whether or not the sport has reached its business potential is a topic worth questioning... Here's what we do know:

Sportsnet, one of Canada's two leading sports television networks, airs approximately 40 CHL-related games each year (including regular season, playoffs, MasterCard Memorial Cup, and all-star games)<sup>9</sup>. While there are no public details regarding the terms of this television deal or the deal in Quebec with TVA, the TrojanOne Consulting Group's industry intelligence indicates that little to no rights fees are being paid by Rogers (or Quebecor) to the CHL.

The 2012 MasterCard Memorial Cup final game averaged 575,000 viewers on Sportsnet and viewership averaged 306,000 across the tournament's entire nine games<sup>10</sup>.

Despite Sportsnet's recent commitment to the CHL, launching a Friday Night Hockey platform in 2011, I was only able to find one published viewership figure for a CHL regular season game: 200,000 average viewers for the December 7, 2012 matchup between Niagara and London on Sportsnet<sup>11</sup>.

Beyond television, the CHL is successful at the gate in Canada, with Canada's 52 CHL teams having well over 7 million

attendees to regular season games in each of the past two seasons, and over 8 million attendees per year when you include playoffs<sup>12</sup>.

There is very little information available on sponsorship revenue for the league or CHL teams.

However, the Kitchener Rangers' unique ownership structure (the team is owned by its season ticket holders) has allowed for some relevant information to be published in recent years<sup>13</sup>.

For the 2012-13 season, the Rangers earned a profit of \$22,165 from revenues of \$6.2 million. It's worth noting that the previous year's profit was over \$500,000 from over \$5.6 million in revenue. An arena expansion led to the reduced profit margin in 2012-13.

Sponsorship and other revenue (unfortunately I cannot provide a detailed description of what "other" means at this time) came in at \$2.13 million in 2012-13. While sales at the team's apparel store accounted for \$470,000 in revenue<sup>14</sup>.

To help put these figures in perspective, it's worth noting that the Rangers had the 6th highest average attendance last season in the entire CHL, with 7,212 attendees per regular season game.

The TrojanOne Consulting Group's experience and industry intelligence confirms that very few team-only deals eclipse \$50,000 per year in rights fees. Some deals do enter six-figure territory, but only when the team's host venue is incorporated (i.e. via naming rights or supplier-based partnerships).

A couple things become obvious when reviewing facts and figures on the CHL's commercial success: 1) there is much less publicly available data on the CHL's key business metrics than there is on

NCAA football, and 2) the gross numbers that are available pale in comparison to NCAA football. This is not surprising for a number of reasons, but first and foremost, the fact of the matter is that Canada is a much smaller country than the United States.

The next section attempts to dig a bit deeper into the question of whether or not junior hockey is, or could become, Canada's equivalent of NCAA football from a commercial perspective. Does the passion that Canadians have for hockey translate to the junior ranks in the same way that Americans' passion for football translates to NCAA football's success? If not, is there a trend towards it eventually reaching that point?



## Canadians' Passion for Junior Hockey - Key Insights

Defining commercial success for a sports league is not easy, as there are many facets to consider. In terms of revenue streams alone, there is ticket revenue, TV rights fees, sponsorship revenue, merchandise sales, and more. Beyond revenue, many metrics can act as indicators of a league's success and as predictors of revenue. This section attempts to look at some of these metrics, and draw key insights around the CHL's financial future. By no means have I covered off every possible angle or factor, but I believe the insights provided will serve as some valuable "food for thought".

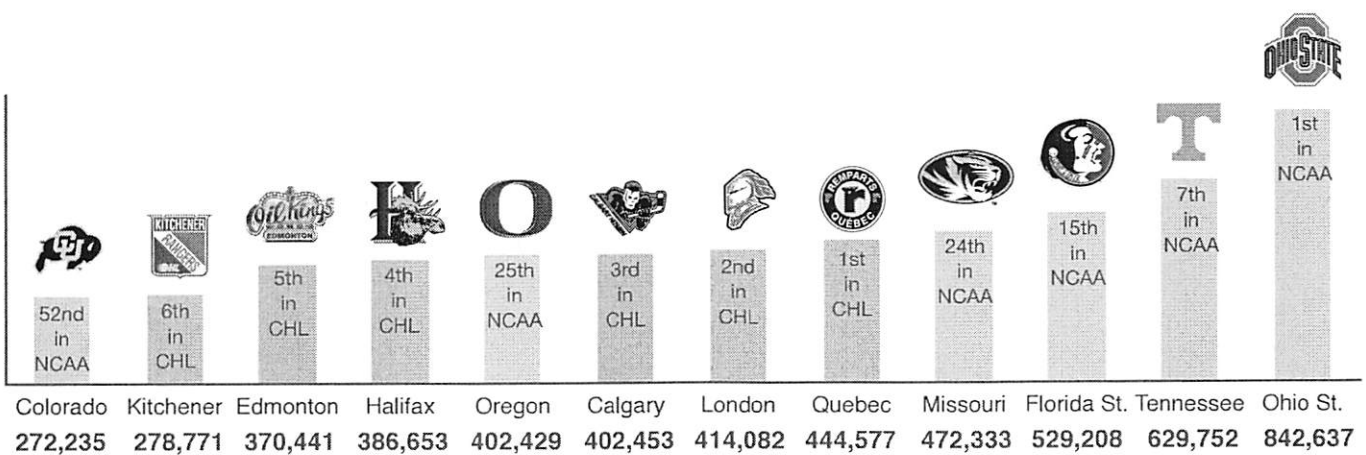
Game attendance is one of many basic metrics that impacts a property's sponsorship value, ticket revenue, and acts as an indicator of overall property popularity.

### On-Site Attendance

While per game attendance metrics strongly favor NCAA football, cumulative annual attendance figures for some CHL teams paint an interesting picture.

As the graphic below demonstrates, the total attendance figures for some of the top CHL teams do rival some elite NCAA football programs. The Quebec Remparts' 2012-13 season attendance exceeds that of perennial powerhouse Oregon's 2012 attendance by over 40,000. If the Remparts, London Knights, or Calgary Hitmen were ranked among NCAA football programs for total attendance last season, they would all land in 25th place. That being said, of the 52 Canadian CHL teams, only six had greater cumulative attendance than the 52nd ranked NCAA football program.

As a whole, the CHL's 52 Canadian teams do fairly well on a cumulative attendance basis. These teams achieved a total mark of 8,380,660 attendees last season over 1,802 regular season and 227 playoff games, which averaged out to over 4,100 attendees per game. This cumulative attendance figure exceeded that of the NHL's last full regular season in 2011-12 (5,336,253). Furthermore, it exceeded the cumulative attendance figures for every NCAA football conference - the top five conferences' total 2012 attendance ranged from 3.9M-7.5M. The top 52 NCAA football programs had a cumulative attendance exceeding 23.6M in 2012.



- CHL team home game attendance last season, regular season + playoffs (2012-13)
- NCAA football program home game attendance last season (2012)

## TV Viewership

National TV viewership serves as a traditional indicator of a country's interest in a sport. Rather than simply comparing total TV viewership figures across the sports of interest, I decided to compare viewership figures against one another as percentages, and was able to draw some noteworthy insights.

**24.3%**

NCAA BCS  
Championship game  
viewership as % of  
Super Bowl  
viewership (US)

**32.1%**

SEC on CBS avg.  
viewership as % of  
NBC's Sunday Night  
Football avg.  
viewership (US)

**21.5%**

MasterCard Memorial  
Cup viewership as % of  
Stanley Cup Final  
viewership (Canada)

**28.0%**

CHL regular season  
viewership as % of NHL  
on TSN avg. viewership  
(Canada)

In terms of regular season viewership, the CHL airs very few games nationally. That being said, on a per game basis, we can draw some similar comparisons with limited information.

It's rather interesting to see that on a per-game basis, Canadians' viewership interest in CHL hockey relative to that of NHL hockey barely trails the same measure for Americans and NCAA/NFL football.

Hypothetically, if the same number of CHL games were broadcast as the NHL, and if those CHL games maintained 20% of the NHL's per game viewership, it would not be unreasonable to expect the CHL to earn 20% of the NHL's annual television rights fees. The NHL earns \$200M annually in Canadian TV rights fees<sup>23</sup>, making this hypothetical CHL rights fee \$40M per year.

The 2013 NCAA BCS Championship Game's US viewership of 26.4M<sup>15</sup> is 24.3% of the 2013 Super Bowl's US viewership of 108.4M<sup>16</sup>. In 2012 (when viewership figures were published), Canadian viewership of the MasterCard Memorial Cup final on Sportsnet was 575,000<sup>17</sup> - approximately 21.5% of the 2012 Stanley Cup Final's average viewership on CBC over the six-game series (2.7M)<sup>18</sup>.

2011's SEC on CBS weekly broadcasts averaged 6.9M<sup>19</sup> viewers, which is 32.1% of the average 2012-13 season viewership for NBC's Sunday Night Football broadcast (21.5M<sup>20</sup>). Similarly, a December Friday Night Hockey broadcast on Sportsnet was viewed by an average of 200,000<sup>21</sup> Canadians - 28.0% of TSN's average viewership in 2009-10 for games featuring Canadian teams (71 games, 714,000 average viewers<sup>22</sup>).

