

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
EXPRESS GOLD REFINING LTD.**

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TO : THE SERVICE LIST

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# TAB 1

Court File No. CV-20-00649558-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**AFFIDAVIT OF SEAN EVANS**

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TO : SERVICE LIST



Court File No. CV-22-00684542-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
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**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
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**AFFIDAVIT OF SEAN EVANS**

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I, **SEAN EVANS**, of the City of Ottawa, in the Province of Ontario, **AFFIRM THAT:**

1. I am a Senior Appeals Officer with the Commodity Tax, Charities and Specialty Tax Division of the Tax and Charities Appeals Directorate of the Appeals Branch of the Canada Revenue Agency ("**CRA**"). I have carriage of the tax appeal file relating to Express Gold Refining Ltd. ("**EGR**"). As such, I have knowledge of the matters about which I depose herein, except where I state my knowledge is on information and belief. Where I have referred in my affidavit to information obtained from specific sources, I believe that information to be true. Where I have referred in my affidavit to information without expressly disclosing the source, the information was derived from my first-hand knowledge, the filed court materials, or my review of the CRA files pertaining to this matter.

A. **Tax Appeal before the Tax Court of Canada**

2. By a Fresh as Amended Notice of Appeal dated September 11, 2020 (“**Notice of Appeal**”), filed in the Tax Court of Canada (“**TCC**”), a copy of which is attached as Exhibit “**A**”, EGR appealed the CRA’s reassessments of 26 monthly Goods and Services Tax/Harmonized Sales Tax (“**GST/HST**”) returns filed by EGR for the period from June 1, 2016 to July 31, 2018 (“**Reassessments**”).
3. By an Amended Reply to Fresh as Amended Notice of Appeal dated May 19, 2022, a copy of which is attached as Exhibit “**B**”, the Attorney General of Canada (“**AGC**”) responded to the Notice of Appeal and asked that EGR’s tax appeal be dismissed.
4. By a Directive dated September 8, 2022, (and sent to the parties on October 6, 2022), a copy of which is attached as Exhibit “**C**”, Mr. Justice Russell of the TCC (the “**Case Management Judge**”) refused the request of the Monitor in this proceeding and its counsel to attend the discovery examination of EGR by the AGC in the tax appeal.
5. In a joint letter dated April 17, 2023, counsel for EGR and the AGC jointly requested that the TCC schedule a settlement conference with respect to the tax appeal. Attached as Exhibit “**D**” is a copy of the joint letter. In a letter dated May 29, 2023, a copy of which is attached hereto as Exhibit “**E**”, the TCC advised the parties that their request had been denied and asked them to submit a joint application for a hearing of the tax appeal. EGR did not challenge or raise any concerns with the TCC about the rejection of the request for a settlement conference.

6. Attached as Exhibit “**F**” is Practice Note No. 21 dated November 30, 2018, and issued by the TCC concerning settlement conferences.
7. In a letter to the TCC dated June 12, 2023, a copy of which is attached as Exhibit “**G**”, counsel for EGR made submissions on the timing and conduct of the tax appeal hearing. Among other things, counsel estimated that EGR would need up to 16 hearing days to tender its evidence in the tax appeal.
8. In a letter to the TCC dated June 12, 2023, a copy of which is attached as Exhibit “**H**”, counsel for the AGC also made submissions on the timing and conduct of the tax appeal. Among other things, counsel stated that “the hearing of the evidence [in the tax appeal] will not last longer than 3 months.”
9. I am advised by Sarah Bouchier, who is a senior paralegal on the TCC appeal for the AGC, that Exhibit “**H**” sets out that the 3 months factored in the 16 days (or 4 weeks) required by the appellant to present its evidence/case. Sarah Bouchier advises that the TCC sits for four days each week, so it would take four weeks to hear EGR’s 16 days of evidence. She estimated that it would take an additional eight weeks (32 days) for the TCC to hear the AGC’s evidence.
10. The tax appeal between EGR and the AGC in the TCC is case managed by a Case Management Judge. Discoveries in the TCC appeal have been completed, and all the undertakings given by the parties have been fulfilled or addressed. The parties are prepared to proceed to a hearing and await dates for the same from the TCC.

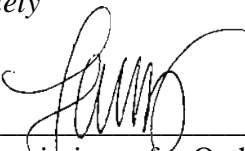
**B. EGR's Other Creditors**

11. At paragraph 20(e) of its 16<sup>th</sup> Report, the Monitor in the within proceeding indicates that “According to EGR’s books and records, as of October 15, 2020, EGR had 108 creditors, excluding CRA, with aggregate claims of approximately \$39.9 million.”
12. Attached as Exhibit “I” is a document from the Monitor’s website listing the creditors of EGR and the amounts owed to each. The total amount owed to the creditors on the list is \$39,933,496.47.
13. I am advised by Cathy Gadzella, Senior Technical Specialist, Aggressive GST/HST Planning Section, that the amounts on the following table represent the Input Tax Credits (“ITCs”) claimed on the GST/HST returns filed by EGR for the periods of August 1, 2018 to October 15, 2020. I am advised by Ms. Gadzella that the CRA has either assessed, and in large part denied, or has not yet assessed, these returns. Based on my conversation with Ms. Gadzella, the total ITCs claimed for all periods of \$37,790,088.05 correspond generally to the claims by creditors for the GST/HST amounts they charged but did not receive from EGR for the same periods.

<b>Period(s)</b>	<b>ITCs Claimed</b>	<b>Status</b>	<b>ITCs Allowed</b>
<b>August 2018</b>	9,130,290.46	Assessed	347,315.87
<b>September 2018</b>	8,600,113.48	Assessed	509,116.76
<b>October 2018</b>	7,185,879.96	Assessed	444,565.81
<b>November 1, 2018- October 15, 2020</b>	12,873,805.05	Not Assessed	N/A
<b>Total ITCs claimed for all periods: 37,790,088.95</b>			

- 14. I am advised by Sarah Bouchier that attached as Exhibit “J” is a copy of a redacted standard contract between EGR and one of its suppliers/customers, dated October 24, 2017. Section two of the contract states that EGR reserves the right to delay payment of GST/HST, at its discretion, for up to three months to ensure proper compliance with the appropriate tax laws. It also states that if the Government Agency has not determined if the payment of the GST/HST has cleared, EGR may agree to continue to delay payment of the GST/HST until such time as the payment of GST/HST has been cleared or denied or EGR may choose to terminate the transaction at the end of such three month period. It further allows EGR discretion to reverse the transaction if the Government Agency determines that the GST/HST should not be paid to the Customer (due to action or inaction of the customer).
  
- 15. I make this affidavit in support of the AGC’s position on the within motion and for no other purpose.

**AFFIRMED REMOTELY** by Sean )  
 Evans stated as being located in the )  
 City of Ottawa, in the Province of )  
 Ontario on this 27th day of October, )  
 2023, in accordance with O. Reg )  
 431/20, )  
*Administering Oath of Declaration* )  
*Remotely* )

  
 \_\_\_\_\_ )  
 A Commissioner for Oaths in and for )  
 the Province of Ontario

  
 \_\_\_\_\_  
**SEAN EVANS**

**THIS IS EXHIBIT "A"**

**Referred to in the Affidavit of Sean Evans**

**Affirmed remotely on the 27<sup>th</sup> day of October 2023**

A handwritten signature in black ink, appearing to read 'Fozia Chaudary', is written above a horizontal line.

**Name: Fozia Chaudary**

**LSO No. 52787D**

**A Commissioner for Oaths in and for the Province of Ontario**

<b>Type of Appeal</b> GST ( Part IX of the Excise Tax ) Act	<b>TCC USE ONLY</b> Ref. #: WEB754749 Appeal no.: _____
<b>Taxation Year(s) or Period of Assessment or Assessment Number(s)</b> \$10,028,332.27	
<b>Date of Reassessment, Confirmation or Decision received from CCRA (dd/mm/yyyy)</b> 22/07/2019	
<b>Name and Address of Appellant</b> Express Gold Refining Ltd. 215 Victoria Street 400 Toronto Ontario M5B 1T9 Canada	
	<b>Appellant Telephone number(s):</b> Residential: Business: Ext: Fax: Cellular:

<b>Representative Name</b> Bryan Horrigan  <b>Address</b> 181 Bay Street Suite 2100 Toronto Ontario M5J 2T3 Canada  bryan.horrigan@bakermckenzie.com	<b>Type of Representation</b> Lawyer  <b>Representative Telephone number(s):</b> Business: (416) 865-6903 Ext: Fax: (416) 863-6275 Cellular: (416) 865-3905
---	---

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**Tax Court of Canada**  
**Ref. #: WEB754749**

**Notice of Appeal - General Procedure**

**Reason for the Appeal**

See attached.



date = 2020-03-16 16:47:38:063  
webRefNum = WEB754749  
registryEmail = toronto.registry-greffe@tcc-cci.gc.ca  
appellantFirstName =  
appellantSurname =  
appellantCompanyName = Express Gold Refining Ltd.  
appellantEmail =  
document(s) = [Notice of Appeal:120043], [Notice of Appeal XML Document:120273], [20200316-1  
(Notice of Appeal to TCC).pdf:120274]

Court File No: 2020-1214(GST)G

TAX COURT OF CANADA

B E T W E E N:

EXPRESS GOLD REFINING LTD.

Appellant

- and -

HER MAJESTY THE QUEEN

Respondent

**FRESH AS AMENDED NOTICE OF APPEAL**

1. The Appellant has its principal place of business at 215 Victoria Street #400, Toronto, Ontario M5B 1T9.
2. The twenty-six reassessments under appeal are dated July 29, 2020 (the "**2020 Reassessments**") and were issued under the *Excise Tax Act*<sup>1</sup> (the "**Act**") for the Appellant's corresponding monthly Goods and Services Tax/Harmonized Sales Tax ("**GST/HST**") reporting periods from June 1, 2016 to July 31, 2018 (the "**Reporting Periods**").

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<sup>1</sup> In this Fresh as Amended Notice of Appeal, all statutory references are to the *Excise Tax Act*, (R.S.C., 1985, c. E-15) unless otherwise indicated.

### OVERVIEW

3. The recycling industry produces approximately 25% of the worldwide pure gold supply. The Appellant operates in that industry as a refiner. It is a family-owned and operated business and the current iteration of the Salama family's involvement in the precious metals business that spans back four generations.
4. The Appellant employs 14 people and operates a specialized facility in downtown Toronto where it carries on its refining business performing various refining functions while arranging for the final stages of refining to be conducted by world-class, third-party, refiners. Its customer base is comprised primarily of jewellery manufacturers, wholesalers, importers/exporters, scrap gold consolidators/resellers, cash-for-gold buyers, prospectors and miners who seek to have their unrefined gold converted to pure gold (a precious metal) so it can be used in industry, manufacturing, trade (mostly as currency), investment or speculation.
5. The Appellant has historically viewed itself as a provider of a service, typically earning 1-2% of the value of the gold refined as gross revenue. Despite this historical view of its business, the Act treats the Appellant's core business activity as a buy/sell of gold – namely, a purchase of GST/HST-taxable unrefined gold and a sale of GST/HST-zero-rated precious metal.

6. As a result, the Appellant is generally required to pay GST/HST to its customers on its "purchase" of unrefined gold (equal to 13% of the gold value that it refines) and claim corresponding ITCs; however, it does not collect GST/HST on its "sale" of pure gold, placing it in a constant large monthly GST/HST net tax refund position.
7. The Appellant historically advocated against this treatment for GST/HST purposes, on the basis that it would have negative cash flow implications and increase tax leakage risk. Such treatment was confirmed by the CRA in a 2013 ruling, which was the culmination of constant and extensive audit activity, as well as substantial interaction between the Appellant, the CRA and the Department of Finance; the Appellant's business having been conducted under the close and constant scrutiny of the CRA ever since.
8. After all of this, the CRA is now alleging that the Appellant is a participant in some scheme that would exploit the anomalous GST/HST treatment that the Appellant advocated against. Specifically, the Appellant has been reassessed contrary to the CRA's own ruling and the Act, on the basis of multiple alternative, sometimes intertwined, baseless theories.
9. The CRA has denied the Appellant's ITCs principally on the theory that they arose in the context of some "carousel scheme" and that the Appellant was a participant in such scheme, either knowingly or through willful blindness. Gross negligence penalties have also been levied.
10. However, the "how", "when", "with whom" and "why" of those spurious allegations all remain a mystery to the Appellant; the CRA having been extremely secretive and vague in describing its bases when reassessing.

11. There was nothing nefarious about the Appellant's business or its purchases of unrefined gold for which it claimed ITCs. The Appellant purchased unrefined gold and paid GST/HST in good faith as part and parcel of its gold refining business, which involves, by its very nature, cycling of gold through various forms and parties. All of the Appellant's transactions were real, commercial transactions and were properly documented.
12. The Appellant was neither involved in any collusion nor complicity with any of its customers (or any other suppliers in the supply chain) in any scheme to divert GST/HST away from the Respondent nor willfully blind. On the contrary, the Appellant conducted its business at all times in compliance with its legal obligations, including the anomalous GST/HST treatment imposed by the Act.

### **MATERIAL FACTS**

#### **The Appellant's Business**

13. The recycling industry contributes approximately 25% of the world's annual gold supply. This industry includes the refining of gold into pure form, which is necessary for market participants to use the precious metals in industry, manufacturing, investment, trade or speculation. The Appellant operates in that industry as a refiner.

14. The Appellant was incorporated under the laws of Ontario in 1994 as the continuation of the Salama family's jewelry business. Since that time, the Appellant has been engaged in the business of refining unrefined gold into pure gold.<sup>2</sup> The Appellant's business primarily involves:
- a) receiving/buying unrefined gold from customers;
  - b) melting and assaying the unrefined gold to determine the gold content;
  - c) consolidating various lots of unrefined gold and forwarding them to a world-class, third party, refiner for the final stages of refining to convert the lots into pure gold; and
  - d) payment in pure gold, wire, cheque or cash or sale of pure gold to the (often, same) customers.
15. The Appellant is a family-owned and operated business which currently employs 14 people, including principals. It was founded by Nabil Salama, a third generation precious metal dealer, jeweler and lawyer in his native Egypt. Since 2001, Nabil Salama's son, Atef Salama, P. Eng., M. Eng., has been managing the Appellant's operations.
16. To carry on its business, the Appellant maintains a 5200 square foot facility. It comprises a dedicated customer area, with 11 customer booths as well as a melt room with 5 induction furnaces, 1 gas torch, 1 large burning oven, 3 x-ray assay machines, 3 wet chemical analysis assay machines, 13 scales, 2 class 3 safes, and multiple desks and computers.

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<sup>2</sup> For completeness, the Appellant's business involves refining four types of precious metals (gold, silver, platinum and palladium); gold being the most important one by far. Since the Reassessments involve only gold transactions, these are the focus of this appeal.

17. During the Reporting Periods, the Appellant transacted business with approximately 1300 different refining customers, consisting primarily of jewellers, jewelry manufacturers, wholesalers, resellers/consolidators and prospectors and miners. The Appellant's good reputation and its ability to provide customers with refined gold on a timely basis<sup>3</sup> are key factors in it being a leader in the refining industry.
18. Each of those customers attended the Appellant's facility (or in some cases utilized armored delivery services) to provide the Appellant unrefined gold to be refined. As described in additional detail below, this provision of unrefined gold to the Appellant for refining constitutes a supply by way of sale of the unrefined gold by the customer to the Appellant for GST/HST purposes.
19. For each of those purchases, the Appellant (through multiple employees) performed the following functions:
  - a) identify and validate the identity of the customer (including the corporation and the individual, where applicable) at the opening of the customer account;
  - b) confirm the identity again at each customer attendance and entry to the Appellant's premises;
  - c) on the limited occasions where armoured delivery was arranged instead of physical attendance by a customer, the Appellant would receive a call from the customer requesting an armored delivery and the armored delivery

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<sup>3</sup> Hence, the "Express" in Express Gold Refining Ltd.

service would obtain the signature of the customer upon pickup to confirm the identity of the customer;

- d) weigh and inspect the unrefined gold upon receipt in the melt room;
- e) melt/re-melt gold in the presence of the customer, where applicable;
- f) perform multiple assays to determine the purity of the gold;
- g) secure the gold after melting;
- h) settle pricing with the customer, based on posted market prices;
- i) provide an assay and settlement report to the customer;
- j) settle the transaction either with pure gold, payment in money (*e.g.*, draft, wire, cheque, cash), or through holding an equivalent quantity of pure gold on account for the customer;
- k) undertake a hedge position against purchases;
- l) consolidate melted bars into lots to be delivered to the third-party, final refiner for further refining; and
- m) settle with the third-party, final refiner by applying the value of the gold to the Appellant's pool account that it maintains with the final refiner and subsequently:
  - i. taking back the refined gold in the form of investment-grade, gold bars; and/or
  - ii. selling the refined gold to the final refiner and receiving a wire payment as consideration for the transaction.



20. Over the years, and during the Reporting Periods, the Appellant dealt with well-established third-party, final refiners, including the Royal Canadian Mint and, primarily, Asahi Refining Canada Limited ("**Asahi Refining**"), to perform the last stages in the refining process: chemical separation of the gold, pouring the pure gold into ingots/bars and affixing London Bullion Market Association purity seals. Asahi Refining is the Canadian subsidiary of Asahi Holdings, Inc., a publicly-listed company on the Tokyo Stock Exchange. It purchased the Canadian refining business of Johnson Matthey in 2016.
21. The Appellant's customers charged GST/HST to the Appellant, as applicable, and such GST/HST was paid by the Appellant and claimed by the Appellant as input tax credits ("**ITC(s)**").
22. Although the Appellant was *charged* applicable GST/HST at the time of the transaction, the Appellant typically *did not pay* GST/HST to the customer at that time. Rather, pursuant to its standard customer contract, the Appellant would typically claim the GST/HST charged as an ITC in its monthly GST/HST returns and, once it received the ITC as a net tax refund from the Canada Revenue Agency ("**CRA**"),<sup>4</sup> it would pay the GST/HST to the customer through cheque or wire transfer. As such, the GST/HST was typically paid to customers approximately 3 months after the transaction occurred. This practice for GST/HST payment was implemented by the Appellant because:

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<sup>4</sup> The Minister of National Revenue and her delegates and agents are referred to collectively throughout as the "**CRA**".

- a) the Appellant could not finance the cash-flow burden of paying 13% of the value of the gold in GST/HST to customers, while only earning its standard 1-2% margin; and
  - b) by the CRA paying out the Appellant's net tax refunds after the Appellant's returns were put through the CRA's refund integrity audit procedures, the Appellant took comfort in the fact that its ITCs were pre-approved by the CRA, prior to paying large sums of GST/HST to its customers (thus, minimizing the potential for abuse).
23. All amounts paid by the Appellant in respect of GST/HST charged by the various customers were paid by the Appellant to the customers as and on account of GST/HST and were taken into account as GST/HST.
24. For each purchase and sale, supporting documentation, including invoices, was prepared in the normal course of business and reported in the Appellant's books and records to reflect the actual transactions that took place between the Appellant and each of its customers.
25. The Appellant exercised diligence and took reasonable precautions at each step of its dealings with its customers. In particular:
- a) before onboarding customers, on opening a customer account, the Appellant followed meticulous processes to document and confirm the identity of its customers and, where applicable, verify their GST/HST registration (through the CRA's online GST/HST registry);
  - b) as a Financial Transactions and Reports Analysis Centre of Canada ("FINTRAC") reporting entity, the Appellant complied with strict FINTRAC rules regarding customer identification;

- c) the Appellant maintained its customer records and again confirmed the validity of the customer's GST/HST registration for the time period of any supplies, at the time that the Appellant filed its GST/HST return that included ITC claims referable to that customer;
  - d) the Appellant again confirmed the customer's GST/HST registration at the time of payment of the GST/HST by the Appellant to the customer (as the Appellant typically delayed payment of GST/HST amounts until CRA approved and paid its net tax refunds as described in paragraph 22 above); and
  - e) the Appellant paid all GST/HST charged by customers through traceable means only, that is by cheque payable to the customer or by wire transfer to the customer's account.
26. While its sales volume has been high, due in part to the high value of gold, the Appellant's gross profit margin on gold transactions is low (*i.e.*, typically 1-2%) while being consistent with market rates. This margin is what the Appellant historically considered its "fee" for refining gold. Specifically:
- a) the Appellant purchased its unrefined gold based on the volume of gold content times the market rate, less a 1-2% discount;
  - b) in turn, the Appellant sold the refined product (*i.e.*, pure gold) at the market price; and
  - c) from that gross margin, the Appellant had to pay third-party refining fees, operating expenses and income tax.

### **GST/HST Returns & History**

27. The Appellant is, and was at all material times, registered for the GST/HST pursuant to Part IX of the Act. Its GST/HST returns are filed on a monthly basis.
28. The Appellant's GST/HST returns were prepared typically to include large amounts of ITCs (consisting of the GST/HST paid or payable by the Appellant to its customers) and a comparatively small amount of GST/HST collected (as it sells primarily zero-rated precious metals, namely, pure gold) resulting in net tax refunds claimed by the Appellant pursuant to paragraph 228(3)(b) of the Act.
29. These returns (and underlying characterization of the supplies involved in the Appellant's business) were prepared and filed relying on and in accordance with the detailed, 12-page GST/HST Ruling issued in respect of the Appellant by the CRA Rulings Directorate, Financial Institutions and Real Property Division at CRA Headquarters on January 29, 2013 ("**Ruling**"). Specifically, the Ruling advised that the Appellant's standard transactions consisted of the purchase of GST/HST-taxable unrefined gold and the sale of zero-rated pure gold.
30. The Ruling was the culmination of constant and extensive CRA audit activity of the Appellant over many years, as well as substantial interaction by the Appellant with the CRA and the Department of Finance. The Appellant historically advocated against this GST/HST treatment, on the basis that it would have negative cash flow implications and increase tax leakage risk. The Appellant also expressed to the CRA that it would be supportive of a legislative

change that would permit the Appellant to pay the GST/HST owed to a customer directly to the Receiver General of Canada to the customer's GST/HST account with the CRA. To date, no such legislative change has been made in this respect.

### **The CRA's Audit and Ensuing Reassessments**

31. In September 2018, the CRA ceased to process the Appellant's monthly GST/HST returns and stopped refunding the Appellant's net tax refunds (with July 2018 being the last reporting period for which the return was processed and the refund paid). Instead the CRA began an audit for the periods starting June 1, 2016 through October 31, 2018 (the "**Audit Period**").
32. This audit is one of the many GST/HST reviews and audits performed by the CRA over the last 16 years. The Appellant cooperated with the CRA at all times, providing all requested information on a timely basis.
33. While the audit was progressing, the Appellant initiated an application for judicial review in the Federal Court for a *mandamus* order to require the CRA to pay the Appellant's net tax refunds. The matter was heard on July 3, 2019 and on May 12, 2020 the Federal Court dismissed the application.<sup>5</sup> In the course of those proceedings, the Respondent's representative gave evidence under oath that:
  - a) the CRA did not have concerns about the Appellant's compliance with the Act;

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<sup>5</sup> *Express Gold Refining Ltd. v. Canada (National Revenue)*, 2020 FC 614.

- b) the compliance of others in the industry was a concern to the CRA; and
- c) the CRA's concerns about non-compliance by other industry participants, including the Appellant's customers, are irrelevant to the Appellant's entitlement to ITCs.

*a) The 2019 Reassessments*

34. On July 22, 2019, the Appellant received a first set of reassessments for the Reporting Periods ("**2019 Reassessments**" and when referred to collectively with the 2020 Reassessments, the "**Reassessments**"). The 2019 Reassessments increased the Appellant's net tax for the Reporting Periods by denying \$10,028,332.27 in ITCs ("**10 Million ITCs**") and imposed gross negligence penalties under section 285 (and related interest).
35. After receiving the 2019 Reassessments, the Appellant received a Statement of Audit Adjustments from the CRA outlining the basis for the 2019 Reassessments, which alleged that:
  - a) The 10 Million ITCs were claimed based on invoices from 10 different customers (the "**Ten Customers**") where no supply of unrefined gold was made;
  - b) "The invoices created to support this business activity create the illusion of business activities and transactions that have legal rights and obligations that do not exist, or differ from the actual legal rights and obligations";
  - c) The Ten Customers "did not, and in fact could not have, supplied the unrefined gold purportedly purchased by [the Appellant]" and are "missing traders"... As these missing traders are said to deal directly with [the

Appellant], and yet did not make supplies to [the Appellant], [the Appellant] must have direct involvement in the GST/HST scheme, tantamount to intentional deceit"; and

d) "Audit has concluded that all of these suppliers are missing traders, and as a result did not supply [the Appellant] with the unrefined gold indicated on the invoices of accommodation. If it can be shown that there was the transfer of physical goods to [the Appellant], it would be our position that this unrefined gold was a supply of debased gold as part of a carousel scheme, and/or that it did not come from the suppliers named on the invoices."

36. The 2019 Reassessments imposed penalties on the basis of section 285. The factors cited by the CRA in applying section 285 penalties were:

- a) "The [Appellant] has sufficient knowledge of taxable supplies and the resources available to determine obligations and liabilities under the [Act]";
- b) "[The Denied ITCs] were claimed based on invoices from 10 different suppliers where no supply of unrefined gold was made"; and
- c) "The invoices created to support this business activity create the illusion of business activities and transactions that have legal rights and obligations that do not exist, or differ from the actual legal rights and obligations."

37. On August 20, 2019, the Appellant objected to the 2019 Reassessments. On March 16, 2020, the Appellant filed this Appeal pursuant to paragraph 306(b) of the Act as more than 180 days had elapsed without the CRA reassessing, vacating or confirming the 2019 Reassessments.

*b) The 2020 Reassessments*

38. On or about July 28, 2020, the CRA completed its audit of the Audit Period and on July 29, 2020, issued the 2020 Reassessments for the Reporting Periods (and also issued assessments for the three other monthly reporting periods comprised in the Audit Period, *i.e.*, August, September and October 2018).<sup>6</sup> The 2020 Reassessments maintained the denial of the \$10 Million ITCs (and related penalties) and denied additional ITCs in the amount of \$109,874,864.44 for the Reporting Periods (the "**\$110 Million ITCs**" and when referred to together with the \$10 Million ITCs, the "**Denied ITCs**"), and also imposed section 285 penalties in respect of those \$110 Million ITCs.
39. In particular, the 2020 Reassessments disallowed the \$110 Million ITCs properly refunded to the Appellant and paid by it to sixty-two of its customers as GST/HST (the "**Sixty-Two Customers**" and when referred together with the Ten Customers, the "**Subject Customers**").
40. The theory underlying the 2020 Reassessments appears to be that the Appellant was a willing participant in some carousel scheme and for that reason, was not entitled to its ITCs, the "commercial activity" in which the Appellant was involved being allegedly "illegitimate". However, the CRA disclosed very little to the Appellant to support its theories, let alone any evidence that could support them.

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<sup>6</sup> Since the CRA had not yet assessed the August, September and October 2018 reporting periods at the time the original Notice of Appeal was filed (*i.e.*, March 16, 2020), those reporting periods are not at issue in this appeal. The Appellant also objects to the assessments issued for those reporting periods and will be filing a notice of objection in accordance with subsection 301(1.1) for those reporting periods, accordingly.



41. In contrast to the theory underlying the \$10 Million ITCs in the 2019 Reassessments, the CRA's theory underlying the \$110 Million ITCs in the 2020 Reassessments appears to be that the subject purchases of unrefined gold by the Appellant were actual purchases from actual customers in respect of which the information requirements under subsection 169(4) were met but would be purchases of "contrived gold", that is gold being purchased as part of some alleged carousel scheme. By being purchases of "contrived gold", such purchases would no longer meet the definition of "commercial activity" in the Act with the consequence that the Appellant was no longer entitled to its ITCs.
42. The basis for imposing penalties under section 285 was that the Appellant was a "willing participant" in some alleged carousel scheme either knowingly or alternatively, by virtue of being "willfully blind".

**Additional Facts Relating Specifically to the CRA's Theories**

43. There was nothing nefarious about the Appellant's business, its purchases of unrefined gold, its sale or payment of pure gold, or the gold recycling industry more generally.
44. At all times, the Appellant purchased unrefined gold and paid GST/HST in good faith as part of its refining business. All of the relevant transactions were real, commercial transactions, were properly documented and met the statutory requirements to claim ITCs. The Appellant did not participate in any carousel scheme.