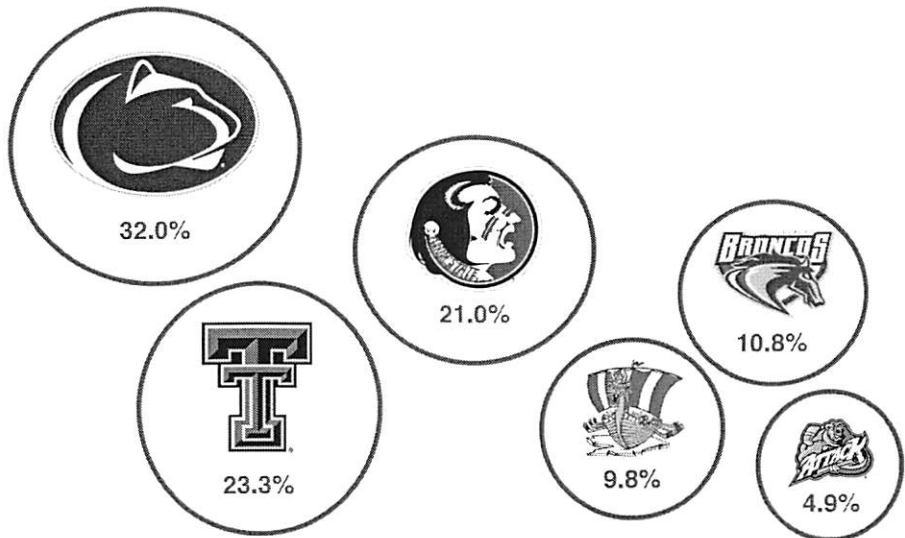
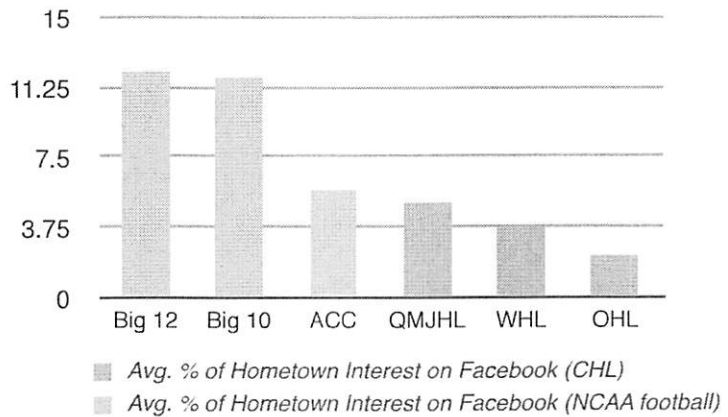
Community Engagement

As mentioned earlier, a major strength of junior hockey and college football is each sport's ability to connect with people in small to midsize communities across Canada and the US, respectively. Whereas professional sports might generate more interest in major cities, junior hockey and college football are known to resonate more in smaller communities, rural regions, and "college towns".

To analyze this more closely, I used Facebook's Advanced Ad Targeting to quantify just how passionate local communities are about junior hockey and college football. I measured the percentage of Facebook users within 25 miles of a team's hometown who are interested in that team. The analysis was undertaken on 50 of the 52 Canadian CHL teams (data for two teams was not available), and on all teams in the Big 12, Big 10, and ACC football conference. These three conferences were selected randomly to represent NCAA football.

As the graphics on this page show, the metric demonstrated a clear advantage to college football in engaging its local community. The Big 12's average score was 12.1%, with the Big 10's at 11.76%, and the ACC's at 5.75%. Meanwhile, the QMJHL's average score came in at 5.1%. The WHL's average was 3.7% and the OHL's was 2.2%. Top teams in each league/conference were the Penn State Nittany Lions, the Florida State Seminoles, the Texas Tech Red Raiders, the Swift Current Broncos, Baie-Comeau Drakkar, and the Owen Sound Attack.

A noticeable trend surfaced when analyzing the results from this exercise - teams in smaller towns scored better. The Texas Longhorns, based in Austin (population of 840,000+), is one of the most successful college football teams in the US. That being said, they scored a mere 8.4% - third lowest in the conference. Similarly, the Quebec Remparts, based in Quebec City (population of 500,000+) scored only 1.7%. The Remparts have the highest attendance in the entire CHL with over 11,000 per game.



% of Hometown Interest on Facebook - Top teams in Big 12, Big 10, ACC QMJHL, WHL, OHL

Community Engagement (cont'd)

Another metric I used to evaluate the ability of junior hockey and college football to engage communities across Canada and the US comes from Google Trends. The tool provides a search frequency index for a term or group of terms over time. It also indicates the geographic dispersion of that search frequency.

Using a sequence of calculations explained in the *Appendix*, I calculated 'Community Relevance Metrics' for junior hockey in Canada and college football in the US - using search frequency results from the past 12 months.

The resulting percentage score is an indicator of how evenly across the country (US for NCAA football, Canada for CHL hockey) the interest for each league is dispersed.

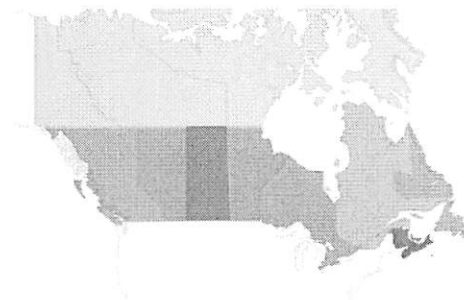
Multiple terms were tested (CHL, CHL hockey, Memorial Cup, NCAA football, college football, and BCS) for both sports in order to account for the fact that fans may use different vernacular when searching for content related to the sport.

In the end, the top results for each sport showed that NCAA football has nearly double the community relevance of the CHL. The graphics below show the Community Relevance Metrics for the two terms, as well as maps that display regions with higher search frequencies (darker blue)

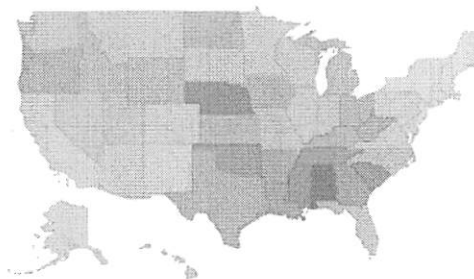
and lower search frequencies (lighter blue).

It was interesting to see that the CHL results, for all terms tested, showed the highest search frequencies in Saskatchewan and Nova Scotia (the host province of the 2013 Memorial Cup and the home to the eventual champions). This may be an indication that the MasterCard Memorial Cup carries significantly more relevance vs. the CHL regular season in Canada (when compared to the BCS Championship vs. the NCAA football season).

**"CHL" Community Relevance Score: 23%**



**"NCAA Football" Community Relevance Score: 42%**



## Conclusions

In so many ways, the CHL represents exactly what matters to Canadian sports fans, sponsors, and TV networks:

The league's sport is hockey (Canada's favourite) and the league's players are tomorrow's stars. The league is nationwide, and relevant in communities large and small. A foundation of passionate CHL fans exists - as is evident from reviewing attendance and viewership figures.

However, it's safe to say that the CHL's full business potential has not yet been reached. It is very difficult to confidently make this conclusion with so little information available on league and team revenue streams - something I urge the league to improve. That being said, there seems to be enough evidence that the CHL and its teams generate sufficient attendance and TV viewership to warrant improved success in sponsorship, television rights, and other revenue streams.

The most telling discovery of my analysis revolved around the CHL's television exposure and broadcast rights. First and foremost, the league is not on TV enough. Television exposure acts as a catalyst to sponsorship revenue, fan interest, and other league KPIs for obvious reasons. I'm certain the CHL is aware of this and are doing everything in their power to increase the league's exposure. Sportsnet's Friday Night Hockey platform is a great start, and one would think that Rogers' new Sportsnet360 channel provides a natural reason for the communications giant to consider expanding its CHL coverage.

Second, it appears that based on limited TV viewership information, the CHL attracts enough eyeballs when it is on TV to warrant a more favourable TV rights contract.

There is no doubt that the execs at Sportsnet, TSN, and beyond are crunching an array of numbers to determine the sustainability of the league's viewership figures. The key for the CHL is having both Rogers *and* Bell conclude that the league can consistently draw solid viewership figures - and from there ensuring market forces deliver an appropriate TV rights fee.

Some other interesting takeaways from my analysis revolve around the CHL to NCAA football comparison. It is interesting to see that cumulative CHL game attendance is actually greater than that of all NCAA football conferences, and that cumulative attendance for top CHL teams is competitive with some of the major college football programs in the US. Furthermore, the CHL (in Canada) and NCAA (in the US) received similar average TV viewership as a percentage of the average viewership of the NHL and NFL, respectively.

Despite these findings, CHL team revenue appears to pale in comparison to NCAA football program revenue. The Kitchener Rangers, who ranked 6th in CHL per game attendance last season, earned \$6.2M in revenues and just over \$22,000 in profit. The Texas Longhorns football program, which ranked 4th in NCAA football per game attendance last season, earned \$103M in revenues and \$77M in profit.

The digital metrics used to gauge community engagement for both the CHL and NCAA football indicate that NCAA football as a sport is more relevant across the

United States than the CHL is across Canada. Additionally, the communities in which NCAA football teams play appear to be more passionate about that team than CHL teams' hometowns are about them. These findings are not all that surprising, given that the passion of NCAA football fans is world famous.

By no means has my analysis explored every avenue and metric, nor has it accounted for various additional factors - the CHL's French language broadcasts, merchandise sales, and so on - but I hope that this white paper stimulates some thought around the CHL's potential as a league in Canada's sports landscape.



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## Appendix

### Community Relevance Metric Calculation:

For each respective country, the user can see what province or state had the highest search frequency for a term over a certain time period (represented by a score of 100), and how the other provinces/states compared (scored relatively against 100).

By adding a term's search frequency scores for all provinces or states, and then dividing it by the perfect possible score, an overall "Community Relevance Metric" can indicate how constant the term's search frequency is across the country.

In Canada, a perfect score would be  $100 + 99 \times 12 = 1,288$  (where 12 represents the remaining provinces and territories after accounting for the top scoring one).


Therefore, a term that scores 750 would be given a Community Relevance Metric of 58% ( $750/1288$ ). A perfect Community Relevance Metric of 100% would indicate that the entire country, on a province-by-province basis, searched for the term at about the same frequency.