45. In connection with the allegations raised in respect of the \$10 Million ITCs, the Appellant states:

- a) the \$10 Million ITCs are referable to GST/HST paid by the Appellant on *bona fide* transactions with each of the Ten Customers, the Appellant having purchased unrefined gold in good faith;
- b) each of the Ten Customers attended – or had unrefined gold delivered to – the Appellant’s premises and sold the Appellant unrefined gold, which the Appellant paid for;
- c) at all times, the Appellant’s intention was to purchase the unrefined gold and it did in fact purchase the unrefined gold from each of the Ten Customers;
- d) these purchases are accurately reflected in the supporting documentation, including invoices;
- e) each of the Ten Customers are real persons, not “missing traders”, and attended the Appellant’s premises to transact business just as all of the Appellant’s other customers did;
- f) each of the Ten Customers went through the same identification controls that all of the Appellant’s other customers did;
- g) each of the Ten Customers were GST/HST-registered when the transactions occurred;
- h) each of the Ten Customers charged the Appellant applicable GST/HST;
- i) the Appellant acquired the unrefined gold for the purpose of making a supply of precious metals, namely the supply of pure gold in bar form, refined to a purity level of 99.5% or more;

- j) within approximately 72 hours after each of those purchases, the Appellant forwarded the unrefined gold purchased from each of the Ten Customers as part of larger lots of unrefined gold to Asahi Refining to be refined;
- k) Asahi Refining further refined the gold by performing its own assay; chemically separating the pure gold content to achieve a 99.99% level of purity; pouring the pure gold into ingots; stamping the ingots specifying the level of purity; and depending on the settlement method, returning the refined gold to the Appellant;
- l) the Appellant obtained evidence containing information to enable the amount of the \$10 Million ITCs to be determined, in the form of supporting documentation, including invoices, prepared in the ordinary course of business, reflecting the purchases the Appellant made from each of the Ten Customers;
- m) the Appellant claimed the \$10 Million ITCs based on this evidence;
- n) this evidence was created in the ordinary course of business in respect of *bona fide* commercial transactions between the Appellant and the Ten Customers;
- o) this evidence was not created to support an illusion of business activities or transactions that have legal rights and obligations that do not exist, or differ from the actual legal rights and obligations;
- p) the Appellant did not receive or rely on invoices of accommodation to claim the \$10 Million ITCs;
- q) the Appellant claimed the \$10 Million ITCs in its GST/HST returns for the Reporting Periods;

- r) the Appellant paid the amount of GST/HST charged by the Ten Customers on the relevant transactions through cheque or wire transfer to the Ten Customers from the Appellant's bank account;
  - s) these GST/HST payments did not occur until the Appellant claimed the GST/HST amounts as ITCs in its monthly GST/HST returns and the CRA paid the Appellant its net tax refunds, with the payments typically being made approximately three months after the relevant transaction occurred;
  - t) the Appellant paid the amount of GST/HST charged by the Ten Customers on the relevant transactions as and on account of GST/HST and the amount was taken into account as GST/HST; and
  - u) the Appellant was not involved in any sham, carousel scheme or any other nefarious activity, nor was the Appellant a participant to a sham, carousel scheme or any other nefarious activity either knowingly or by virtue of being wilfully blind.
46. In connection with the allegations raised in respect of the \$110 Million ITCs specifically, the Appellant reiterates the facts in the preceding paragraph (but with respect to the \$110 Million ITCs) and further states:
- a) that the subject purchases of unrefined gold were not purchases of "contrived gold" because such purchases were not made as part of a carousel scheme; and
  - b) that the purchases were not made as part of a carousel scheme because the Appellant did not participate in any such scheme or any nefarious activity (even if any customers or someone else in the supply chain were involved

in such a scheme, which is denied) either knowingly or by virtue of being willfully blind.

47. In connection with the Denied ITCs, the Appellant purchased at all times, the unrefined gold in good faith and with a view to complying with its legal obligations, including those under the Act.
48. The Appellant has, over the years, strived to conduct its business in compliance with its legal obligations and with integrity. In particular:
  - a) the Appellant turned away potential customers when they failed to meet the Appellant's strict on-boarding identification requirements;
  - b) no suspicion existed in respect of any of its customers at the time that the transactions occurred;
  - c) the Appellant stopped conducting business with anyone where the CRA advised the Appellant that specific customers might be in default or non-compliant with their GST/HST obligations;
  - d) the Appellant has, for decades, cooperated with the CRA, other regulators and law enforcement agencies over the course of several audits of the Appellant, general investigations of the industry, the request leading to the Ruling, and representations to the Respondent's representatives (namely, the CRA and the Department of Finance);
  - e) the Appellant confirmed that each customer held a valid GST/HST registration from the CRA: (1) on initial intake, (2) on a monthly basis at the time the Appellant filed its GST/HST return that included ITC claims referable to GST/HST paid/payable to that customer, and (3) prior to paying GST/HST to the customer;

- f) the Appellant relied on those verifications before paying GST/HST to its customers, such GST/HST payments always being made by cheque or wire transfer; and
  - g) the Appellant generally did not make GST/HST payments to its customers until the Appellant received its corresponding net tax refund from the CRA and had verified the customer's GST/HST registration number on three separate occasions (as described in subparagraph (e) above).
49. The Appellant did not make or participate in, assent to or acquiesce in the making of a false statement or omission in a return, application, form, certificate, statement, invoice or answer.
50. The Appellant has amended this appeal in accordance with paragraph 302(b) of the Act to appeal the 2020 Reassessments.

### **ISSUES**

51. The issues to be decided in this appeal are as follows:
- a) whether the Appellant is entitled to the Denied ITCs;
  - b) whether, in issuing the Reassessments, the CRA failed to apply an allowable rebate equal to the amount of the Denied ITCs; and
  - c) whether the Appellant is liable for gross negligence penalties.

**STATUTORY PROVISIONS**

52. The Appellant relies on the following provisions of the Act and regulations:
- a) the definitions of "business", "commercial activity", "consideration", "financial instrument", "financial service", "precious metal", "recipient", "sale", "service", "customer", "supplier", "supply", "taxable supply" and "zero-rated supply" in subsection 123(1) of the Act;
  - b) the following sections of the Act: 153, 165, 169, 221, 222, 225, 228, 229, 240, 242, 261, 275, 285, 296, 301, 302 and 306;
  - c) section 3 of Part IX of Schedule VI of the Act;
  - d) all relevant provisions in the *Input Tax Credit Information (GST/HST) Regulations* (the "**ITC Regulations**"); and
  - e) any other provisions of the Act or the regulations made under the Act that pertain to the issues and reasons set out herein.

## REASONS

### *Issue (a): The Appellant is Entitled to the Denied ITCs*

#### *i. Properly Setting the Stage*

53. At the outset, the CRA's use and reliance on an overly broad and vague concept of "carousel scheme" is misleading. Remember, the Appellant operates in the recycling industry, a well recognized, *bona fide* industry. By the very nature of its business, the Appellant receives (unrefined) gold from its customers and often, once refined, returns gold (in pure form) to customers for use in, among others, industry and jewelry manufacturing. Once put through such uses it may ultimately be refined again and the cycle continues. This cycling is intrinsic to the Appellant's business, as it has been operating for years, and the recycling industry as a whole. This cycling or "recycling" in the ordinary course of business cannot be a basis to allege that some nefarious scheme is taking place, nor can it be of any relevance in determining the Appellant's entitlement to ITCs.

#### *ii. The Appellant has Complied with the ITC Requirements*

54. Pursuant to section 169, the Appellant is entitled to the Denied ITCs if:
- a) the Appellant acquired the unrefined gold during a reporting period of the Appellant during which it was a registrant;
  - b) GST/HST in respect of the supply of the unrefined gold became payable by the Appellant or was paid by the Appellant without having become payable;



- c) the Appellant acquired the unrefined gold for consumption, use or supply in the course of its commercial activities; and
  - d) the Appellant obtained sufficient evidence in such form containing information to enable the amount of the ITCs to be determined, including information prescribed in the ITC Regulations (the “**ITC Requirement(s)**”).
55. The Appellant has met all four of the ITC Requirements for the Denied ITCs.
56. With respect to ITC Requirement (a), the Appellant acquired the unrefined gold during a reporting period of the Appellant during which it was a registrant, for which the Denied ITCs were claimed. Each of the Subject Customers attended the Appellant’s premises (or had gold delivered to the Appellant’s premises) and sold the Appellant unrefined gold, for which the Denied ITCs were claimed, as indicated above. The Subject Customers were “suppliers” as defined in the Act for purposes of these supplies by way of sale.
57. With respect to ITC Requirement (b), GST/HST in respect of the supply of the unrefined gold became payable by the Appellant, as each sale of unrefined gold by each of the Subject Customers to the Appellant constituted a non-zero-rated, GST/HST-taxable supply, and was thus subject to 13% GST/HST pursuant to section 165, wholly in accordance with the Ruling.

58. The Subject Customers charged the Appellant GST/HST representing 13% of the price of the unrefined gold.
59. Further, and in the alternative, to the extent that GST/HST did not become payable for some reason (which is strictly denied), the Appellant paid GST/HST on the relevant transactions, thus meeting ITC Requirement (b).
60. With respect to ITC Requirement (c), the Appellant acquired the unrefined gold for supply in the course of its commercial activities, namely, in making its taxable supply of precious metals, which were zero-rated financial services pursuant to section 3 of Part IX of Schedule VI of the Act, and thus subject to GST/HST at a 0% rate pursuant to subsection 165(3).
61. With respect to ITC Requirement (d), the Appellant obtained sufficient evidence in such form containing such information to enable the amount of the ITCs to be determined, including information prescribed by the ITC Regulations. This evidence was in the form of supporting documentation, including invoices, prepared in the ordinary course of business.
62. The Appellant reported the Denied ITCs in its calculation of net tax in its GST/HST returns for the Reporting Periods pursuant to sections 169 and 228. Pursuant to section 225, the Denied ITCs were properly claimed as ITCs and included in the Appellant's calculation of net tax for the Reporting Periods.

iii. The Respondent's Theories to Deny the \$110 Million ITCs are Baseless

63. It would appear that the \$110 Million ITCs were denied on two alternative theories as follows: (1) the Appellant was an *active participant* in some carousel scheme and purchased unrefined gold from the Sixty-Two Customers that was part of some carousel scheme; or (2) the Appellant was *willfully blind* to the fact that unrefined gold purchased from the Sixty-Two Customers was part of some carousel scheme.
64. More specifically, while the CRA acknowledged that ITC Requirements (a), (b) and (d) were met for the \$110 Million ITCs, the CRA is alleging that ITC Requirement (c) is not met – namely, that the Appellant did not acquire the unrefined gold in the course of its commercial activities because the unrefined gold purchased was part of some carousel scheme (*i.e.*, "illegitimate" commercial activity).
65. The Appellant did not participate in any carousel scheme (or any other nefarious activity) either knowingly or by willful blindness.
66. What the Appellant did was carry on its business with a view to complying with its legal obligations, including those under the Act while being under close and constant scrutiny by the CRA.
67. Its purchases of unrefined gold were made in good faith at all times. Accordingly, the theory under which the \$110 Million ITCs were denied must fail.

68. Whether there are shortcomings in the supply chain because certain customers are not remitting the GST/HST to the Crown because of some reason such as bankruptcy, or even some sinister activity on their part (which the Appellant denies and puts the Respondent to the strict proof thereof), such circumstances would be of no relevance to the Appellant's entitlement to the \$110 Million ITCs. In particular, the Appellant's entitlement to ITCs is not pre-conditional on the remittance of GST/HST in the supply chain. Similarly, the existence of a "commercial activity" under the Act does not depend on the activity in question being considered "legitimate" or "illegitimate", either in the eyes of the CRA or those of a court.
69. Neither the words nor the spirit of the Act can reasonably support such a theory. Subsection 169(1) is the general rule for ITC entitlement. It simply allows ITCs where the person (in this case, the Appellant) acquired property in the course of its commercial activities. The provision makes no distinction based on whether the relevant commercial activities were "legitimate" or not.
70. The expression "commercial activity" is defined to mean, among others, either a business carried on by the person or adventure or concern in the nature of trade. This definition is broad, has been interpreted broadly and its only exception arises in the case of exempt supplies: an exception which does not apply in this case. "Business" is defined similarly broadly to include an "undertaking of any kind whatever" and "any activity engaged in on a regular or continuous basis that involves the supply of property." There can be no doubt that the Appellant was engaged in a "business" and "commercial activity" for

purposes of the Act when it acquired any unrefined gold and when it supplied any refined gold in the course of carrying on its business.

71. The Act is designed to apply broadly, to apply GST/HST on a wide range of transactions and to meet two primary objectives: (1) to prevent tax cascading and (2) to allow the obligation to pay GST/HST to flow through to the ultimate consumer. This is operationalized through the broad definition of "commercial activity" as indicated above, which begets broad availability of ITCs.

iv. *The Respondent's Theories to Deny the \$10 Million ITCs are also Baseless*

72. It would appear that the \$10 Million ITCs were denied on two or, perhaps, three alternative theories as follows: (1) no unrefined gold was supplied to the Appellant; (2) any supply of unrefined gold was part of a carousel scheme; and (3) the supply of unrefined gold was not made *by the Ten Customers*.
73. More specifically, while the CRA acknowledged that ITC Requirement (b) described above in subparagraph 54(b) has been met for the \$10 Million ITCs, the CRA is alleging that ITC Requirements (a), (c) and/or (d) have not been met – namely, with respect to the \$10 Million ITCs, that the Appellant did not acquire unrefined gold; alternatively, if the Appellant did acquire unrefined gold, it did not do so in the course of its commercial activities; and/or the ITC information requirements were not met because the Appellant's supporting documentation did not identify the true customers.

74. Theory (1) is baseless because the Ten Customers each attended the Appellant's premises with unrefined gold (or arranged delivery through armored service) and sold unrefined gold to the Appellant, which constituted a GST/HST-taxable supply subject to 13% GST/HST.
75. Theory (2) is baseless for the same reasons specified for the \$110 Million ITCs above in paragraphs 63 through 71.
76. Further, the Appellant's entitlement to ITCs is not contingent on each of the Ten Customers remitting GST/HST to the Respondent and/or not being involved in any sham, carousel scheme or any other nefarious scheme.
77. The Appellant was not part of any sham. A sham requires that both parties to the transaction present their legal rights and obligations to the transaction in a manner that does not reflect the true legal rights and obligations, if any, that the parties intend to create. The legal rights of the Appellant and each of the Ten Customers are accurately reflected in the supporting documentation evidencing the unrefined gold sales.

78. Theory (3) is baseless because each of the Ten Customers were the suppliers of the unrefined gold made to the Appellant, forming the basis for the Appellant's claim for the \$10 Million ITCs. Each of the Ten Customers attended the Appellant's premises (or arranged for armored delivery) and sold the Appellant taxable unrefined gold, for which the Appellant paid applicable GST/HST and claimed the corresponding \$10 Million ITCs. The ITC information maintained by the Appellant specified each of the Ten Customers as suppliers and contains all other requisite information, therefore, the information requirements in subsection 169(4) and the ITC Regulations were met.
79. Further, and in the alternative, even if the unrefined gold had been supplied by anyone other than the Ten Customers (which is strictly denied), the Ten Customers would either be agents or intermediaries of the suppliers of the unrefined gold. As such, the ITC information requirements in subsection 169(4) and the ITC Regulations were met.
80. Lastly, and in the further alternative, even if the unrefined gold had been supplied by anyone other than the Ten Customers and the Ten Customers were not agents or intermediaries of the suppliers of the unrefined gold (which is strictly denied), the Appellant is nonetheless entitled to the Denied ITCs. At all times, the Appellant exercised sufficient diligence and took reasonable precautions to establish the identity of the suppliers of the unrefined gold, which is sufficient to establish its entitlement to the Denied ITCs.

***Issue (b): The CRA Failed to Audit to Net Tax in the Reassessments***

81. If, as the Respondent contends, no GST/HST was payable by the Appellant to the Subject Customers (which is strictly denied), the Reassessments would nonetheless be wrong in increasing the Appellant's net tax.
82. The Appellant paid its customers an amount equal to the denied ITCs as and/or on account of GST/HST and/or that was taken into account as GST/HST.
83. Accordingly, if no GST/HST was in fact payable (which is strictly denied), the Appellant would have been entitled to a corresponding rebate pursuant to section 261 if claimed in a rebate application made on the date specified in subparagraph 296(2.1)(a)(i).
84. In assessing the Appellant's net tax for the Reporting Periods, the Respondent was required to credit an amount equal to the denied ITCs as an "allowable rebate" pursuant to subsection 296(2.1), thus resulting in no increase to the Appellant's net tax.

***Issue (c): The CRA Improperly Applied Section 285 Penalties***

85. As there is no basis for the GST/HST adjustments increasing net tax, section 285 penalties cannot apply.
86. Further, and in the alternative, the Appellant has not knowingly, or under circumstances amounting to gross negligence, made or participated in or acquiesced in the making of a false statement or omission in a return or any other document. Accordingly, section 285 penalties do not apply and must be vacated accordingly.



**RELIEF SOUGHT**

87. The Appellant requests that this Honourable Court allow its appeal, with costs, and refer the matter back to the CRA for reconsideration and reassessment on the basis that the Appellant is entitled to all ITCs claimed for the Reporting Periods, including the Denied ITCs in the amount of \$119,903,196.71.<sup>7</sup>

Toronto, September 11, 2020.




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Express Gold Refining Ltd.**

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<sup>7</sup> The 2020 Reassessments made adjustments to credit the Appellant \$14,682.29 against its net tax for the Reporting Periods as compared to what the Appellant claimed in its GST/HST returns, based on the CRA's review of the Appellant's books and records. The Appellant accepts these adjustments and, therefore, requests that the CRA be directed to reassess the Appellant to allow that credit amount and allow the Denied ITCs.

# Baker McKenzie.

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September 11, 2020

Marilyn Vardy  
National Litigation Sector  
Department of Justice Canada  
Ontario Regional Office  
120 Adelaide Street West  
Suite 400  
Toronto, Ontario M5H 1T1

Dear Ms. Vardy:

**RE: Express Gold Refining Ltd. v. HMQ**  
**Court File No. 2020-1214(GST)G**

Further to our email of today's date, enclosing a copy of the Fresh as Amended Notice of Appeal in the above-noted matter, please find enclosed a hard copy of the Fresh as Amended Notice of Appeal, served on the Respondent in accordance with the *Tax Court of Canada Rules*.

Best regards,

**BAKER & MCKENZIE LLP**



Bryan Horrigan

Associate

(416) 865-3905

[bryan.horrigan@bakermckenzie.com](mailto:bryan.horrigan@bakermckenzie.com)

Encl. – Fresh as Amended Notice of Appeal

By registered mail

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DEPARTMENT OF JUSTICE  
TORONTO

**THIS IS EXHIBIT “B”**

**Referred to in the Affidavit of Sean Evans**

**Affirmed remotely on the 27<sup>th</sup> day of October 2023**

A handwritten signature in black ink, appearing to read 'Fozia', is written above a horizontal line.

**Name: Fozia Chaudary**

**LSO No. 52787D**

**A Commissioner for Oaths in and for the Province of Ontario**

2020-1214(GST)G

TAX COURT OF CANADA

BETWEEN:

**EXPRESS GOLD REFINING LTD**

Appellant

-and-

**HER MAJESTY THE QUEEN**

Respondent

**AMENDED REPLY**

**(original Reply filed on January 29, 2021)**

In reply to the Appellant's Fresh as Amended Notice of Appeal with respect to 26 concurrent reassessments under Part IX of the *Excise Tax Act*, RSC 1985, c E-15, as amended (the "**Act**"), Notices thereof dated July 29, 2020 (the "**2020 Reassessments**"), for the Appellant's monthly Goods and Services Tax/Harmonized Sales Tax ("**GST/HST**") reporting periods from June 1, 2016 to July 31, 2018 (the "**Reporting Periods**" or "**Appeal Period**"), the Attorney General of Canada (the "**AGC**") says:

**STATEMENT OF FACTS**

1. The AGC admits the allegations of fact stated in paragraphs 1, 2, 27, 34, 37, 38 and 50 of the Fresh as Amended Notice of Appeal.

2. The AGC denies the allegations of fact stated in paragraphs 3, 4, 5, 6, 7, 8, 10, 11, 12, 17, 18, 19, 21, 22, 23, 24, 25, 26, 29, 30, 39, 43, 44, 46, 47, 48 and 49 of the Fresh as Amended Notice of Appeal.
3. The AGC has no knowledge of, and puts in issue, the allegations of fact stated in paragraphs 15, 16 and 20 of the Fresh as Amended Notice of Appeal.
4. With respect to paragraph 9 of the Fresh as Amended Notice of Appeal, the AGC admits that the Minister of National Revenue (the “**Minister**”) denied input tax credits (“**ITCs**”) claimed by the Appellant because the Appellant participated in a carousel scheme (defined in paragraph 0, below), either knowingly or through willful blindness. The AGC admits that the Minister assessed the Appellant gross negligence penalties under section 285 of the *Act*. The AGC states that the facts relied on by the Minister in assessing the Appellant to deny the ITCs and to impose section 285 penalties are set out in greater detail in paragraphs 22 and 23, below.
5. With respect to paragraph 13 of the Fresh as Amended Notice of Appeal, the AGC denies that the Appellant operated as a refiner with respect to any transactions material to this appeal. The AGC has no knowledge of, and puts in issue, the remaining allegations of fact stated therein.
6. With respect to paragraph 14 of the Fresh as Amended Notice of Appeal, the AGC admits that the Appellant was incorporated under the laws of Ontario in 1994. The AGC denies the remaining allegations of fact stated therein.

7. With respect to paragraph 28 of the Fresh as Amended Notice of Appeal, the AGC admits that the Appellant claimed large amounts of ITCs and large net tax refunds. The AGC denies that the Appellant's reporting in its GST/HST returns for the Reporting Periods was accurate or proper and denies that the Appellant was entitled to the ITCs and net tax refunds claimed. The AGC denies any remaining allegations of fact stated therein.
8. With respect to paragraph 31 of the Fresh as Amended Notice of Appeal, the AGC admits that the Minister ceased paying net tax refunds claimed by the Appellant for reporting periods after the July 2018 monthly reporting period. The AGC denies that the Appellant was entitled to those net tax refunds. The AGC admits that the Canada Revenue Agency (the "CRA") started an audit of the Reporting Periods in the fall of 2018 for the periods June 1, 2016 through October 31, 2018 (the "**Audit Period**"). The AGC denies that the Appellant was entitled to the ITCs and net tax refunds claimed for any of the Reporting Periods.
9. With respect to paragraph 32 of the Fresh as Amended Notice of Appeal, the AGC admits that the CRA audited the Reporting Periods. The AGC denies the remaining allegations of fact stated therein.
10. With respect to paragraph ~~to~~33 of the Fresh as Amended Notice of Appeal, the AGC admits that the Appellant brought a judicial review application to the Federal Court in an effort to compel the Minister to pay disputed net tax refunds and that the Federal Court dismissed the Appellant's application. The AGC denies the remaining allegations of fact / evidence stated therein.

11. With respect to paragraph 35 of the Fresh as Amended Notice of Appeal, the AGC admits that the CRA sent the Appellant a letter (and enclosures) dated July 17, 2019 pertaining to the July 22, 2019 Notices of Reassessment (the “2019 Reassessments”), containing, *inter alia*, the wording recited therein. The AGC admits that the letter sets out assumptions made by the Minister in reassessing the Appellant’s net tax for the Reporting Periods to disallow the \$10,028,332.27 of ITCs claimed in respect of alleged scrap gold transactions with the “Ten Customers”, referred to as the “Missing Traders” in this Reply.<sup>1</sup>
12. With respect to paragraph 36 of the Fresh as Amended Notice of Appeal, the AGC admits the Appellant was assessed gross negligence penalties under section 285 of the *Act*, and that the factors cited therein were among the factors taken into account by the Minister in assessing the Appellant, *inter alia*, gross negligence penalties under section 285 of the *Act*. The AGC states that the facts relied on by the Minister in reassessing the Appellant for the Reporting Periods are pleaded in paragraphs 22 and 23, below.
13. With respect to paragraphs 40 and 41 of the Fresh as Amended Notice of Appeal, the AGC admits that the Minister denied the Appellant ITCs for the Reporting Periods and states that the facts relied on by the Minister in reassessing the Appellant for the Reporting Periods are pleaded in paragraphs 22 and 23, below. The AGC denies that the Appellant was engaged in *bona fide* commercial activity and denies that the Appellant was entitled to the ITCs claimed. The AGC denies that “information requirements under

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<sup>1</sup> See, for example, paragraph 19 below and Schedule B1 – Working Paper 6000 to this Reply.

subsection 169(4) were met.” The AGC denies any remaining allegations of fact stated therein.

14. With respect to paragraph 42 of the Fresh as Amended Notice of Appeal, the AGC admits that the Minister assessed the Appellant gross negligence penalties under section 285 of the *Act*. The AGC states that the facts relied on by the Minister in assessing the gross negligence penalties are pleaded in paragraph 23, below.
15. With respect to paragraph 45 of the Fresh as Amended Notice of Appeal, the AGC admits only that the Appellant claimed, *inter alia*, \$10 million of ITCs in its GST/HST returns to which the AGC states the Appellant was not entitled (subparagraph (q)). The AGC ~~has no knowledge of, and puts in issue, the allegations of fact stated in subparagraphs (g), (r), (s) and (t) and~~ denies the allegations of fact stated in the remainder of the subparagraphs.
16. With respect to footnote 6 of the Fresh as Amended Notice of Appeal, the AGC admits that the August, September, and October 2018 reporting periods were assessed after the Original Notice of Appeal was filed and states that the Appellant objected to the reassessments of the August, September, and October 2018 reporting periods on or about October 27, 2020. The August, September and October 2018 reporting periods form part of the Audit Period, but do not form part of the Appeal Period.
17. The AGC denies any allegations of fact incidentally stated in any other portion of the Fresh as Amended Notice of Appeal.



## Assessing History

18. The Appellant filed GST/HST returns for the Reporting Periods and reported sales, GST/HST collectible, ITCs and net tax for each of the Reporting Periods as set out in Schedule “A” to this Reply.
19. In reassessing the Reporting Periods, concurrent Notices thereof dated July 17, 2019 (*i.e.* the “~~First Reassessments~~” 2019 Reassessments), the Minister denied the Appellant’s ITCs claimed in the amount of \$10,028,332.27 with respect to purported purchases of scrap gold from ten entities determined to be missing ~~vendors~~ traders (the “**Missing Traders**”), *concluding that the purported invoices from the Missing Traders were sham documents created to support the illusion of scrap gold purchase transactions that did not in fact exist*, and assessed the Appellant gross negligence penalties totalling \$2,517,338 under section 285 of the *Act*. The details of the disallowed ITCs and gross negligence penalties are set out in Schedule “B” to this Reply. A list of the Missing Traders and a breakdown of ITCs claimed and disallowed for each of the ten Missing Traders is set out in Schedule B1 – Working Paper 6000 to this Reply.<sup>2</sup>
20. In reassessing the Reporting Periods, concurrent Notices thereof dated July 29, 2020 (*i.e.* the “~~Second Reassessments~~” 2020 Reassessments), the Minister denied the Appellant additional ITCs totalling \$109,874,864.44 for the Reporting Periods ~~and~~ with respect to purported purchases of scrap gold from 57 other vendors (the “57 Vendors”). The 57

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<sup>2</sup> Additional ITCs claimed by EGR with respect to alleged transactions with the Missing Traders were disallowed for the August, September and October 2018 reporting periods, which are not under appeal, but which formed part of the Audit Period. The figures cited in paragraph 19 of the Reply are those for the Appeal Period.

Vendors included 54 “Large Vendors” (defined in subparagraph 22.22 below) and 3 “Small Vendors” (defined in subparagraph 22.23 below).<sup>3</sup> The Minister assessed the Appellant additional gross negligence penalties totalling \$27,463,768 under section 285 of the Act. The details of the disallowed ITCs and penalties are set out in Schedule “C” to this Reply. A list of the 57 Vendors and a breakdown of ITCs claimed and disallowed for each of the 57 Vendors is set out in Schedule “C1 – Working Paper 6001” to this Reply.<sup>4</sup>

21. The total ITCs at issue in this appeal are \$119,903,196.71, i.e. \$10,028,332.27 (arising from the 2019 Reassessments) plus \$109,874,864.44 (arising from the 2020 Reassessments).

### **Assumptions**

22. ~~In determining that the liability of the Appellant (“EGR”) was not entitled to the ITCs claimed for net tax for the Reporting Periods,~~ the Minister made the following assumptions of fact:<sup>45</sup>

- 22.1. The facts pleaded in paragraphs 18 to 21; above and in subparagraphs 35(a), (b), (c) and (d) of the Fresh as Amended Notice of Appeal.