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17. Memorial Cup Audiences Up 28% from 2011. <http://canadiansportsfan.wordpress.com/2012/05/28/memorial-cup-audiences-up-28-from-2011/>
18. Canadian Sports Rating Update: June 13, 2012 <http://canadiansportsfan.wordpress.com/2012/06/13/canadian-sports-ratings-update-june-13-2012/>



# OHL Yearly Attendance

This is Exhibit BB referred to in the affidavit of Brendan O'Grady sworn before me, this 15<sup>th</sup> day of June 2016  
  
 A commissioner for taking affidavits

## Regular Seasons

Season	Avg.	% Cap.	Tms	Gms	Total
2005-06 (/league/ohl/2005/)	3,859	79.1%	20	680	2,624,365
2006-07 (/league/ohl/2006/)	3,934 +1.9%	77.4% -1.8%	20	680	2,675,412
2007-08 (/league/ohl/2007/)	4,012 +2.0%	78.1% +0.7%	20	680	2,728,110
2008-09 (/league/ohl/2008/)	4,073 +1.5%	76.8% -1.3%	20	680	2,769,606
2009-10 (/league/ohl/2009/)	4,017 -1.4%	75.2% -1.6%	20	680	2,731,816
2010-11 (/league/ohl/2010/)	4,017	75.3% +0.1%	20	680	2,731,317
2011-12 (/league/ohl/2011/)	3,915 -2.5%	73.3% -2.0%	20	680	2,662,134
2012-13 (/league/ohl/2012/)	4,021 +2.7%	68.7% -4.6%	20	680	2,734,514
2013-14 (/league/ohl/2013/)	4,041 +0.5%	68.8% +0.2%	20	677	2,735,766

## Playoffs

Season	Avg.	% Cap.	Tms	Gms	Total
2005-06 (/league/ohl/2005p/)	4,320	84.0%	16	77	332,655
2006-07 (/league/ohl/2006p/)	4,671 +8.1%	87.9% +4.0%	16	74	345,641
2007-08 (/league/ohl/2007p/)	4,350 -6.9%	86.3% -1.6%	16	72	313,169
2008-09 (/league/ohl/2008p/)	4,204 -3.4%	80.1% -6.2%	16	77	323,670
2009-10 (/league/ohl/2009p/)	4,702 +11.8%	77.5% -2.7%	16	78	366,748
2010-11 (/league/ohl/2010p/)	3,949 -16.0%	76.1% -1.4%	16	79	311,978
2011-12 (/league/ohl/2011p/)	4,317 +9.3%	75.5% -0.6%	16	81	349,641
2012-13 (/league/ohl/2012p/)	4,507 +4.4%	85.5% +10.0%	16	77	347,015
2013-14 (/league/ohl/2013p/)	4,188 -7.1%	82.0% -3.5%	16	65	272,197



# OHL 2013-2014 Attendance

Select Season ▾

Total Attendance

**2,735,766**

677 games

Average Attendance

**4,041/game**

68.8% of capacity

Most Attended Team

**Knights**

9,018/game

Best Attended Team

**IceDogs**

106.8% of capacity

## Teams

Team	Average ▾	(/league/ohl/2013/?sort=pct_cap)% Cap.	Total
1 London Knights (/team/london-knights/2013/)	9,018	99.7%	306,607
2 Kitchener Rangers (/team/kitchener-rangers/2013/)	7,056	97.5%	239,914
3 Windsor Spitfires (/team/windsor-spitfires/2013/)	5,306	81.6%	175,107
4 Oshawa Generals (/team/oshawa-generals/2013/)	4,860	79.6%	165,250
5 Erie Otters (/team/erie-otters/2013/)	4,429	68.1%	150,588
6 Guelph Storm (/team/guelph-storm/2013/)	4,326	96.1%	147,099
7 Ottawa 67's (/team/ottawa-67s/2013/)	4,305	22.5%	146,384
8 Sault Ste. Marie Greyhounds (/team/sault-ste-marie-greyhounds/2013/)	4,262	85.2%	144,905
9 Kingston Frontenacs (/team/kingston-frontenacs/2013/)	3,795	67.6%	129,013
10 Sudbury Wolves (/team/sudbury-wolves/2013/)	3,793	74.4%	125,176
11 Barrie Colts (/team/barrie-colts/2013/)	3,729	88.9%	126,801
12 Saginaw Spirit (/team/saginaw-spirit/2013/)	3,711	66.9%	122,467
13 North Bay Battalion (/team/north-bay-battalion/2013/)	3,366	79.3%	114,437
14 Sarnia Sting (/team/sarnia-sting/2013/)	3,019	54.9%	102,655
15 Niagara IceDogs (/team/niagara-icedogs/2013/)	2,989	106.8%	101,642
16 Owen Sound Attack (/team/owen-sound-attack/2013/)	2,952	84.3%	100,359
17 Mississauga Steelheads (/team/mississauga-steelheads/2013/)	2,593	47.8%	88,151
18 Peterborough Petes (/team/peterborough-petes/2013/)	2,512	58.0%	85,398
19 Plymouth Whalers (/team/plymouth-whalers/2013/)	2,478	64.3%	84,265
20 Belleville Bulls (/team/belleville-bulls/2013/)	2,340	71.8%	79,548



Leagues / WHL

# WHL Yearly Attendance

This is Exhibit <sup>4</sup> CE referred to in the

affidavit of Brendan O'Leary

sworn before me, this 15<sup>th</sup>

day of June, 2016

[Signature]  
A commissioner for taking affidavits

## Regular Seasons

Season	Avg.	% Cap.	Tms	Gms	Total
2011-12	4,716	59.9%	22	792	3,735,379
2012-13	4,815 +2.1%	61.1% +1.2%	22	792	3,813,216
2013-14	4,488 -6.8%	56.9% -4.2%	22	791	3,550,173

## Playoffs

Season	Avg.	% Cap.	Tms	Gms	Total
2011-12	5,897	60.7%	16	74	436,411
2012-13	5,850 -0.8%	58.9% -1.8%	16	77	450,443
2013-14	4,942 -15.5%	62.2% +3.3%	17	63	311,375



# WHL 2013-2014 Attendance

Select Season ▾

Total Attendance

**3,550,173**

791 games

Average Attendance

**4,488/game**

56.9% of capacity

Most Attended Team

**Hitmen**

8,252/game

Best Attended Team

**Tigers**

100.0% of capacity

## Teams

	Team	Average ▾	(/league/whl/2013/?sort=pct_cap)% Cap.	Total
1	Calgary Hitmen (/team/calgary-hitmen/2013/)	8,252	42.8%	297,088
2	Portland Winterhawks (/team/portland-winterhawks/2013/)	7,329	70.3%	263,855
3	Edmonton Oil Kings (/team/edmonton-oil-kings/2013/)	6,743	40.0%	242,745
4	Vancouver Giants (/team/vancouver-giants/2013/)	6,266	38.5%	225,573
5	Spokane Chiefs (/team/spokane-chiefs/2013/)	6,102	58.9%	219,662
6	Kelowna Rockets (/team/kelowna-rockets/2013/)	5,141	85.6%	185,072
7	Red Deer Rebels (/team/red-deer-rebels/2013/)	4,949	82.5%	178,168
8	Everett Silvertips (/team/everett-silvertips/2013/)	4,901	60.1%	176,443
9	Victoria Royals (/team/victoria-royals/2013/)	4,800	68.5%	172,815
10	Saskatoon Blades (/team/saskatoon-blades/2013/)	4,719	31.1%	169,897
11	Seattle Thunderbirds (/team/seattle-thunderbirds/2013/)	4,427	73.5%	159,386
12	Tri-City Americans (/team/tri-city-americans/2013/)	4,226	73.7%	147,904
13	Kamloops Blazers (/team/kamloops-blazers/2013/)	4,148	75.9%	149,317
14	Medicine Hat Tigers (/team/medicine-hat-tigers/2013/)	4,006	100.0%	144,216
15	Regina Pats (/team/regina-pats/2013/)	3,956	60.8%	142,408
16	Moose Jaw Warriors (/team/moose-jaw-warriors/2013/)	3,613	81.8%	130,061
17	Brandon Wheat Kings (/team/brandon-wheat-kings/2013/)	3,526	69.1%	126,927
18	Lethbridge Hurricanes (/team/lethbridge-hurricanes/2013/)	3,089	62.0%	111,211
19	Prince Albert Raiders (/team/prince-albert-raiders/2013/)	2,496	96.3%	89,850
20	Kootenay Ice (/team/kootenay-ice/2013/)	2,232	52.4%	80,359

21	Swift Current Broncos (/team/swift-current-broncos/2013/)	2,119	73.6%	76,285
22	Prince George Cougars (/team/prince-george-cougars/2013/)	1,693	29.2%	60,931



# KITCHENER RANGERS HOCKEY CLUB

July 28, 2014

Dear Subscribers (Members), Board of Directors, Staff, Parents:

You may have read a recent story on [tsn.ca](http://tsn.ca) with regards to the 2013 financial statements of the Kitchener Rangers. As a result of the incomplete information reported on [tsn.ca](http://tsn.ca), I wanted to take this opportunity to provide you with further information.

The Kitchener Rangers are not publically owned. We are in fact a not-for-profit organization with members who are our season ticket holders and have no financial interest in the Club.

The Kitchener Rangers Hockey Club's financial statements are audited each year and presented to our season ticket holders and community on an annual basis.

All of the information I am providing was available in our annual report and audited financial statements.

The regular season gross revenues were accurately reported at \$6.2M. This includes revenue from all sources from ticket sales (\$3.6M), sponsorship and advertising and other income, (\$2.1M) and licensed merchandise (\$470K).

Regular season operating costs for the team totaled \$6.1M. This includes costs for player programs (including education costs for current players and alumni, programs, equipment, billeting, travel and player expense reimbursements), facility rental, amortization, advertising and ticketing costs, community and event costs, interest expense and staffing costs.

The regular season provided a net operating surplus of approximately \$100,546. During 2013 we participated in the OHL playoffs and this made an additional contribution to our surplus in the amount of \$316,419.

At the end of the year we were left with an operating surplus of \$416,838. Of this we spent \$394,800 on community programs and charities, including investing \$126,569 in local girls and boys minor hockey.

While the article may have tried to imply differently with its quotes of "owners of junior teams that have become hugely profitable in recent years" and "the leagues' collective profits have surged", ultimately, at the end of fiscal 2013 our net operating surplus was \$22,165.

As I have stated in the past, our organization embraces our responsibility to our community, founders, players and fans as we continue to strive to provide entertainment to our fans, development opportunities to our players and staff, target success both on and off the ice and strive to be a leader in our community resulting in our investment of almost all of our annual revenues into the club's operation.

Should you have any questions please do not hesitate to contact me.