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<sup>3</sup> Nine Missing Traders were Large Vendors and one Missing Trader was a Small Vendor.

<sup>4</sup> Additional ITCs claimed by EGR with respect to alleged transactions with some of these same vendors were disallowed for the August, September and October 2018 reporting periods, which are not under appeal, but which formed part of the Audit Period. The figures cited in paragraph 20 of the Reply are those for the Appeal Period.

<sup>45</sup> ~~The assumptions pleaded herein should be taken as referring / applying to the Appeal Period times material to this appeal (i.e. the period under appeal), unless otherwise expressly stated. Certain assumptions relate to the entire audit period (the period June 1, 2016 ending October 31, 2018). Those assumptions have been expressly identified.~~

**EGR's background**

- 22.2. EGR operates in the precious metal recycling industry, which industry includes the recycling of gold, silver, platinum and palladium. Gold recycling is EGR's main business.
- 22.3. EGR was incorporated and registered for GST/HST on June 10, 1994.
- 22.4. EGR's preferred shares are owned by 1420781 Ontario Ltd.
- 22.5. EGR's common shares are owned by:
- a. 1420781 Ontario Ltd (15%);
  - b. Atef Salama Family Trust (70%); and
  - c. Fr. Pishoy Salama Family Trust (15%).
- 22.6. EGR's directors are Nabil Salama, Mary Salama and Atef Salama.

**EGR's gold refining activities**

- 22.7. EGR is a "direct refinery feeder", meaning it purchases scrap metal from intermediaries or large first tier gatherers and takes the metal to a refiner to have it refined into its pure elements.
- 22.8. The process by which EGR acquires and refines gold is as follows:
- a. EGR purchases scrap gold at its downtown Toronto location.

- b. To determine the purity, the scrap gold is melted for assay<sup>26</sup> purposes.
- c. EGR uses the assay result (and the weight of the bar) to arrive at a purchase price.
- d. EGR sets the terms of the purchase.
- e. If the vendor agrees to the sale, EGR pays the vendor in cash or pure gold or a combination of cash and pure gold.
- f. At this point EGR takes ownership of the scrap gold.
- g. EGR contracts with third party refiners to refine the scrap gold to the purity and forms required to be an exempt financial instrument.

22.9. EGR contracted with three refiners during the Reporting Periods: Asahi Refining Canada Ltd, Royal Canadian Mint, and Johnson Matthey USA (the “Refiners”).

22.10. EGR employs fewer than a dozen people.

22.11. EGR reportedly transacted with over 1,000 vendors during the Reporting Periods.

#### **EGR’s GST/HST filing summary**

22.12. EGR is a monthly filer for GST/HST purposes and has a May 31<sup>st</sup> fiscal year end for tax purposes.

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<sup>26</sup> Assay means an analysis of the composition of metal.

22.13. From 2015 to 2018, EGR claimed increasingly higher ITCs. ITCs peaked in the summer of 2018 and started decreasing after the CRA commenced an audit in the fall of 2018. The annual breakdown of ITCs claimed by EGR from 2015 to 2019 is summarized below and ITCs claimed ~~detailed by~~ for each reporting period under appeal is detailed in Schedule “A” to this Amended Reply:

<b>FYE</b>	<b>Sales &amp; Other Revenue</b>	<b>GST/HST</b>	<b>ITCs</b>	<b>Net Tax</b>
5/31/2015	\$203,622,296	\$33,575	\$5,501,260	(\$5,467,677)
5/31/2016	\$333,864,431	\$35,326	\$11,239,513	(\$11,204,181)
5/31/2017	\$247,078,255	\$112,368	\$38,349,365	(\$38,236,994)
5/31/2018	\$239,277,642	\$96,461	\$67,896,260	(\$67,799,799)
5/31/2019	\$184,614,494	\$100,979	\$46,894,996	(\$46,794,021)

#### **EGR was involved in a “Carousel Scheme”**

22.14. EGR was involved in what is commonly known as a carousel scheme in the scrap gold industry (the “**Scheme**”). The sole purpose of the Scheme was to generate the false impression of entitlement to ITCs by converting GST/HST exempt or zero-rated gold bars (pure gold) into taxable property (scrap gold) in circumstances where EGR knew or ought to have known that GST/HST collectible in respect of these alleged supplies would not be remitted to the Receiver General, but rather would be kept and distributed amongst the various participants to the Scheme.

22.15. Participants in the Scheme turned pure gold bars, which are exempt or zero-rated, into scrap gold, which is taxable at 13%, by adding base metals such as silver,

zinc, or copper, alloys or a small quantity of legitimate scrap gold to them (this process is called “debasing”).

- 22.16. Purported vendors sold the debased gold to EGR and purportedly charged EGR 13% GST/HST on the sales.
- 22.17. EGR purportedly paid the vendors cash or refined pure gold (zero-rated goods) as consideration for EGR’s alleged purchases of scrap gold from them.
- 22.18. EGR’s purported vendors took the pure gold, which was debased again or used the cash received from EGR to make new purchases of gold for debasing.
- 22.19. The process of purchasing debased gold, refining it, returning it as consideration to the vendors, and debasing it again for resale was repeated many times over to create the false appearance of significant *bona fide* commercial activity occurring between EGR and the vendors, when in fact this was not the case at all. A diagram of the Scheme is depicted at Schedule D.
- 22.20. Certain participants in the Scheme, ~~referred to as i.e the mMissing tTraders or missing vendors~~, did not sell any gold to EGR. ~~A missing vendor is~~ The Missing Traders were set up for the sole purpose of generating invoices of accommodation. These invoices ~~do~~ did not reflect *bona fide* transactions between the participants but ~~are~~ were intended to be used solely by ~~the purchaser~~ EGR to claim ~~an~~ ITCs to which it ~~is~~ was not entitled. The amounts purportedly collected as or on account of tax by the ~~mMissing vendor-Traders~~ are never were not remitted to the Receiver General. The identities of the Missing Traders and the

details of the \$10,028,332.27 in ITCs claimed by EGR and disallowed by the Minister with respect to the Missing Traders are set out in Schedule B1 – Working Paper 6000 to this Reply.

- 22.21. In its GST/HST returns filed for the Reporting Periods, EGR claimed an additional \$109,874,864.44 of ITCs in respect of amounts it purportedly paid to the 57 Vendors who were also participating in the Scheme, which resulted in EGR claiming net tax refunds of over \$119 million [*i.e.* \$10,028,332.27 + \$109,874,864.44] for the Reporting Periods to which EGR was not entitled.

### **Scheme Participants**

- 22.22. 99% of the total ITCs EGR claimed in its GST/HST returns filed for the Audit Period were in respect of purported purchases from 82 scrap gold vendors to whom EGR purportedly paid more than \$100,000 on account of GST/HST and in respect of whom EGR claimed ITCs greater than \$100,000 during the Audit Period (the “**Large Vendors**”).
- 22.23. ~~During the Audit Period, EGR claimed ITCs greater than \$100,000 in respect of GST/HST that it purportedly paid to each of the Large Vendors.~~ “**Small Vendors**” were those vendors in respect of whom EGR claimed less than \$100,000 of ITCs during the Audit Period.
- 22.24. ~~Of the 82 Large Vendors, at least 63 Large Vendors and four Small Vendors~~ (collectively, the “**Scheme Participants**”) participated in the Scheme (~~the “**Scheme Participants**”~~) during the Appeal Period. The 63 Large Vendors that

were Scheme Participants included the Missing Vendors, defined in paragraph 22.27, below nine Missing Traders plus 54 other Large Vendors. The four Small Vendors that were Scheme Participants included one Missing Trader plus three other Small Vendors.<sup>7</sup>

### **Scheme Participants lack characteristics of legitimate vendors**

22.25. Businesses operating in the scrap metal industry in Canada typically have the following characteristics:

- a. a physical location;
- b. significant operating expenses, including insurance and advertising expenses;
- c. scrap gold is typically purchased in jewellery or coin form, not as pre-melted scrap bars;
- d. payment for scrap gold is made in cash or by cheque or wire transfer, as money is needed to pay for the businesses' operating expenses;
- e. the majority of the scrap gold collected is 10 karat ("k"), 14k, and 18k (41.6% to maximum 75% purity levels);
- f. the average purity level of scrap gold collected is 58.3% (14k); and

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<sup>7</sup> A list of the 67 Scheme Participants and a breakdown of ITCs claimed and disallowed for each of them is set out in Schedule "C1 – Working Paper 6001" to this Reply



- g. scrap gold purity levels of 80% or higher are rare;
- h. They collect GST/HST from the purchaser of the scrap gold at the time of the sale.

22.26. The Scheme Participants did not have these typical business characteristics. For example, many of the Scheme Participants:

- a. did not have a physical location or store front;
- b. did not have advertising expenses;
- c. did not have insurance expenses;
- d. did not have knowledge of the scrap gold industry, for example they were not able to describe their business or the flow of scrap gold;
- e. did not have the necessary equipment, such as a scale and assay equipment;
- f. did not know how to operate the equipment they had;
- g. did not have a safe for storage of high value goods;
- h. did not have an alarm or security system;
- i. did not have a source of funds that would have enabled them to start their scrap gold businesses;
- j. had poor or non-existent record keeping;

- k. had a director/owner who could not describe the business or name its suppliers;
- l. had only minimal suppliers, usually only 1-2 purported suppliers;
- m. made no traceable payments;
- n. cashed cheques at cheque cashing facilities instead of a bank;
- o. accepted payment for purported supplies of scrap gold in pure gold, not cash;
- p. did not require EGR to pay GST/HST on the purchase price of scrap gold they purportedly sold to EGR unless and until EGR received a net tax refund from the CRA;
- q. Transacted unusually high volumes of gold;
- r. had little or no cash to pay for any business expenses or any salaries;
- s. had no operating expenses except for purported purchases of scrap gold; and
- t. had a director/owner who lived in the province of Quebec and not near Toronto where the purported business transactions were said to have taken place.

**~~Ten Scheme Participants were missing vendors~~**

- 22.27. EGR claimed ITCs totalling \$10,028,332.27 in respect of GST/HST that it purportedly paid to ten scrap gold vendors (the “~~Missing Vendors~~”) in its GST/HST returns filed for the Reporting Periods. Many Scheme Participants, including the Missing Traders: (i) did not file GST/HST returns at all, did not file GST/HST returns on time, and/or did not file GST/HST returns consistently for all reporting periods; and (ii) were thin debit or credit filers, meaning they claimed large amounts of ITCs to almost entirely offset or to exceed any GST/HST collectible reported on their returns.
- 22.28. The ~~Missing Vendors-Traders~~ did not remit the amounts purportedly collected from EGR as or on account of GST/HST to the Receiver General.
- 22.29. The Scheme Participants, including the Missing ~~Vendors-Traders~~, did not collect scrap jewellery from the public to sell to EGR.
- 22.30. The ~~Missing Vendors-Traders~~ did not supply scrap gold, either in bar form or as jewellery, to EGR.
- 22.31. There was no commercial activity between EGR and the ~~Missing Vendors~~ Scheme Participants.
- 22.32. EGR and the ~~Missing Vendors~~ Scheme Participants created and used the invoices to support the false illusion of ~~business~~ bona fide commercial activity and scrap gold transactions occurring, when in fact no such ~~business~~ bona fide commercial activity or scrap gold transactions took place.

### EGR's purported transactions not in line with industry standards

- 22.33. The average purity level for scrap gold in the secondary market in Canada is around 50-65%, with an upper limit of 75% (18k) and a lower limit around 42% (10k).
- 22.34. ~~In contrast, t~~The average weighted purity for scrap gold EGR purportedly purchased during the Audit Period was 83%.
- 22.35. The source of EGR's high purity scrap gold indicates it was involved in a carousel scheme was debased pure gold.
- 22.36. ~~EGR's books and records indicated it had taken in 2,467,000 grams of pure gold that it could not account for during the Audit Period~~ EGR received (in the form of pure gold bars) from the Refiners between May 31, 2017 and May 31, 2018 was unaccounted for in EGR's inventory at fiscal year end on May 31, 2018. 327,000 grams of pure gold (in the form of pure gold bars) that EGR received from the Refiners between May 31, 2016 and May 31, 2017 was unaccounted for in EGR's inventory as of May 31, 2017.
- 22.37. EGR's books and records indicated that between June 1, 2016 and October 31, 2018, it purchased 858,213 more grams of pure gold (contained in purported scrap gold bars) from vendors than it sent to a the rRefiners during the Audit that same Pperiod.
- 22.38. Using a conservative estimate of \$50 per gram:

- a. 2,467,000 grams of pure gold ~~would have been~~ was worth \$123,350,000; and
  - b. 850,000 grams of gold ~~would have been~~ was worth almost \$43 million.
- 22.39. If EGR's books and records ~~are~~ were correct, ~~it~~ EGR was unable to account for *more than* \$166 million dollars of pure gold.
- 22.40. The discrepancies in EGR's pure gold inventory and pure gold purchases described in paragraphs 22.36 ~~and 22.37~~ to 22.39 above indicate that:
- a. Some type of material was used to debase pure gold that was then recirculated to other ~~participants in the Scheme~~ Participants before being returned (*i.e.* purportedly resold as scrap gold) to EGR, which facilitated the continuation of the Scheme; and/or
  - b. EGR did not purchase the quantities of scrap gold as that EGR reported purchasing;
  - c. EGR determined that the time and energy required to implement proper internal controls exceeded what could be gained by increasing the scope of the Scheme.

### **GST/HST Leakage for 2017**

- 22.41. Over 99 % of the GST/HST amounts that EGR claimed it paid to ~~vendors~~ the Scheme Participants ~~in respect of the Scheme~~ during the 2017 calendar year (*i.e.*

ITC amounts claimed by EGR during the 2017 calendar year) were never remitted by ~~those purported vendors~~ the Scheme Participants to the Receiver General, calculated as follows:

ITCs EGR claimed in respect of GST/HST purportedly paid to the Scheme Participants in 2017	\$55,980,634.17
Amount remitted by Scheme Participants in 2017	\$ 375,110.23
<b>Total tax revenue loss/leakage for 2017</b>	<b><u><u>\$55,605,523.94</u></u></b>
 <b>% Leakage</b>	 <b>99.33%</b>

22.42. ~~The percentage of lost tax revenues (“Leakage”) was 99.33% and e~~Even after taking into account an additional \$1,265,535.02 that was subsequently recovered through collection actions by the CRA, the percentage of lost tax revenues (“Leakage”) was exceptionally high at 97.07%, a clear indicator of the existence of a carousel scheme.<sup>38</sup>

### **EGR’s recordkeeping was poor**

22.43. There were significant issues with, and deficiencies in, EGR’s books and records, affecting scrap gold volumes, inventory, sales and cost of goods sold, as described in paragraphs 22.36 to 22.39 above.

### **EGR did not conduct a proper risk assessment of vendors**

22.44. EGR regularly engaged in precious metals transactions in excess of \$10,000 and was a reporting entity under the Proceeds of Crime (Money Laundering) and

<sup>38</sup> CRA did not conduct this analysis for the rest of the reporting periods. Similar percentages of tax loss/leakage are expected across the remaining reporting periods.

Terrorist Financing Act (“PCMLTFA”). EGR was required to conduct “Know Your Customer/Client” (“KYC”) checks for its vendors;

22.45. EGR’s KYC checks for Large Vendors disclosed significant issues: 49% of the shareholders did not have a good credit score; identification issues existed for 40% of the shareholders; 41% of the vendors indicated a high initial volume of expected scrap gold transactions and 44% of those vendors had only fair or poor credit scores; several vendors had repeating indicators with other vendors that did not appear to be related and few vendors had enough information to return a business credit report with any value. Only four vendors analyzed by the CRA did not have a single risk factor.

### **Facts related to gross negligence penalties**

23. In determining that EGR was liable for gross negligence penalties under section 285 of the *Act* for the Reporting Periods, the Minister relied on the following facts:

23.1. The facts as set out in paragraph 22, above.

### **Knowledge**

23.2. Atef Salama was aware of the Scheme and participated or was complicit in the Scheme:

- a. he is knowledgeable of the gold industry;
- b. his family has been involved in the gold industry for several decades;

- c. he has worked for EGR since 2002;
- d. he has a Masters in Computer Systems Engineering from the University of Toronto;
- e. he was the controlling director and the vice-president of EGR;
- f. he has been a director of EGR since 2008;
- g. the other two directors are his parents, Nabil and Mary Salama;
- h. Nabil and Mary Salama are also the president and treasurer of EGR, respectively;
- i. he was responsible for the day-to-day operations of EGR.
- j. EGR's books and records were maintained in-house by an internal bookkeeper;
- k. he and/or another director of EGR verified every transaction ~~that is~~ entered into EGR's system;
- l. he approved and filed EGR's GST/HST returns; and
- m. he was aware of the sudden increase in the magnitude of the tax refunds that EGR was starting to report and claim in 2015 in contrast to prior years and did not make any inquiries into the sudden increase in ITCs and net tax refunds claimed.



- 23.3. EGR was aware of the Scheme.
- 23.4. EGR was a willing participant or was complicit in the Scheme.
- 23.5. The tax benefit derived by EGR for the Reporting Periods from claiming the denied ITCs is \$119,903,196.71 (the “**Tax Benefit**”);
- 23.6. The Tax Benefit is material as it is 93% of the \$129,235,595.67 of ITCs claimed by that EGR reported during the Reporting Periods.
- 23.7. EGR knew or ought to have known that it was not entitled to the Tax Benefit;
- 23.8. EGR, knowingly, or under circumstances amounting to gross negligence, made or participated in, assented to or acquiesced in the making of false statements in its GST/HST returns filed for the Reporting Periods in that it falsely reported ITCs of \$119,903,196.71 to which it was not entitled in computing and reporting its net tax for those Reporting Periods.

### **Willful blindness**

- 23.9. In the alternative, if EGR was not a willing or knowing participant in the Scheme, EGR was willfully blind and ought to have known about the Scheme.
- 23.10. From 2013 to 2018, EGR’s sales and cost of goods sold increased by 298% and 303% respectively. From 2015 to 2018, EGR’s ITCs increased by 1000%. There were no favourable market conditions that could have supported these increases.

- 23.11. Specifically, as the volume of transactions in the gold recycling market is strongly tied to the price of gold, there were no significant changes in gold prices from 2015 to 2018 that could account for EGR's increased sales and claimed ITCs.
- 23.12. Furthermore, during the Audit Period, 90% of the gold EGR purchased, when analyzed by vendor, was above the expected weekly volume in the industry. Twenty percent of the vendors analyzed transacted more than double the weekly volume of the industry benchmark.
- 23.13. Finally, as described in paragraph 22.26, above, many of EGR's vendors have no advertising, no industry experience, no employees, and no physical locations.
- 23.14. Given the above factors, EGR's directors should have made inquiries regarding the substantial increases in the net tax refunds being claimed.

#### **Additional Material Facts**

24. There was insufficient detail in EGR's books and records to accurately trace purported scrap gold transactions through those books and records from the point of purchase to inventory.
25. EGR allegedly discounted the spot price of gold that it agreed to pay to vendors by 20 cents.
26. EGR allegedly charged vendors a volume discount, paying vendors for anywhere from 95% to 99.5% of the quantity of pure gold contained in the melt. EGR inconsistently

applied volume discounts, e.g. EGR did not charge the lowest volume discounts to vendors allegedly selling EGR the highest purity or the highest quantities of pure gold.

27. EGR inconsistently applied minimum deductions to its largest vendors, e.g. some large vendors were not charged minimum deductions, others were always charged minimum deductions and yet others were sometimes, but not always, charged minimum deductions. The minimum deductions varied from transaction to transaction and did not correlate to the purity or quantity of the gold allegedly purchased by EGR from vendors. Further details are set out in the attached Schedule C2 to this Reply.

## **ISSUES TO BE DECIDED**

28. ~~24.~~ The issues are whether:
- n. the Minister properly disallowed the ITCs claimed by the Appellant for the Reporting Periods under appeal (*i.e.* the Appeal Period);
  - o. the Minister properly disallowed the Appellant’s alternative claim for an allowance for a rebate for tax allegedly paid in error; and
  - p. the Minister properly assessed the Appellant gross negligence penalties under section 285 of the *Act*.

## **STATUTORY PROVISIONS RELIED ON**

29. ~~25.~~ The AGC relies on subsections 123(1) – “commercial activity”; “consideration”; “exempt supply”; “financial instrument”; “financial service”; “precious metal”;

“property”; “recipient”; “service”; “supplier”; “supply”; “taxable supply”; and “zero-rated supply”; 168(1), 169(1) and (4), 221(1), 222(1), 225(1), 228(1) and (2), 261(1) and (2), 280(1), ~~and~~ 296(1) and (2.1), and 298(6.1) and sections 141, 165, 263, 285, 286, 299 and 300 of the *Act*, section 3, Part IX, Schedule VI to the *Act* and sections 2 and 3 of the *Input Tax Credit Information (GST/HST) Regulations*, (SOR91/-45), as amended (the “*Regulations*”).

### GROUNDS RELIED ON AND RELIEF SOUGHT

30. ~~26.~~ The AGC submits that EGR is not entitled to ITCs totalling \$119,903,196.71 in respect of purported purchases from the Scheme Participants for the Reporting Periods ~~as it.~~ EGR has not satisfied the requirements set out in subsection 169(1)(4) of the *Act* and *Regulations*, namely, it did not expend the amounts claimed. The alleged supplies of scrap gold from Scheme Participants to EGR during the Reporting Periods were artificially created supplies for the sole purpose of participating in the Scheme and were not supplies acquired by EGR for consumption, use or resupply in the course of a *bona fide* commercial activity involving scrap gold. The amount eligible to be claimed as an ITC under subsection 169(1) of the *Act* was therefore nil:

30.1. ~~26.1~~ †The Scheme Participants did not remit the amounts purportedly collected from EGR as or on account of GST/HST to the Receiver General;

30.2. ~~26.2~~ EGR did not purchase scrap gold from the Scheme Participants for the purpose of reselling the gold to *bona fide* purchasers;

- 30.3. ~~26.3~~ EGR purchased scrap gold from Scheme Participants as part of the Scheme to create the false appearance of *bona fide* commercial activity occurring between EGR and the Scheme Participants, when in fact this was not the case at all;
- 30.4. ~~26.4~~ At some point in the Scheme, the scrap gold EGR purchased from the Scheme Participants was refined into pure gold. The pure gold ~~would~~was then ~~be~~-debased into scrap gold to be sold to EGR once again, so that the cycle could continue;
- 30.5. The sole purpose of the Scheme was to deceive the Minister and for the Scheme Participants to benefit from diverted GST/HST. The invoices relied upon by EGR to support its claim to the \$119,903,196.71 of ITCs at issue in this appeal were not *bona fide* invoices, but were accommodation invoices (or invoices of convenience).
- 30.6. ~~26.5~~ ~~In addition, w~~With respect to the ITCs totalling \$10,028,332.27 that EGR claimed in respect of the purported purchases from the Missing ~~Vendors-Traders~~ (which amount is included in the total ITCs of \$119,903,196.71 set out in paragraph ~~2634~~, above):
- a. the Missing ~~Vendors-Traders~~ did not supply scrap gold to EGR;
  - b. EGR and the Missing ~~Vendors-Traders~~ created and used the invoices to ~~support~~fabricate the ~~illusion~~appearance of business activity and scrap gold transactions occurring, when in fact no such business activity or scrap gold transactions took place; and
  - c. the invoices were accommodation invoices.

- 30.7. ~~26.6~~ Finally, EGR has not ~~provided sufficient documentation to support the ITCs, as required by~~ satisfied the documentary requirements of subsection 169(4) of the Act and the Regulations. The ITCs of \$119,903,196.71 disallowed for the Reporting Periods were in respect of the Scheme. The true suppliers of any scrap gold supplied to EGR during the Reporting Periods were not shown on the invoices of accommodation relied upon by EGR in support of its net tax refund claims and no documents were provided to the CRA to support that EGR paid any amounts as or on account of tax to any such suppliers. The suppliers named on the invoices of accommodation did not have the capacity or resources to provide the scrap gold allegedly sold to EGR and did not carry on bona fide commercial activity.
31. In the further alternative, the AGC states, pursuant to subsection 298(6.1) of the Act, that EGR's alleged purchase and sale transactions of scrap gold from all Scheme Participants during the Reporting Periods were sham transactions. The transaction documents, such as the alleged purchase invoices and settlement documents provided by EGR and other Scheme Participants to the CRA in support of EGR's claims to ITCs were intended to deceive the Minister and to conceal the source of any alleged scrap gold purchased by EGR (i.e. debased pure gold versus scrap jewellery), and/or to conceal or misrepresent the identity of the true suppliers of any scrap gold that was allegedly purchased by EGR. The purpose of the invoices of accommodation was to fabricate the appearance to the Minister that EGR was carrying on bona fide commercial activity in transacting with Scheme Participants during the Reporting Periods, when in fact, there was no bona fide commercial activity at all.

32. ~~27.~~ The AGC submits that EGR is not entitled to a rebate under s. 296(2.1) [read in conjunction with subsection 261(1) of the *Act*] in respect of the disallowed ITCs because EGR did not pay amounts equal to the disallowed ITCs to the ~~vendors~~ Scheme Participants. In the alternative, if ~~this Court finds that~~ EGR paid any amounts to the ~~vendors~~ Scheme Participants ~~in respect~~ as or on account of GST/HST, which the AGC denies, EGR is not entitled to a rebate because no amounts were paid in error. Rather, EGR paid the amounts intentionally as part of, and in furtherance of, the Scheme or through its own negligence or willful blindness.
33. ~~28.~~ Since the disallowed ITCs were amounts assessed by the Minister (as upward adjustments to net tax) for the Reporting Periods, subsection 261(2) of the *Act* precludes EGR from receiving any rebates under subsections 261(1) and 296(2.1) of the *Act*.
34. ~~29.~~ EGR is subject to gross negligence penalties totalling \$29,981,105.44, in accordance with section 285 of the *Act* as it knowingly, or under circumstances amounting to gross negligence, made, participated in, assented to or acquiesced in the making of false statements in its returns for the Reporting Periods, by reporting ITCs of at least \$119,903,196.71 to which it was not entitled.
35. ~~30.~~ EGGR knowingly participated in the Scheme and therefore knew that it was not entitled to the ITCs. In the alternative, if EGR was not a willing or knowing participant in the Scheme, which the AGC denies, EGR was grossly negligent because it was willfully blind to the Scheme and ought to have known it was not entitled to the ITCs.
36. ~~31.~~ The AGC requests that the appeal be dismissed, with costs.

~~DATED~~ at the City of Toronto, the Province of Ontario, this 29<sup>th</sup> day of January 2021.

DATED at the City of Toronto, the Province of Ontario, this 19th day of May 2022.