Steve Bienkowski, CPA, CA  
Chief Operating Officer & Governor  
Kitchener Rangers Hockey Club

This is Exhibit "DD" referred to in the affidavit of Brendan O'Grady sworn before me, this 15th day of June, 2016  
  
A commissioner for taking affidavits



**Kitchener Rangers Jr. "A" Hockey Club**  
 [Incorporated under the laws of Ontario]

**STATEMENT OF FINANCIAL POSITION**

As at May 31

	2014 \$	2013 \$
<b>ASSETS</b>		
<b>Current</b>		
Cash and cash equivalents	188,861	210,723
Accounts receivable	161,011	81,331
Government remittances receivable	5,970	9,201
Inventory	129,947	177,705
Prepaid expenses	33,628	54,401
Loan receivable – current portion [note 2]	6,000	6,000
<b>Total current assets</b>	<b>525,417</b>	<b>539,361</b>
Capital assets [note 3]	11,883,035	12,632,886
Long term investments [note 4]	2,132,141	1,880,441
Loan receivable [note 2]	59,108	65,108
<b>Total assets</b>	<b>14,599,701</b>	<b>15,117,796</b>

**LIABILITIES AND NET ASSETS**

<b>Current</b>		
Bank indebtedness [note 5]	60,000	60,000
Accounts payable and accrued liabilities	478,146	595,822
Deferred revenue	3,800	17,451
Current portion of long-term liabilities [note 6]	688,000	674,000
<b>Total current liabilities</b>	<b>1,229,946</b>	<b>1,347,273</b>
Long-term liabilities [note 6]	8,913,000	9,601,000
<b>Net assets</b>	<b>3,906,093</b>	<b>3,719,319</b>
Capital improvement fund	550,662	450,204
<b>Total liabilities and net assets</b>	<b>14,599,701</b>	<b>15,117,796</b>

*Commitments [notes 7, 8, 11]*

*See accompanying notes*

On behalf of the Board:


 \_\_\_\_\_ Director
 
 \_\_\_\_\_ Director



**Kitchener Rangers Jr. "A" Hockey Club**

**STATEMENT OF CHANGES IN NET ASSETS**

Year ended May 31

	2014	2013
	\$	\$
<b>Unrestricted net assets</b>		
Balance - beginning of year	1,268,309	931,573
Excess of revenue over expenditures	116,884	22,165
Transfer to capital improvement fund	(210,087)	(242,996)
Capital purchases out of capital improvement fund	134,176	747,515
Transfer from (to) invested in capital assets	75,851	(189,948)
<b>Balance – end of year</b>	<b>1,385,133</b>	<b>1,268,309</b>
<b>Invested in capital assets</b>		
Balance - beginning of year	2,357,888	2,167,940
Transfer (to) from unrestricted net assets	(75,851)	189,948
<b>Balance – end of year</b>	<b>2,282,037</b>	<b>2,357,888</b>
<b>Financial assets available for sale</b>		
Accumulated gains (losses) – beginning of year	93,122	(65,853)
Unrealized gains arising in the year	145,801	158,975
<b>Accumulated gains – end of year</b>	<b>238,923</b>	<b>93,122</b>
	<b>3,906,093</b>	<b>3,719,319</b>

*See accompanying notes*

**Kitchener Rangers Jr. "A" Hockey Club**

**CAPITAL IMPROVEMENT FUND**

Year ended May 31

	2014	2013
	\$	\$
<b>Internally restricted net assets</b>		
Balance - beginning of year	469,599	974,118
Less: capital purchases	(134,176)	(747,515)
Transfer from unrestricted net assets	210,087	242,996
Balance - end of year	545,510	469,599
<b>Financial assets available for sale</b>		
Accumulated losses – beginning of year	(19,395)	(87,837)
Unrealized gains arising in the year	24,547	68,442
Accumulated gains (losses) – end of year	5,152	(19,395)
	550,662	450,204

*See accompanying notes*

**Kitchener Rangers Jr. "A" Hockey Club**

**STATEMENT OF OPERATIONS**

Year ended May 31

	2014 \$	2013 \$
<b>REVENUES</b>		
Ticket Revenue – Regular Season	3,338,990	3,368,517
Ticket Revenue – Regular Season Capital	210,086	209,053
Sponsorship and Other Income	2,378,941	2,129,201
Retail Sales – Merchandise	401,082	470,004
	<u>6,329,099</u>	<u>6,176,775</u>
<b>HOCKEY OPERATIONS COSTS</b>		
Facility fees	829,718	797,221
Operating costs	2,472,357	2,655,621
Amortization	884,027	890,099
Advertising and ticketing costs	702,107	747,169
Community and event costs	192,334	266,565
Interest expense	276,220	150,254
	<u>5,356,763</u>	<u>5,506,929</u>
<b>OFFICE, OUTPOST AND GENERAL COSTS</b>		
Office costs	100,362	91,681
Retail cost of sales	323,652	347,886
General costs	64,293	135,886
	<u>488,307</u>	<u>575,453</u>
<b>Regular Season Operations Surplus before other</b>	<u>484,029</u>	<u>94,393</u>
<b>OTHER (INCOME) EXPENSE</b>		
Investment income	(113,277)	(6,153)
<b>Excess of Regular Season Revenues over Expenditures</b>	597,306	100,546
Community donations <i>[note 12]</i>	478,002	394,800
Net playoff expenses (revenues) <i>[note 13]</i>	2,420	(316,419)
<b>Excess of revenue over expenditures</b>	<u>116,884</u>	<u>22,165</u>

*See accompanying notes*

**Kitchener Rangers Jr. "A" Hockey Club**

**STATEMENT OF CASH FLOWS**

Year ended May 31

	2014 \$	2013 \$
<b>OPERATING ACTIVITIES</b>		
Excess of revenue over expenditures	116,884	22,165
Items not involving a current cash flow:		
Amortization	884,027	890,099
(Gain) loss on sale of investments	(55,845)	26,980
	945,066	939,244
Changes in non-cash working capital components <i>[note 10]</i>	(139,245)	(16,604)
<b>Cash provided by operating activities</b>	<b>805,821</b>	<b>922,640</b>
<b>INVESTING ACTIVITIES</b>		
Proceeds from sale of investments	1,351,159	769,245
Purchase of investments	(1,376,666)	(880,037)
Purchase of capital assets	(134,176)	(6,323,820)
Decrease (increase) in long-term portion of loan receivable	6,000	(14,281)
<b>Cash (applied to) investing activities</b>	<b>(153,683)</b>	<b>(6,448,893)</b>
<b>FINANCING ACTIVITIES</b>		
Increase in bank indebtedness	-	60,000
Net (payments) advances on long-term liabilities	(674,000)	5,243,773
<b>Cash (applied to) provided by financing activities</b>	<b>(674,000)</b>	<b>5,303,773</b>
<b>Net cash applied during year</b>	<b>(21,862)</b>	<b>(222,480)</b>
Cash, beginning of year	210,723	433,203
<b>Cash and cash equivalents, end of year</b>	<b>188,861</b>	<b>210,723</b>
<b>Cash and cash equivalents are represented by:</b>		
Cash	150,501	199,882
Short term investments	38,360	10,841
	188,861	210,723
<b>Supplemental cash flow information:</b>		
Interest paid	276,220	150,254

*See accompanying notes*

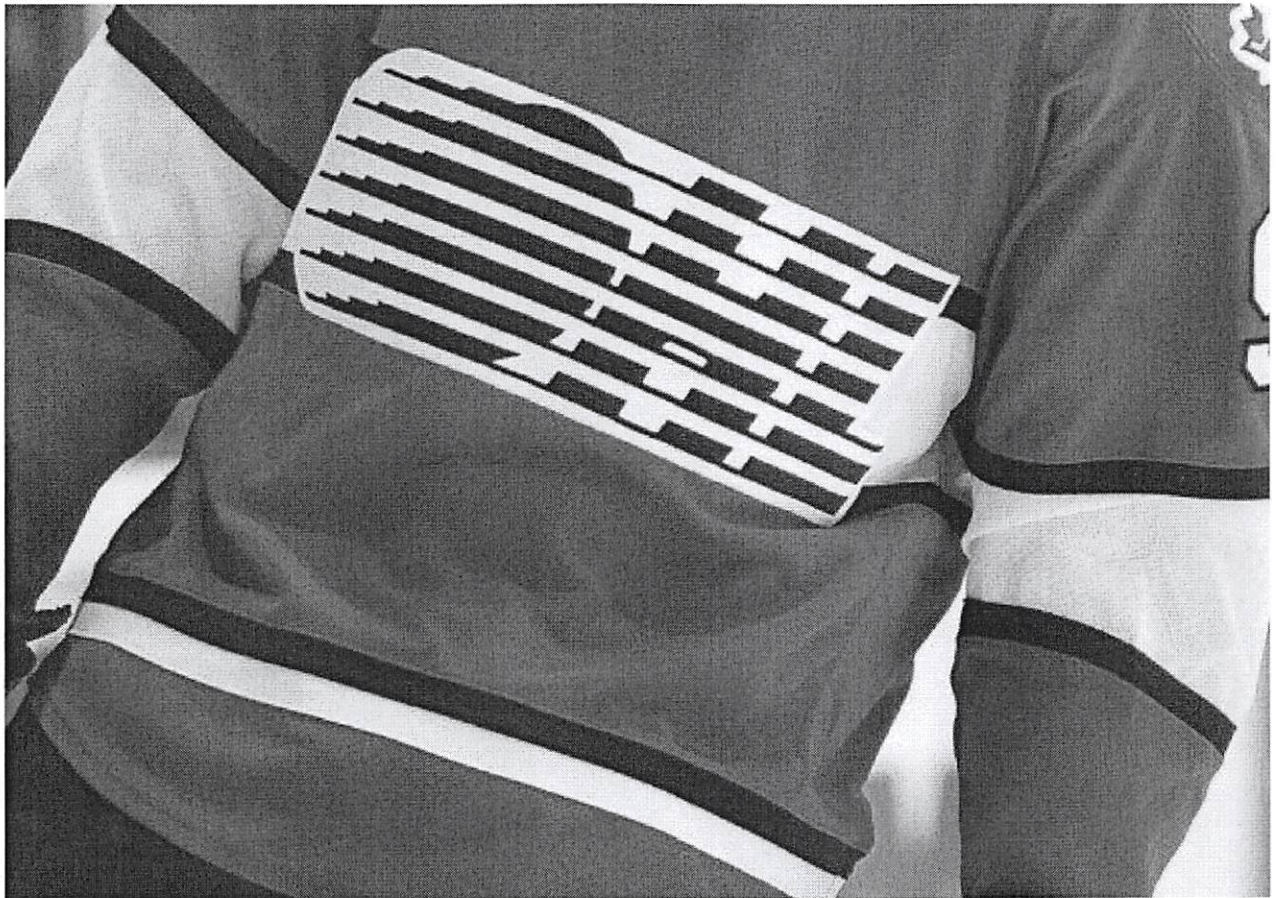
## SPORTS LOCAL HOCKEY

### MAJOR JUNIOR HOCKEY Business comes first for OHL



By Morris Dalla Costa, The London Free Press  
Wednesday, October 29, 2014 8:34:45 EDT PM

This is Exhibit "EE" referred to in the  
affidavit of Brendan O'Grady  
sworn before me, this 15<sup>th</sup>  
day of June, 2016  
[Signature]  
A commissioner for taking affidavits



Major junior hockey does not need a union.

It does need to acknowledge that it is a business first, that most of its teams operate as a business first and as such, needs to give its employees more options, both financial and in how they are treated.

For ease of identification and because the London Knights play in the Ontario Hockey League, we'll use the OHL as the baseline league for major junior.

Right now, those who run junior hockey in Canada are rattled by what's happening around them and well they should be.

They are facing a \$180-million class-action suit demanding that their players in Canada be paid minimum wage.

There is also a continuing movement to form a union for major junior players.

At one time all this would have been laughable. That was when everyone believed sports should be given a pass when it came to playing the rules the rest of the world played by.

The simplistic thought is done like dinner, as hockey players are wont to say. Courts don't look at sports as a separate entity. In fact, many look at sports as prime hunting ground for picking off strays that refuse to understand sports and the rest of the world are now one and the same.

If major junior hockey doesn't want to be picked off, it needs to do everything it can to make things better for its players or it could find itself not only with a union but having to pay out a chunk of money as well.

It would be difficult for anyone to argue that the OHL or teams like the Knights, Windsor Spitfires or Kitchener Rangers, don't operate as big business. The whining that other teams aren't as well off may be accurate but of no consequence. Like any business, you either survive or go under.

Pleading poverty when you are a partner in a business with a major television contract and major sponsors rings hollow.

It's just as difficult to argue that your hockey players aren't employees.

Gene Chiarello, a former Knights' goaltender who played for four years and is now a lawyer in London who specializes in employment law says the issues can cut both ways.

"There is no doubt though that playing junior hockey is a large commitment by the players," Chiarello says.

It's as far as Chiarello will go.

But when you look at the number of hours the players put into playing hockey, practicing, travelling and representing their team in the community, they are at the least 37-hour work weeks like regular working stiff.

The poor stiff working for minimum wage at one or two jobs has a family to support. He or she has to pay rent; has expenses for food; utilities. If they have kids going to school, they may have to pay for that education.

Junior hockey players have room and board already paid. The players in the OHL are given \$470 per player per month for sundry expenses. When they travel for their business, expenses are taken care of.

Players are enticed to play in the league because of the promise it holds for a professional career but hey the league says, if it doesn't work we'll give you an education package that can be used while playing in the OHL or at a later date; more about that later.

How much of that comes off the table if the league unionizes or if a minimum wage is legislated?

As Chiarello says, it does cut both ways.

No one is questioning the intentions of CHL president David Branch. He has been a leader in efforts to make the game better for the owners who pay him and the players that play in his league.

But in this case, it's going to take more than a debate on whether players are employees or not. The teams make money by using those players to attract fans and sponsors.

Sure the league gives players education packages but if a player doesn't use it, he loses it. The player also has a limited time, 18-months after he's out of junior hockey, to collect on the package. Guarantee some money for a player who decides he doesn't want to use the education package. Extend the time frame a player has to use the money for education. Not a lot of kids are sure what they want to do at the age of 21 or 22 or 23.

If that education money is indeed to make life better for a hockey player who won't play professional hockey, why limit it to college or university. There are trade schools, or independent education facilities that teach someone how to sell a house, become a cop or a hair dresser?

Maybe a hockey player would like to take that money as seed money for a business.

How about making life easier for the junior hockey player when he is playing the game? Limit the number of times a player can be traded in his career. In fact, move the trade deadline to a later date so the kid who is in high school isn't traded just before or in the middle of high school exams.

If junior hockey plays its cards right it can fend off union challenges while making the league a better place for its employees.

[Read more comments on this article](#)

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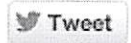
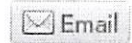
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Comments for this thread are now closed.



# MAJOR JUNIOR LEAGUES UNDER FIRE FROM DISGRUNTLED EX-PLAYERS


Posted on November 1st, 2014 in [Other News](#)



With files from [Rick Westhead](#), TSN

Twin lawsuits were filed Friday against the Quebec Major Junior Hockey League and Western Hockey League by former player Lukas Walter.

Walter, a 21 year old left winger from Langley, BC, played 117 games over two seasons with the Tri-City Americans, scoring 1 goal and 4 assists, with 165 PIMs; and 53 games with the Saint John Sea Dogs of QMJHL, scoring 1 assist and 141 PIMs.

This is Exhibit "FF" referred to in the affidavit of Brendan O'Grady sworn before me, this 15<sup>th</sup> day of June, 2016  
  
A commissioner for taking affidavits

## An error occurred.

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Try watching this video on [www.youtube.com](http://www.youtube.com), or enable JavaScript if it is disabled in your browser.

In his \$50-million case against the QMJHL, Walter alleges that the league's teams conspired to rewrite standard player contracts last year to avoid paying players the legal minimum wage.

In a second, \$60-million case filed in Calgary against the WHL, Walter alleged that the work visa the Tri-Americans secured for him to play for them is proof he had an employer-employee relationship with the team, and should be paid at least minimum wage.

The lawsuits were both obtained by TSN.

Over the past months, the Canadian Hockey League's three major junior leagues have come under fire from former players and union organizers over their working conditions for players.

While few of the CHL's star players have complained, other lesser-known players contend that they are receiving a pittance while playing for leagues that have become big business.

A recent lawsuit showed that former Oshawa Generals president Patricia Campbell was paid \$150,000 during her first year on the job. Player agents say coaches and general managers of teams make some \$200,000 each per year.

"So why are players, 95 per cent of whom won't have long careers in the NHL, expected to work for free?" asked one NHL player agent. "The CHL and its supporters say, 'fine, we'll pay minimum wage and you'll get room and board for your sticks and room and board.' But that's a ridiculous argument. Does Ford make its workers on the line pay for tools? It's the cost of doing business."

The agent also pointed out that room and board wouldn't be necessary if the CHL dropped its player draft and allowed players to play for teams near their family home.

Walter played the 2013-14 season with the Saint John Sea Dogs. According to his statement of claim against the QMJHL, Walter signed a contract as a 20-year-old player with Saint John on Sept. 13, 2013, and was to receive \$476 per week in compensation, and another \$90 a week for accommodation, court papers and travel, court papers say.



He alleges that he was paid \$8,314.29 for the six-month season, and that a record of employment show that he officially worked 1,048 hours over that time for the team.

"Lukas's bi-weekly pay was always the same, no matter how many hours each week he worked for the team," his lawsuit says. "In some weeks, he did not receive a fee equivalent to minimum wage, nor did I receive any vacation pay, holiday pay or overtime pay as required under the applicable employment standards legislation."

Walter alleged teams in the QMJHL have "unlawfully, maliciously ... conspired and agreed together, the with the other, to act in concert to demand or require that all players sign a contract which (they) knew was unlawful."

Walter is asking that the Quebec court certify his case as a class action lawsuit and award damages of \$1 million.

Walter's allegations have not been proven and the QMJHL and Sea Dogs have not filed a response in court. CHL commissioner David Branch did not respond to an email seeking comment. A QMJHL spokesman couldn't be reached for comment. A Sea Dogs spokesman referred calls to the QMJHL.

In a second lawsuit filed later Friday, Walter said that he played the 2011-12 and 2012-13 seasons for the Tri-City Americans, earning (U.S.) \$70 a week in his first season and (U.S.) \$85 a week during his second season. Walter is Canadian and the Americans play in Kennewick, Washington. In order for him to travel with the team, its officials acquired him a P-1 work visa for "internationally recognized athletes."

"The entire time he played for the Americans, he was not a student at any time," the lawsuit says.

Walter has sued for \$45 million worth of back pay, holiday pay and overtime, and \$15 million in punitive damages. He is also seeking to certify the Alberta case as a class action.

"We have not yet had the opportunity to review the lawsuit received late this afternoon," said WHL commissioner Ron Robison in a statement. "The WHL will however vigorously defend our player experience and the extensive investment our ownership makes in our players. We will also be addressing those matters that are being taken out of context and used in lawsuits which have been orchestrated by individuals who have no association with the Canadian hockey system or the WHL."

"WHL players are amateur athletes who are registered in the Canadian amateur system and they receive an extensive benefit package while playing in our League. There is no indication from our current players or their families that they are being treated in any way but a highly fair and respectful manner."

Walter's lawsuits came days after another lawsuit was filed by former Ontario Hockey League player Sam Berg against the CHL, the governing body for 60 teams in the OHL, QMJHL and Western Hockey League.

Berg, who just turned 18 on Oct 1, was drafted 282 overall in the 2012 OHL priority draft by the Niagara IceDogs, played one season in the OJHL in 2012-2013 and 8 games with the Niagara IceDogs last season. He is the son of ex-NHLer Bill Berg (546 games, 4 teams), and also an enforcer, scoring 21 points in Junior

A statement of claim filed by Berg on behalf of himself and thousands of other players seeks \$180 million in outstanding wages, vacation, holiday and overtime pay and employer payroll contributions, according to legal documents obtained by TSN.