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## Schedule "A": Amounts EGR Reported

Reporting Period	Sales and Other Revenue	GST/HST collectible reported	ITCs claimed	Net Tax
2016-06-30	\$25,688,090.00	\$7,225.67	\$2,228,676.34	\$(2,221,450.67)
2016-07-31	28,491,572.00	25,240.31	2,400,765.12	(2,375,524.81)
2016-08-31	25,414,775.00	2,859.44	2,483,950.93	(2,481,091.49)
2016-09-30	21,642,883.00	4,738.01	2,434,819.18	(2,430,081.17)
2016-10-31	19,896,149.61	3,199.95	2,451,002.55	(2,447,802.60)
2016-11-30	12,259,748.00	4,936.42	2,992,112.57	(2,987,176.15)
2016-12-31	14,979,293.00	18,498.36	2,630,228.60	(2,611,730.24)
2017-01-31	18,410,992.00	3,543.15	4,049,082.17	(4,045,539.02)
2017-02-28	19,521,275.42	3,798.60	3,649,119.88	(3,645,321.28)
2017-03-31	19,771,821.00	7,882.12	4,268,011.71	(4,260,129.59)
2017-04-30	19,128,612.51	3,338.08	4,340,883.29	(4,337,545.21)
2017-05-31	21,873,043.00	27,109.28	5,311,524.94	(5,284,415.66)
2017-06-30	11,557,575.00	7,780.32	4,603,980.42	(4,596,200.10)
2017-07-31	6,420,751.00	4,978.18	3,463,801.35	(3,458,823.17)
2017-08-31	14,975,504.00	8,836.91	5,345,933.21	(5,337,096.30)
2017-09-30	15,355,590.00	4,996.11	5,885,425.34	(5,880,429.23)
2017-10-31	13,345,612.00	7,084.82	6,873,639.64	(6,866,554.82)
2017-11-30	15,827,517.00	11,014.31	6,258,431.01	(6,247,416.70)
2017-12-31	8,485,337.00	25,381.69	3,598,329.08	(3,572,947.39)
2018-01-31	16,222,556.00	3,357.27	6,372,698.37	(6,369,341.10)
2018-02-28	25,167,607.00	5,881.13	7,672,843.60	(7,666,962.47)
2018-03-31	29,942,749.00	5,223.29	8,636,911.54	(8,631,688.25)
2018-04-30	32,353,606.00	2,887.63	7,021,937.16	(7,019,049.53)
2018-05-31	49,623,238.00	9,040.07	9,043,794.87	(9,034,754.80)
2018-06-30	21,350,975.00	2,316.41	8,292,504.58	(8,290,188.17)
2018-07-31	16,349,298.00	2,159.07	6,925,188.22	(6,923,029.15)
<b>Totals</b>	<b>\$524,056,169.54</b>	<b>\$213,306.60</b>	<b>\$129,235,595.67</b>	<b>\$(129,022,289.07)</b>

## Schedule "B" – 2019 Reassessment

Period Ended	ITC Reconciliation <sup>49</sup>	ITCs Denied	Total Adjustments	GNP
2016-06-30	\$(98,421.74)	\$36,238.54	\$(62,183.20)	\$ 250.00
2016-07-31	203.20	-	203.20	0
2016-08-31	(22,089.96)	25,310.87	3,220.91	805.23
2016-09-30	(15,688.58)	97,947.85	82,259.27	20,564.82
2016-10-31	4,946.71	120,810.69	125,757.40	31,439.35
2016-11-30	9,319.98	27,340.93	36,660.91	9,165.23
2016-12-31	161.04	112,277.23	112,438.27	28,109.57
2017-01-31	8,437.12	278,975.49	287,412.61	71,853.15
2017-02-28	72,551.21	75,494.25	148,045.46	37,011.36
2017-03-31	-	100,060.76	100,060.76	25,015.19
2017-04-30	84.50	27,901.25	27,985.75	6,996.44
2017-05-31	(33,887.85)	62,840.18	28,952.33	7,238.08
2017-06-30	(56,883.47)	45,956.43	(10,927.04)	250.00
2017-07-31	66,837.56	97,522.62	164,360.18	41,090.05
2017-08-31	(366.28)	185,628.47	185,262.19	46,315.55
2017-09-30	3,355.14	323,805.46	327,160.60	81,790.15
2017-10-31	(2,894.73)	318,275.34	315,380.61	78,845.15
2017-11-30	19,591.38	610,706.80	630,298.18	157,574.55
2017-12-31	-	423,564.15	423,564.15	105,891.04
2018-01-31	-	893,994.12	893,994.12	223,498.53
2018-02-28	-	1,212,799.32	1,212,799.32	303,199.83
2018-03-31	(114,657.53)	749,170.63	634,513.10	158,628.28
2018-04-30	114,657.53	723,280.61	837,938.14	209,484.54
2018-05-31	(416.80)	1,267,537.44	1,267,120.64	316,780.16
2018-06-30	416.80	1,412,816.73	1,413,233.53	353,308.38
2018-07-31	10,855.78	798,076.11	808,931.89	202,232.97
<b>Totals</b>	<b>\$(33,888.99)</b>	<b>\$10,028,332.27</b>	<b>\$9,994,443.28</b>	<b>\$2,517,337.60</b>

<sup>49</sup>The ITCs Reconciliation column represents compliance/correction adjustments based on the Appellant's books and records. The amounts in this column are not at issue in this Appeal. They are included to show the calculation of Total Adjustments.

## Schedule "B1" – ITC Analysis

<b>Registrant's Name</b>	Express Gold Refining Ltd.	<b>WP:</b>	6000
<b>Account No:</b>	13855 7095 RT0001	<b>Auditor:</b>	Jaclyn Bartlett
<b>Year End:</b>	05-31	<b>Date:</b>	July 12, 2019
<b>Subject:</b>	ITC analysis	<b>Audit Period:</b>	2016-06-01 to 2018-07-31

**Objective:**

To determine the ITCs EGR claimed on purported purchases from suppliers identified as missing traders.

**Procedures:**

From the registrant's books and records, the GST/HST paid account was summarized by vendor. Some credits to the GST/HST paid account were unassigned in the B&R, these transactions were manually assigned based on the original settlement cancelled, they are shown in the table below as negative amounts.

**Conclusion:**

It has been determined that 2276230 Ontario Inc., 2344967 Ontario Inc., 2462300 Ontario Inc., 2578202 Ontario Inc., 2602265 Ontario Inc., 8958238 Canada Inc., 9437690 Canada Inc., Gold & Silver Inc., MC Gold Refining Inc., and Victoria Gold Inc. (See WP 6000-1) did not make supplies of scrap gold to Express Gold Refining. Audit has concluded that the invoices showing purported supplies are elements in a sham (See WP 6000-2).

As there is no supply made by these vendors, there are no amounts that are eligible to be claimed as ITCs on the invoices bearing the names of these vendors. All amounts relating to the invoices bearing the names and registration numbers of 2276230 Ontario Inc., 2344967 Ontario Inc., 2462300 Ontario Inc., 2578202 Ontario Inc., 2602265 Ontario Inc., 8958238 Canada Inc., 9437690 Canada Inc., Gold & Silver Inc., MC Gold Refining Inc., and Victoria Gold Inc. are denied in the period in which they were claimed. These amounts are denied under subsection 169(1) of the Excise Tax Act.

Additionally, while the invoices appear to meet all of the documentary requirements, the transactions shown on those invoices have been shown to be elements in the creation of a sham (see WP 6000-2). As the legal rights and obligations shown on the documents provided are different from the legal rights and obligations (if any) that exist, the requirements of subsection 169(4) are not met.

<b>Period Ended</b>	<b>ITCs Denied</b>
2016-06-30	\$ 36,238.54
2016-07-31	-
2016-08-31	25,310.87
2016-09-30	97,947.85
2016-10-31	120,810.69
2016-11-30	27,340.93
2016-12-31	112,277.23
2017-01-31	278,975.49
2017-02-28	75,494.25
2017-03-31	100,060.76
2017-04-30	27,901.25
2017-05-31	62,840.18
2017-06-30	45,956.43

2017-07-31	97,522.62
2017-08-31	185,628.47
2017-09-30	323,805.46
2017-10-31	318,275.34
2017-11-30	610,706.80
2017-12-31	423,564.15
2018-01-31	893,994.12
2018-02-28	1,212,799.32
2018-03-31	749,170.63
2018-04-30	723,280.61
2018-05-31	1,267,537.44
2018-06-30	1,412,816.73
2018-07-31	798,076.11

**\$ 10,028,332.27**  
**To WP 0036**

<u>Posting Date</u>	<u>Vendor Name</u>	<u>Description</u>	<u>ITC Denied</u>
2016-06-29	Victoria Gold Inc.	Settlement SET11989	\$ 36,304.97
2016-06-29	Victoria Gold Inc.	Settlement SET11990	36,238.54
2016-06-29	Victoria Gold Inc.	RCredit for SET11989	(36,304.97)
	<b>Total for Period Ended 2016-06-30</b>		<b>\$ 36,238.54</b>
2016-08-09	Victoria Gold Inc.	Settlement SET12438	\$ 25,310.87
	<b>Total for Period Ended 2016-08-30</b>		<b>\$ 25,310.87</b>
2016-09-08	Gold & Silver Inc.	Settlement SET12723	\$ 2,122.90
2016-09-09	Gold & Silver Inc.	Settlement SET12734	5,121.61
2016-09-14	Gold & Silver Inc.	Settlement SET12778	10,279.75
2016-09-15	Gold & Silver Inc.	Settlement SET12799	13,717.73
2016-09-16	Gold & Silver Inc.	Settlement SET12809	6,246.50
2016-09-19	Gold & Silver Inc.	Settlement SET12826	8,167.12
2016-09-22	Gold & Silver Inc.	Settlement SET12878	14,715.48
2016-09-23	Gold & Silver Inc.	Settlement SET12898	6,918.47
2016-09-26	Gold & Silver Inc.	Settlement SET12920	15,592.98
2016-09-30	Gold & Silver Inc.	Settlement SET12974	15,065.31
	<b>Total for Period Ended 2016-09-30</b>		<b>\$ 97,947.85</b>
2016-10-03	Gold & Silver Inc.	Settlement SET12989	\$ 12,571.78
2016-10-07	Gold & Silver Inc.	Settlement SET13032	14,266.33
2016-10-12	Gold & Silver Inc.	Settlement SET13051	14,067.95
2016-10-17	Gold & Silver Inc.	Settlement SET13100	15,146.43
2016-10-20	Gold & Silver Inc.	Settlement SET13144	14,931.15
2016-10-24	Gold & Silver Inc.	Settlement SET13190	14,001.00
2016-10-27	Gold & Silver Inc.	Settlement SET13231	14,371.89
2016-10-31	Gold & Silver Inc.	Settlement SET13253	21,454.16
	<b>Total for Period Ended 2016-10-31</b>		<b>\$ 120,810.69</b>

<b>Posting Date</b>	<b>Vendor Name</b>	<b>Description</b>	<b>ITC Denied</b>
2016-11-10	Gold & Silver Inc.	Settlement SET13399	\$ 27,340.93
	<b>Total for Period Ended 2016-11-30</b>		<b>\$ 27,340.93</b>
2016-12-02	Gold & Silver Inc.	Settlement SET13609	\$ 13,265.20
2016-12-06	Gold & Silver Inc.	Settlement SET13626	12,688.00
2016-12-09	Gold & Silver Inc.	Settlement SET13664	19,748.30
2016-12-13	Gold & Silver Inc.	Settlement SET13684	13,531.70
2016-12-15	Gold & Silver Inc.	Settlement SET13699	20,136.35
2016-12-20	Gold & Silver Inc.	Settlement SET13728	18,503.68
2016-12-22	Gold & Silver Inc.	Settlement SET13745	14,404.00
	<b>Total for Period Ended 2016-12-31</b>		<b>\$ 112,277.23</b>
2017-01-04	2344967 Ontario Inc	Settlement SET13799	\$ 28,288.79
2017-01-05	Gold & Silver Inc.	Settlement SET13806	19,906.25
2017-01-06	2344967 Ontario Inc	Settlement SET13818	16,904.62
2017-01-10	Gold & Silver Inc.	Settlement SET13838	19,972.70
2017-01-11	2344967 Ontario Inc	Settlement SET13856	19,502.15
2017-01-12	Gold & Silver Inc.	Settlement SET13860	20,345.00
2017-01-16	2344967 Ontario Inc	Settlement SET13882	39,631.02
2017-01-17	2462300 Ontario Inc.	Settlement SET13894	32,395.35
2017-01-18	Gold & Silver Inc.	Settlement SET13900	13,500.63
2017-01-25	2462300 Ontario Inc.	Settlement SET13959	38,265.11
2017-01-27	Gold & Silver Inc.	Settlement SET13974	10,301.85
2017-01-30	Gold & Silver Inc.	Settlement SET13983	19,962.02
	<b>Total for Period Ended 2017-01-31</b>		<b>\$ 278,975.49</b>
2017-02-06	Gold & Silver Inc.	Settlement SET14022	\$ 19,724.25
2017-02-09	Gold & Silver Inc.	Settlement SET14060	19,212.70
2017-02-14	Gold & Silver Inc.	Settlement SET14106	15,647.45
2017-02-27	Gold & Silver Inc.	Settlement SET14183	20,909.85
	<b>Total for Period Ended 2017-02-28</b>		<b>\$ 75,494.25</b>
2017-03-02	Gold & Silver Inc.	Settlement SET14222	\$ 19,890.13
2017-03-13	Gold & Silver Inc.	Settlement SET14316	20,536.25
2017-03-16	Gold & Silver Inc.	Settlement SET14346	15,076.49
2017-03-21	Gold & Silver Inc.	Settlement SET14396	14,018.55
2017-03-28	Gold & Silver Inc.	Settlement SET14488	16,111.29
2017-03-31	Gold & Silver Inc.	Settlement SET14531	14,428.05
	<b>Total for Period Ended 2017-03-31</b>		<b>\$ 100,060.76</b>
2017-04-06	Gold & Silver Inc.	Settlement SET14612	\$ 9,655.75
2017-04-24	Gold & Silver Inc.	Settlement SET14804	18,245.50
	<b>Total for Period Ended 2017-04-30</b>		<b>\$ 27,901.25</b>
2017-05-02	Gold & Silver Inc.	Settlement SET14907	\$ 17,215.25
2017-05-09	Gold & Silver Inc.	Settlement SET14981	15,096.25
2017-05-23	Gold & Silver Inc.	Settlement SET15133	8,764.60
2017-05-30	Gold & Silver Inc.	Settlement SET15199	21,764.08
	<b>Total for Period Ended 2017-05-31</b>		<b>\$ 62,840.18</b>