The documents filed by Berg show players in the OHL receive \$50 to \$120 a week in compensation, while players in the QMJHL get \$35 to \$150, depending on the age of the player. Those aged 16 to 19 get \$50 a week in the OHL and \$35 a week in the QMJHL.

CHL president David Branch has repeatedly said that players in the CHL are student athletes, and are not compensated, thanks largely to an education program the league has in place that provides some players with university scholarships when they are done playing.

That description of players as student athletes is now under fire in Walton's lawsuit.

In past years, players were described as independent contractors by teams in their contracts.

But in 2013, at the same time as questions were being raised in the U.S. over whether NCAA student athletes receive their fair share of compensation, the CHL redrafted contracts to remove references to independent contractors, Walton's lawsuit alleges.

Instead the players' fees were recast as an allowance.

QMJHL teams have reworded the former contract to describe the fee as an allowance and to recast the status between players and clubs as one of 'student athletes' in an attempt to avoid minimum-wage law, Walton says.

In the wake of Berg's lawsuit and as the union, Unifor continues efforts to start a players union for major junior hockey, several player agents told TSN that it's common practice for teams to give players T-4 tax slips, which they say is evidence that players are employees, not student athletes as Branch describes them.

On Oct. 23, before Walton filed his lawsuit, TSN sent Branch a series of emailed questions.

One question was: "Some OHL teams issued T4 slips for the 2013 tax year ... doesn't that establish an employee-employer relationship?"

Branch replied on Oct. 24 that "we are not currently issuing T4's and we are not certain what the past practices of our Clubs may have been. The teams are responsible for filing their own tax documents and the league doesn't have access to their detailed information."

While TSN has learned that the CHL also has a new TV contract with Rogers Communications that is worth at least \$5 million a season (the previous TV contract was a barter deal with no rights fee), Branch declined to discuss terms of the CHL's TV contract.

The CHL teams also have relationships with video game companies, as noted by Walton in his lawsuit against the Americans and the NHL.

"The (WHL) used images of Luke for their own profit, including, but not limited to selling the use of his image and name to video game companies for use in a video game which Luke purchased at full price with his own money," Walter's lawsuit says.

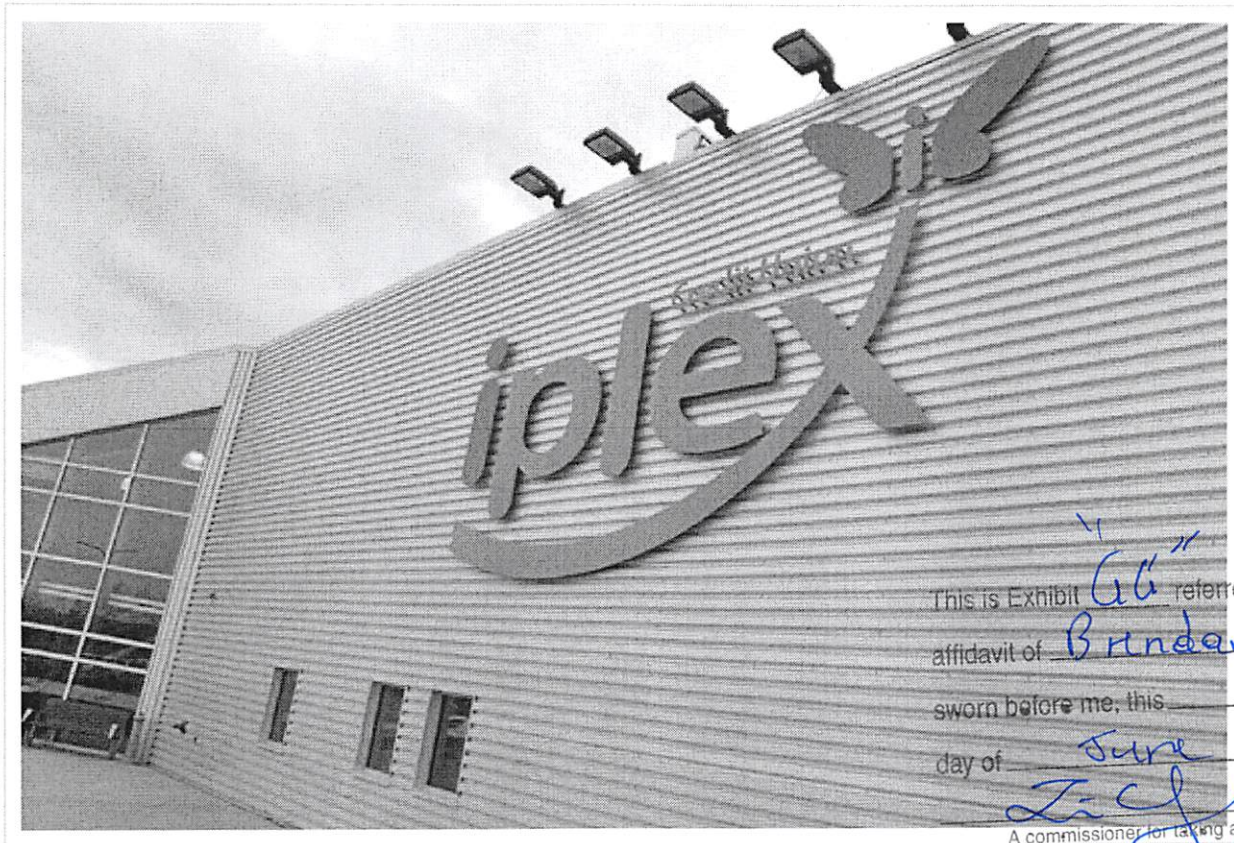
Branch, meanwhile, was also asked about recent changes to the standard players agreement (SPA) in the OHL.

"I will reiterate that 97 per cent of our players are represented by agents, in addition, the players and the parents are required to sign the SPA and to either provide a certificate of independent legal counsel or a waiver of such," Branch wrote.

Friday, 09 October 2015 04:24

# Financial success continues for Swift Current Broncos during 2014/15

Written by Matthew Liebenberg



**The Swift Current Broncos has recorded solid results for the 2014-15 financial year due to fan support, a first-round playoff appearance and successful fundraising events.**

The hockey team announced a profit of \$133,465 at the annual general meeting of Broncos members at the Credit Union iplex Sept. 29.

Broncos Board of Directors Chair Liam Choo-Foo felt the team is achieving the strategic framework goal to be a premier franchise in the Western Hockey League.

"The main idea for us is to have a few key priorities that everyone in our organization is aware of, to have a vision that we know we're working towards," he said during a media briefing before the annual general meeting. "It doesn't matter what role you have in our organization, you know that within that role you're trying to make the Swift Current Broncos a premier franchise within Western Canada. That's something that we look for in terms of actually generating this profit."

He noted there has been a slight increase in season ticket sales and the Broncos have received great support from the corporate community.

"Those coupled with a few other tweaks that we've done in terms of some of our inventory and our accounting

practices have allowed us to move forward on both a cash basis as well as a paper basis as an organization," he said. "A pretty significant piece in terms of that paper basis was an adjustment to the education fund, which was roughly a \$100,000 adjustment that made our bottom line look much better."

The board announced a new, three-year strategic plan for the hockey team in 2012. Board members continue to review that plan on an annual basis to ensure that the long-term vision is achieved.

"A long-term vision for a club about being a premier franchise is something that in essence you never actually attain, but it is something that you're always striving to move forwards to and is also used to help you in the decision-making process," he said. "So at the end of the three-year period, the board did renew the entire three-year plan and then this past year we tweaked some of those goals within the plan."

According to Choo-Foo, the board had a solid plan in place for the different aspects of the team's operation, including the hockey side, the business side and franchise enhancement.

"I think all of us would have probably liked to have seen a little bit longer run in the playoffs," he said. "A few things didn't fall our way right at the end of the season. Sometimes you can have everything set up and things just don't work out the way you'd like. I think until we're standing here with a deep run into the playoffs there will always be some disappointment around that, but at the same time I'm really proud of the way that Mark and our coaches and our players were able to dig in through a little bit of adversity that they had to handle throughout the year."

The Broncos finished the 2014/15 regular season with a 34-33-1-4 record. The team was seeded third in the east division and lost to second place Regina in four games during the first round of the playoffs.

"There's a lot of things you can get frustrated with in playoffs and it wasn't our goal to get beat, especially four straight, that's for sure," Broncos General Manager and Head Coach Mark Lamb said.

He noted a number of players faced some challenging issues during the playoffs and the team was unable to regroup. Jake DeBrusk, who led the team in scoring with 42 goals and 39 assists, suffered a concussion in the third playoff game in Swift Current. Defenceman Dillon Heatherington, who won gold with Team Canada at the World Juniors, had flu and could not play.

"When you have your best defenceman and your best forward out, I think a lot of guys on the team just thought it was too much of an uphill battle to even get out of that until we got those guys back," Lamb said. "We probably wouldn't have got Jake back that whole series."

The loss of Finnish player Julius Honka to the American Hockey League's Texas Stars was another factor during last year's hockey season.

"We had to change our thinking and how we were managing our team and we did that," Lamb said. "It was hard; you can't replace that type of guy. So we had to change a few things. How we ended last year we're not happy with at all. We don't want to go out in the first round all the time and you have to make adjustments."

He felt the 2015/16 season might be a bit of a transition year for the team younger players trying to find their feet.

"We've got some real good young players that haven't played a lot in the league," he said. "We'll have to give it about a month and get this team playing and see exactly where we're at."

The profit of \$133,465 for the 2014/15 season is lower than the \$197,244 for the 2013/14 season, but Broncos Assistant General Manager and Director of Business Operations Dianne Sletten is upbeat after the team achieved a third year of profit.

"We're definitely heading in the right direction, for sure," she said. "We've done a lot of things to try and really make a younger fan base and I think that's what we're seeing now where we've had increases in our concession and our souvenirs and alcohol and 50-50 and all those extra things that we do to make it work. We're definitely seeing increases in those areas over the last three years and I think that's what's helping us to be more successful now."

The team will continue to focus on attracting more Bronco fans to the games as a way to continue to improve the financial situation. The average game attendance of just under 2,200 was between 40 and 50 people more than the previous season.

"We have to get more people in the seats," she said. "That's definitely where we have to work and that's where the focus is on this year again. We always put a focus on that, but we're doing some concentrated things this year to really try and increase the burns in the seats."

A two-night tractor pull event was a fundraising success for the Broncos and the annual Cody Snyder Professional Bull Riders (PBR) Invitational continues to attract a large crowd.

"This year the main one will be the PBR," she said. "We're working with World Curling this year as well. So that is a bit of a fundraiser for us in terms that we're selling the tickets and we'll work with curling and the beer stands and that type of thing."

The Broncos introduced a new jersey and logo during the 2014/15 season with blue and white jerseys and the return of the horseshoe logo.

"From what we heard I think people were really pleased with the change," she said. "They love the colours. We heard that from all across the league that we have one of the nicest jerseys, if not the nicest."

According to Sletten the merchandise sales increased by about \$50,000 during 2014/15, which is directly related to the new jersey and logo. Bronco fans can look forward to some more interesting clothing items at the Stable.

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# TIMES COLONIST

## Graham Lee: WHL saviour, concert king, entrepreneur

Mike Devlin / Times Colonist  
October 24, 2014 04:00 PM



This is Exhibit <sup>4</sup> HH referred to in the  
affidavit of Brendan O'Grady  
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Graham Lee, owner of the Victoria Royals, employs 4,000 people among the businesses in his GSL Holdings Ltd.  
Photograph By BRUCE STOTESBURY, Times Colonist

The man who built Victoria's arena, brought back major junior hockey and led us out of the wilderness with world-class entertainment took little for granted as a kid.

Success was never a given for Graham Lee until he earned his keep, learned the ropes and paid his dues.

"We didn't grow up with silver spoons," said Lee, founder and chief executive of GSL Holdings Ltd., the parent company of RG Properties, which operates Save-on-Foods Memorial Centre and owns the Victoria Royals hockey team.

"We lived very frugally."

The expectation was that Lee would make something of himself, an ethic instilled in all four siblings by their father, Robert H. Lee, a prolific Vancouver real estate developer awarded both the Order of B.C. and the Order of Canada for his philanthropy and business developments. His presence continues to loom large in Lee's life, as does the influence of other family members such as his uncle Ron Lou-Poy, a former chancellor of the University of Victoria.

With that inherent drive, it was inevitable Lee would work hard and aim high. Evidence of his entrepreneurial bent emerged early, at age six, when Lee started selling his Halloween treats for a nickel apiece. "When I was young, I didn't know there were 9-to-5 jobs. I thought everybody went out and found businesses to run. As a kid, I thought that's what I had to get ready for."

Lee developed an early business sense, which has served him well on various fronts, including the conception, construction and continued operation of Save-on-Foods Memorial Centre.



(<http://www.timescolonist.com/business/capital>)

**[Click on the cover to read the fall 2014 issue of Capital magazine online](#)**

Lee's RG Properties opened the \$30-million multi-purpose venue, which replaced the Memorial Arena, in 2005. A once concert-starved city came to life with acts such as Bob Dylan, Cher, Elton John and Rod Stewart. Lee also brought high-profile sports back to Victoria — which had been without a professional or major junior hockey team since 1994 — first with the ECHL's Salmon Kings and now with the Western Hockey League's Royals.

Lee shouldered part of the risk to build the arena, spending \$12 million in a public-private partnership where the City of Victoria owns the land and building and RG Properties operates the facility. Through a 40-year lease agreement, Lee sees it as a relationship with benefits for both sides.

According to the latest revenue-sharing contract, running from 2015 to 2025, RG Properties pays the city an annual fee of \$235,000 to operate the building and the city receives a per-ticket surcharge for both hockey and non-sports related events, ranging from 50 cents to \$2 per ticket, depending on the admission price. RG Properties is responsible for any losses.

RG booked 31 non-hockey events in 2007, its busiest year to date. On average over the past decade, 22 non-hockey events have been staged ever year, with the bulk of these events being concerts.

"We have paid the city over \$6 million for its share of operating revenues, all tickets sold and naming rights over the 10 years we have operated," said Lee.

"It's a partnership. It's a very long-term arrangement, and we have a very strong attachment to the building. It's not like a typical lease-holder of a shopping mall, who doesn't have an attachment to the building. At the end of the lease, they can move out. Our team put our hearts and souls in this building and a lot of money."

Victoria architect Alan Lowe, mayor when the arena was built, credits Lee with playing a pivotal role in raising the off-island profile of Victoria. The old Memorial Arena, built in 1949, was outdated and under-sized. The new arena, which holds 7,000 for hockey games and 8,000 for concerts, puts Victoria on a level playing field in the province, both economically and culturally. "[Memorial Arena] was losing \$500,000 a year and no concerts were coming," Lowe said. "Now, we have a hockey team, concerts are happening and the city is making money. It was a win-win."

Even the most critical agree the arena was a boon. The quality of hockey improved in 2011 when Lee acquired the WHL Chilliwack Bruins franchise, brought the team to Victoria and named them the Royals. And the concert activity is much higher than average for a comparably sized city in Canada.

Lee was well on his way in business by the time he graduated from the University of British Columbia in 1987. With momentum from a school project and a \$150,000 loan from his family, he created his own property development company to buy industrial sites. He named it RG — an abbreviation melding Lee's first initial with that of his father, Robert.

Graham Lee's GSL Holdings is the parent company to several businesses and considered one of the largest private employers in B.C. with more than 4,000 on its payroll and annual operating revenues of \$50 million. GSL includes the building and operation of multi-purpose arenas and recreation facilities, e-commerce, hospitality, sports and entertainment, fitness centres and agriculture. Subsidiaries include RG Properties, Planet Ice, Planet Fitness,



Boomers Bar & Grill, Leeberry Farms, the Victoria Royals, RG Sports and Entertainment and RG Construction Ltd..

RG Properties started building hockey rinks around Vancouver in 1995. Lee's big break in the hockey-entertainment sector came in a chance meeting with a Kelowna city councillor during a plane ride home from Las Vegas. An arena was to be built in Kelowna and Lee was interested. While other construction bids fell apart or were rejected, RG Properties got a green light for its ambitious plans.

Prospera Place opened in 1999 with in-house restaurant, luxury suites and club seats — traits that became RG's trademark in arena projects. "No one in North America" was building small arenas with a big-market feel, Lee said. "It's a huge success."

In Victoria, RG Properties' long-term lease with the city is essentially viewed as ownership for Lee. But that has its disadvantages. As the operator, Lee is on the hook for upgrades to the building. And the equity of his investment will ultimately benefit an entity other than his own.

"I will spend money there, regardless of the fact we don't physically own the building. I spent a lot of money putting up video screens. I didn't need to do that, but that is something I wanted to do, because I thought it would give a better fan experience. I will keep spending money on the building, even though I don't expect to get a return. But hopefully it improves, indirectly, the experience for fans."

Despite his Vancouver base, Lee has Island roots stretching to 1911. His grandfather arrived in Victoria "with nothing but a dream" and managed to build a life for his family despite arriving without knowing any English. The Lee family tree also made its way to Alert Bay before landing in Vancouver. Lee's father, Robert, who became chancellor of UBC in 1993, made his mark in real estate and still lives on the Lower Mainland, where Lee, his wife, Angela, and their four children also make their home.

The torch will be passed one day, Lee said. Some of his children already help in facets of the family business, which he hopes will continue in the future. There is certainly room for his family to find their niche: RG Properties has a diversified portfolio that ranges from Wembley Mall in Parksville to mixed-use Planet Ice facilities in Coquitlam and Maple Ridge.

"I have big shoes to fill," Lee said of his family's legacy.

"But I am still living that dream my grandfather had over 100 years ago. It is more possible today in B.C. than it ever has been, and building the arena in Victoria is part of that dream for me."

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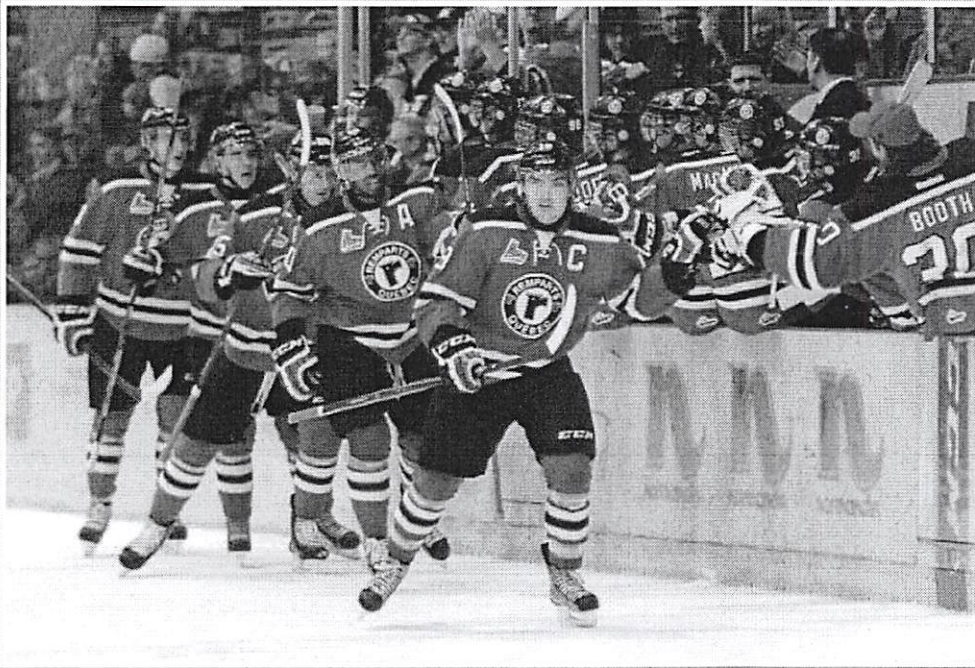
# The Hockey News

## Quebec Remparts sold for between \$20 million and \$25 million: Source



By: [Ken Campbell](#) on November 27, 2014

Filed under: [Colorado Avalanche](#), [Expansion](#), [Hockey Business](#), [Major Junior](#), [News](#), [NHL](#)



Quebec Remparts (Photo by Richard Wolowicz/Getty Images)

For those who like to portray junior hockey as a string of Mom and Pop operations that struggle to make ends meet in the face of mounting efforts to unionize the players, today could not have been a good-news day.

According to multiple reports, the Quebec Remparts of the Quebec League have been sold to media giant Quebecor. (Which, in the interest of full disclosure, recently negotiated the purchase of 15 magazines from Transcontinental Media, one of which is *The Hockey News*.)

And you can be sure the sale was a blockbuster. We know the Remparts are worth a minimum of \$16 million, since three years ago, a 25 percent stake in the franchise was purchased for \$4 million by Andre Desmarais, co-CEO of Power Corporation. One source with knowledge of such matters said the deal was north of \$20 million, and could perhaps be as high as \$25 million. All of which means Colorado Avalanche coach [Patrick Roy](#), who purchased the Beauport Harfangs franchise for \$2 million in 1997 and moved it to Quebec City, will have a much, much fatter wallet.

This is an intriguing deal on several fronts, not the least of which is what it means to Quebecor's attempts to get either an expansion or existing franchise in its new arena, which is scheduled to be completed in the fall of 2015. The \$400 million, 18,000 seat arena is a public-private effort with an heavy emphasis on the public. Quebecor is paying \$33 million for the naming rights and it's expected the Remparts will move into the new digs and keep them warm in the anticipation of getting an NHL team.

Make no mistake, though, owning the Remparts is good business even without an NHL team. The Remparts draw an average of about 10,000 to the Pepsi Colisee, the former home of the Quebec Nordiques, and will host the Memorial Cup this spring, which should fill the coffers quite nicely. As we all know, costs of running a major junior team are low and when you get the kind of tickets sales and corporate sponsorship the Remparts get, it is a major cash cow.

But you'd have to think there's more at play here. If those wanting an NHL team can prove to the hockey world that they can come close to filling an NHL arena for junior hockey, it will demonstrate even further that Quebec City is a fertile market for the NHL and it is ready to get its team back.

After all, the strategy worked magnificently for Winnipeg. Despite being home only to an American League team, True North Sports and Entertainment demolished the downtown Winnipeg Arena and replaced it with the 15,000-seat MTS Centre in 2004. And seven years later when the NHL was desperate to find a landing place for the Atlanta Thrashers, Winnipeg had an NHL-ready arena – albeit a small one by big-league standards – to accept them. Had Quebec City had its arena built by then, perhaps the Thrashers would now be the Nordiques.

Quebecor, which also owns the TVA Group, negotiated a deal with Rogers in which they'll pay \$120 million a year to be the French language broadcaster of the NHL. So with its tentacles spreading throughout the

This is Exhibit II referred to in the  
affidavit of Prendan O'Grady  
sworn before me, this 15<sup>th</sup>  
day of June, 2016  
[Signature]  
A commissioner for taking affidavits

hockey landscape, Quebecor is undoubtedly readying itself for bigger things. Included in the new rink is a lavish television studio for TVA, which would give the network the ability to be up and running as a broadcaster if an NHL team comes to town.

Regardless, it looks as though there will be hockey in the new Quebec City arena the day it opens. It might not be exactly what the patrons are seeking, but they're willing to be patient.

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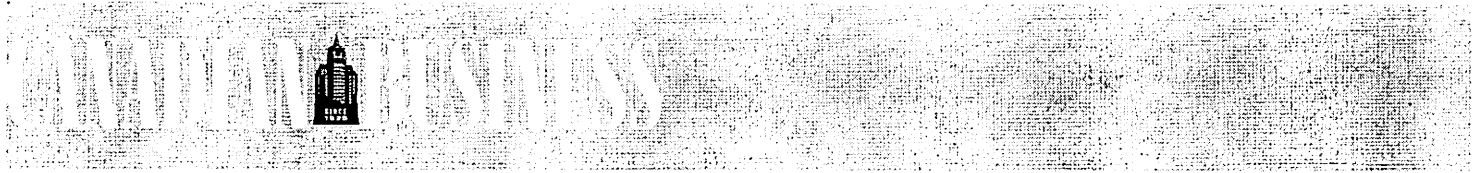


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## Quebecor buys the QMJHL's Remparts:

Nov 27, 2014 The Canadian Press

QUEBEC – Quebecor Inc. has become the new owner of the Quebec Remparts in what it hopes is a step in the right direction to get an NHL franchise.

Gilles Courteau, commissioner of the Quebec Major Junior Hockey League, announced the deal at a news conference on Thursday accompanied by Quebecor CEO Pierre Dion.

The value of the transaction was not disclosed but The Hockey News pegged it at between \$20 million and \$25 million.

The media conglomerate has bought the franchise from various businessmen as well as from Colorado Avalanche coach Patrick Roy.

Courteau also announced that, as of next September, the Remparts will play in a new Quebec City to be named after Quebecor (TSX:QBR.B).

"We're trying really hard to land an NHL team," Dion said. "If one day we get one, the operations of both teams would be integrated into the same organization.

"They would share the new arena, as is the case in other North American cities."

Quebecor currently owns 70 per cent of the QMJHL's Blainville-Boisbriand Armada and might to have to sell off the stake in the Montreal-area team.

The timeline for the sale would be made public at a later date.

# The Hockey News

## CHL lawsuit symbolizes larger struggle in elite amateur sport



By: [Adam Proteau](#) on October 20, 2014  
Filed under: [Amateur](#), [Hockey Business](#), [Major Junior](#), [News](#), [Prospects](#)



Canadian Hockey League logo (courtesy CHL)

On a macro level across North America, there's an ongoing battle for the hearts, minds – and most importantly, the monies – of elite teenaged athletes who are major revenue generators for their development leagues. In the United States, the NCAA collegiate system is involved in [a momentous high-stakes showdown with former athletes](#) – with potential repercussions that could shake their business model to its foundations. And in Canada, a similar war is being fought at the major junior hockey level, with the latest volley taking place Friday: a \$180-million lawsuit filed against the Canadian Hockey League [by former players](#) (including former Niagara IceDogs player Sam Berg, son of retired NHLer Bill Berg) seeking outstanding wages, holiday, overtime and vacation pay and employer payroll contributions and alleging basic minimum wage laws were broken.

Leave aside the particulars in both cases, and you're left with the same essential questions: if we've turned amateur sports into big business, how much of the cut do amateur athletes deserve? And why do owners get to dictate that players' dreams of playing in the best league they can has a monetary value equal or greater to the actual money their current organizational structures bring in? It's been a Canadian tradition to romanticize players chasing their dreams for free, but when everyone can see the amount of money that's being made, why is it so unfair for athletes to be included in the financial windfall? Certainly, it's worthwhile to ask who is involved with any particular lawsuit – and in their initial response to Friday's suit, the three commissioners involved at the junior hockey level (OHL commissioner David Branch; QMJHL commissioner Gilles Courteau and WHL commissioner Ron Robison) did exactly that. While promising they would "vigorously defend" against this latest legal action, the trio accused brothers Randy and Glenn Grumbley, union activists who attempted to start the [Canadian Hockey League Players' Association](#), of being behind it.

"Despite all mentions to the contrary, recent communications and social media posts by Glenn Grumbley of the CHLPA lead us to believe that the Gumbleys are still actively involved on the fringes of junior hockey in Canada and with this action," the commissioners said in a joint statement. "The CHL will once again issue warnings to our players and their parents cautioning them about the Gumbleys."

The commissioners also pointed out the strides the CHL has made in recent years in terms of improving its scholarships for players – or "student athletes", as the league has taken to calling them – as well as the funding it puts in place for billeting, mental health and mentoring programs. That is undeniable and commendable. But is it enough? When the CHL is profiting from relatively new revenue streams that include [satellite TV](#) and [internet](#) packages and has [corporate partners](#) that would make many other professional leagues [jealous](#), does \$35 a week – as some OMIHLers make on the low end of the scale – constitute a fair ret

Berg and the other  
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O'Bannon sued and has caused the collegiate monolith great consternation with fears over what the landscape might look like if the status quo isn't maintained.

The same fears were raised by the three CHL commissioners Monday. They said Berg's lawsuit "will not only have a negative effect on hockey in Canada but through all sports in which amateur student athletes are involved." But there's certainly no proof they offer to buttress their argument.

On the other hand, there are the athletes themselves, some of whom are speaking in stark terms. Berg told the *Toronto Star* "A lot of us see it like OHL players are used like racing greyhounds. (The league and team owners) use us until they can't anymore and then kick us to the side." Clearly, they've experienced the "negative effect" the commissioners spoke of.

Regardless of how you feel about either side, it's impossible argue this issue is close to being solved to the satisfaction of all involved. Berg's lawsuit may fail, but if the CHL doesn't continue modernizing the manner in which it compensates athletes, our litigious world all but guarantees the dissatisfaction that has boiled just beneath the surface at the junior level for decades will be tapped into again in a different courtroom with different plaintiffs.

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# Ex-owner of junior hockey team to get \$1.4M from sale

By - Associated Press - Wednesday, August 12, 2015

ERIE, Pa. (AP) - The former owner of the Erie Otters is expected to get more than \$1 million from the sale of the team in bankruptcy court.

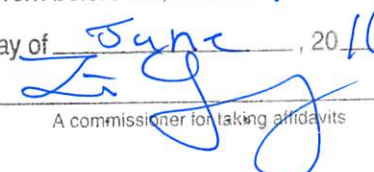
The Erie Times-News reports (<http://bit.ly/1Mo6DpO>) about \$1.4 million will go to Sherry Bassin after the Otters' bankruptcy estate uses the sale proceeds to pay its costs and creditors. Bassin sold the Ontario Hockey League franchise to retired Canadian broadcaster James Waters for \$7.2 million on July 17. The team will stay in Erie.

Bassin filed for Chapter 11 bankruptcy protection in April, largely because of a \$4.8 million debt claimed by the National Hockey League's Edmonton Oilers, the team's biggest creditor.

A lawyer for Bassin declined to comment.

Information from: Erie Times-News, <http://www.goerie.com>

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11  
 This is Exhibit KK referred to in the  
 affidavit of Brendan O'Grady  
 sworn before me, this 15<sup>th</sup>  
 day of June, 2016  
  
 A commissioner for taking affidavits