<b>Posting Date</b>	<b>Vendor Name</b>	<b>Description</b>	<b>ITC Denied</b>
2017-06-02	Gold & Silver Inc.	Settlement SET15244	\$ 14,642.03
2017-06-19	Gold & Silver Inc.	Settlement SET15413	15,509.65
2017-06-27	Gold & Silver Inc.	Settlement SET15518	15,804.75
<b>Total for Period Ended 2017-06-30</b>			<b>\$ 45,956.43</b>
2017-07-28	Victoria Gold Inc.	Settlement SET15842	\$ 65,192.27
2017-07-31	Victoria Gold Inc.	Settlement SET15861	32,330.35
<b>Total for Period Ended 2017-07-31</b>			<b>\$ 97,522.62</b>
2017-08-02	Gold & Silver Inc.	Settlement SET15900	\$ 18,375.50
2017-08-10	Victoria Gold Inc.	Settlement SET15989	42,076.97
2017-08-16	Gold & Silver Inc.	Settlement SET16061	6,835.40
2017-08-16	Victoria Gold Inc.	Settlement SET16064	33,676.80
2017-08-23	Gold & Silver Inc.	Settlement SET16147	13,494.91
2017-08-28	Victoria Gold Inc.	Settlement SET16202	2,080.78
2017-08-28	Victoria Gold Inc.	Settlement SET16204	27,137.76
2017-08-30	Gold & Silver Inc.	Settlement SET16243	14,881.10
2017-08-30	Victoria Gold Inc.	Settlement SET16240	27,069.25
<b>Total for Period Ended 2017-08-31</b>			<b>\$ 185,628.47</b>
2017-09-01	2276230 Ontario Inc.	Invoice 110513	\$ 162,357.75
2017-09-06	Gold & Silver Inc.	Settlement SET16329	6,217.51
2017-09-11	Victoria Gold Inc.	Settlement SET16378	27,181.05
2017-09-12	Victoria Gold Inc.	Settlement SET16396	1,194.83
2017-09-13	Gold & Silver Inc.	Settlement SET16415	24,308.05
2017-09-15	Victoria Gold Inc.	Settlement SET16465	767.91
2017-09-19	Gold & Silver Inc.	Settlement SET16492	16,282.50
2017-09-28	2276230 Ontario Inc.	Settlement SET16623	85,495.86
<b>Total for Period Ended 2017-09-30</b>			<b>\$ 323,805.46</b>
2017-10-02	2276230 Ontario Inc.	Settlement SET16644	\$ 64,834.58
2017-10-04	2276230 Ontario Inc.	Settlement SET16698	64,728.91
2017-10-05	Gold & Silver Inc.	Settlement SET16701	5,679.05
2017-10-26	2276230 Ontario Inc.	Settlement SET16979	81,157.77
2017-10-31	2276230 Ontario Inc.	Settlement SET17068	101,875.03
<b>Total for Period Ended 2017-10-31</b>			<b>\$ 318,275.34</b>
2017-11-03	Gold & Silver Inc.	Settlement SET17107	\$ 11,622.00
2017-11-09	2602265 Ontario Inc.	Invoice 110857	26,139.53
2017-11-10	Victoria Gold Inc.	Settlement SET17199	40,550.75
2017-11-15	Gold & Silver Inc.	Settlement SET17247	20,827.82
2017-11-16	2602265 Ontario Inc.	Settlement SET17275	41,005.53
2017-11-20	2276230 Ontario Inc.	Settlement SET17307	102,466.47
2017-11-21	Gold & Silver Inc.	Settlement SET17325	28,457.65
2017-11-21	2602265 Ontario Inc.	Settlement SET17341	14,442.51
2017-11-22	2276230 Ontario Inc.	Settlement SET17347	95,025.83
2017-11-23	Victoria Gold Inc.	Settlement SET17383	47,782.08
2017-11-24	2276230 Ontario Inc.	Settlement SET17404	91,476.98

<b>Posting Date</b>	<b>Vendor Name</b>	<b>Description</b>	<b>ITC Denied</b>
2017-11-28	Victoria Gold Inc.	Settlement SET17444	70,409.95
2017-11-29	2602265 Ontario Inc.	Settlement SET17452	20,499.70
<b>Total for Period Ended 2017-11-30</b>			<b>\$ 610,706.80</b>
2017-12-01	2276230 Ontario Inc.	Settlement SET17498	\$ 67,520.39
2017-12-04	2276230 Ontario Inc.	Settlement SET17515	93,869.56
2017-12-04	2276230 Ontario Inc.	RCredit for SET17515	(93,869.56)
2017-12-05	2276230 Ontario Inc.	Settlement SET17535	93,637.69
2017-12-06	2602265 Ontario Inc.	Settlement SET17556	26,905.06
2017-12-06	2276230 Ontario Inc.	Settlement SET17548	66,521.16
2017-12-08	Gold & Silver Inc.	Settlement SET17592	17,470.05
2017-12-13	2602265 Ontario Inc.	Settlement SET17636	20,017.92
2017-12-14	Gold & Silver Inc.	Settlement SET17654	14,580.15
2017-12-19	Gold & Silver Inc.	Settlement SET17711	23,477.87
2017-12-19	8958238 Canada Inc	Settlement SET17714	6,647.55
2017-12-20	8958238 Canada Inc	Settlement SET17735	19,899.62
2017-12-20	2602265 Ontario Inc.	Settlement SET17744	20,191.21
2017-12-21	8958238 Canada Inc	Settlement SET17758	19,719.05
2017-12-22	2602265 Ontario Inc.	Settlement SET17788	26,976.43
<b>Total for Period Ended 2017-12-31</b>			<b>\$ 423,564.15</b>
2018-01-04	Gold & Silver Inc.	Settlement SET17838	\$ 25,667.20
2018-01-05	2602265 Ontario Inc.	Settlement SET17858	34,347.95
2018-01-09	8958238 Canada Inc	Settlement SET17909	27,346.28
2018-01-10	8958238 Canada Inc	Settlement SET17915	28,788.50
2018-01-11	Gold & Silver Inc.	Settlement SET17938	25,746.76
2018-01-11	8958238 Canada Inc	Settlement SET17934	35,566.44
2018-01-11	8958238 Canada Inc	Settlement SET17946	27,461.59
2018-01-12	8958238 Canada Inc	Settlement SET17950	40,104.35
2018-01-12	2602265 Ontario Inc.	Settlement SET17962	35,318.14
2018-01-16	8958238 Canada Inc	Settlement SET17993	35,010.69
2018-01-17	8958238 Canada Inc	Settlement SET18006	34,873.93
2018-01-18	Gold & Silver Inc.	Settlement SET18037	24,934.13
2018-01-18	8958238 Canada Inc	Settlement SET18035	34,407.36
2018-01-18	8958238 Canada Inc	Settlement SET18052	33,484.80
2018-01-19	2602265 Ontario Inc.	Settlement SET18066	34,676.14
2018-01-23	Gold & Silver Inc.	Settlement SET18093	21,006.96
2018-01-23	8958238 Canada Inc	Settlement SET18108	34,970.26
2018-01-24	8958238 Canada Inc	Settlement SET18114	20,746.57
2018-01-24	8958238 Canada Inc	Settlement SET18133	48,734.11
2018-01-25	8958238 Canada Inc	Settlement SET18141	6,939.56
2018-01-25	2276230 Ontario Inc.	Settlement SET18139	89,829.54
2018-01-26	2602265 Ontario Inc.	Settlement SET18162	27,829.92
2018-01-29	8958238 Canada Inc	Settlement SET18185	14,818.96
2018-01-30	9437690 Canada Inc	Settlement SET18197	7,052.24
2018-01-30	8958238 Canada Inc	Settlement SET18212	13,661.31
2018-01-31	9437690 Canada Inc	Settlement SET18219	13,835.64
2018-01-31	8958238 Canada Inc	Settlement SET18218	13,732.94
2018-01-31	2276230 Ontario Inc.	Settlement SET18222	103,101.85



<u>Posting Date</u>	<u>Vendor Name</u>	<u>Description</u>	<u>ITC Denied</u>	
<b>Total for Period Ended 2018-01-31</b>			<b>\$</b>	<b>893,994.12</b>
2018-02-01	Gold & Silver Inc.	Settlement SET18246	\$	26,513.50
2018-02-01	9437690 Canada Inc	Settlement SET18262		7,333.30
2018-02-01	8958238 Canada Inc	Settlement SET18263		14,606.93
2018-02-02	2276230 Ontario Inc.	Settlement SET18267		95,520.16
2018-02-05	9437690 Canada Inc	Settlement SET18303		28,189.72
2018-02-05	8958238 Canada Inc	Settlement SET18302		27,954.82
2018-02-06	9437690 Canada Inc	Settlement SET18315		27,627.60
2018-02-06	8958238 Canada Inc	Settlement SET18333		55,140.28
2018-02-06	2602265 Ontario Inc.	Settlement SET18316		34,525.92
2018-02-07	2276230 Ontario Inc.	Settlement SET18335		96,972.46
2018-02-08	9437690 Canada Inc	Settlement SET18363		27,642.55
2018-02-08	8958238 Canada Inc	Settlement SET18361		28,352.22
2018-02-09	Gold & Silver Inc.	Settlement SET18381		17,388.41
2018-02-12	8958238 Canada Inc	Settlement SET18410		27,712.10
2018-02-13	9437690 Canada Inc	Settlement SET18431		48,812.79
2018-02-13	8958238 Canada Inc	Settlement SET18429		62,569.78
2018-02-14	Gold & Silver Inc.	Settlement SET18438		14,640.60
2018-02-14	9437690 Canada Inc	Settlement SET18453		21,241.74
2018-02-14	8958238 Canada Inc	Settlement SET18434		35,302.67
2018-02-14	2602265 Ontario Inc.	Settlement SET18448		35,536.02
2018-02-15	9437690 Canada Inc	Settlement SET18468		56,324.58
2018-02-15	8958238 Canada Inc	Settlement SET18482		28,329.73
2018-02-15	8958238 Canada Inc	Settlement SET18483		27,943.50
2018-02-16	2602265 Ontario Inc.	Settlement SET18501		35,993.36
2018-02-20	8958238 Canada Inc	Settlement SET18535		49,121.28
2018-02-21	Gold & Silver Inc.	Settlement SET18544		12,612.60
2018-02-21	8958238 Canada Inc	Settlement SET18548		49,196.94
2018-02-21	2602265 Ontario Inc.	Settlement SET18547		42,611.27
2018-02-22	8958238 Canada Inc	Settlement SET18568		49,345.53
2018-02-26	9437690 Canada Inc	Settlement SET18613		35,516.78
2018-02-27	8958238 Canada Inc	Settlement SET18635		41,815.93
2018-02-28	Gold & Silver Inc.	Settlement SET18657		15,379.65
2018-02-28	9437690 Canada Inc	Settlement SET18653		35,024.60
<b>Total for Period Ended 2018-02-28</b>			<b>\$</b>	<b>1,212,799.32</b>
2018-03-02	8958238 Canada Inc	Settlement SET18695	\$	42,538.99
2018-03-05	9437690 Canada Inc	Settlement SET18720		35,738.30
2018-03-05	8958238 Canada Inc	Settlement SET18724		43,013.62
2018-03-06	9437690 Canada Inc	Settlement SET18764		72,036.77
2018-03-06	8958238 Canada Inc	Settlement SET18756		71,784.31
2018-03-08	Gold & Silver Inc.	Settlement SET18797		3,996.85
2018-03-12	9437690 Canada Inc	Settlement SET18866		70,766.54
2018-03-12	8958238 Canada Inc	Settlement SET18863		70,329.22
2018-03-13	8958238 Canada Inc	Settlement SET18886		35,397.57
2018-03-13	8958238 Canada Inc	Settlement SET18887		35,348.17
2018-03-14	Gold & Silver Inc.	Settlement SET18893		26,429.78
2018-03-14	9437690 Canada Inc	Settlement SET18902		64,918.36

<b>Posting Date</b>	<b>Vendor Name</b>	<b>Description</b>	<b>ITC Denied</b>
2018-03-26	2276230 Ontario Inc.	Settlement SET19081	109,153.85
2018-03-27	2276230 Ontario Inc.	Settlement SET19107	67,718.30
<b>Total for Period Ended 2018-03-31</b>			<b>\$ 749,170.63</b>
2018-04-04	9437690 Canada Inc	Settlement SET19213	\$ 36,003.11
2018-04-04	8958238 Canada Inc	Settlement SET19215	36,084.10
2018-04-05	9437690 Canada Inc	Settlement SET19223	35,769.37
2018-04-05	8958238 Canada Inc	Settlement SET19225	35,267.05
2018-04-05	2276230 Ontario Inc.	Settlement SET19245	49,016.76
2018-04-10	Gold & Silver Inc.	Settlement SET19292	15,967.25
2018-04-10	2276230 Ontario Inc.	Settlement SET19306	48,547.59
2018-04-11	9437690 Canada Inc	Settlement SET19312	36,045.88
2018-04-11	8958238 Canada Inc	Settlement SET19310	29,248.05
2018-04-13	9437690 Canada Inc	Settlement SET19352	35,562.54
2018-04-13	8958238 Canada Inc	Settlement SET19349	35,326.07
2018-04-18	8958238 Canada Inc	Settlement SET19407	35,763.91
2018-04-19	9437690 Canada Inc	Settlement SET19443	28,936.96
2018-04-20	9437690 Canada Inc	Settlement SET19457	14,184.56
2018-04-20	8958238 Canada Inc	Settlement SET19449	28,546.70
2018-04-24	Gold & Silver Inc.	Settlement SET19525	21,041.15
2018-04-24	8958238 Canada Inc	Settlement SET19528	35,475.05
2018-04-24	2276230 Ontario Inc.	Settlement SET19540	42,175.51
2018-04-24	MC Gold Refining Inc	Settlement SET19522	17,334.20
2018-04-24	MC Gold Refining Inc	Invoice 111621	17,334.20
2018-04-24	MC Gold Refining Inc	RCredit for SET19521	(17,334.20)
2018-04-25	9437690 Canada Inc	Settlement SET19554	35,200.10
2018-04-27	9437690 Canada Inc	Settlement SET19593	35,846.20
2018-04-27	8958238 Canada Inc	Settlement SET19608	35,938.50
<b>Total for Period Ended 2018-04-30</b>			<b>\$ 723,280.61</b>
2018-05-01	Gold & Silver Inc.	Settlement SET19648	\$ 34,495.37
2018-05-01	9437690 Canada Inc	Settlement SET19654	35,303.32
2018-05-01	8958238 Canada Inc	Settlement SET19662	35,309.56
2018-05-01	MC Gold Refining Inc	Settlement SET19661	27,169.74
2018-05-03	9437690 Canada Inc	Settlement SET19696	35,350.64
2018-05-03	8958238 Canada Inc	Settlement SET19694	35,876.23
2018-05-04	9437690 Canada Inc	Settlement SET19717	14,135.42
2018-05-08	2276230 Ontario Inc.	Settlement SET19775	42,151.33
2018-05-09	Gold & Silver Inc.	Settlement SET19787	21,900.32
2018-05-09	9437690 Canada Inc	Settlement SET19786	42,817.58
2018-05-09	8958238 Canada Inc	Settlement SET19778	35,997.39
2018-05-09	MC Gold Refining Inc	Settlement SET19792	34,128.38
2018-05-10	9437690 Canada Inc	Settlement SET19809	42,831.49
2018-05-11	9437690 Canada Inc	Settlement SET19823	21,170.24
2018-05-11	8958238 Canada Inc	Settlement SET19821	42,891.42
2018-05-15	9437690 Canada Inc	Settlement SET19873	41,795.91
2018-05-15	8958238 Canada Inc	Settlement SET19866	41,916.16
2018-05-15	MC Gold Refining Inc	Settlement SET19874	26,918.06
2018-05-16	Gold & Silver Inc.	Settlement SET19887	17,195.88

<b>Posting Date</b>	<b>Vendor Name</b>	<b>Description</b>	<b>ITC Denied</b>
2018-05-17	9437690 Canada Inc	Settlement SET19906	42,038.10
2018-05-17	8958238 Canada Inc	Settlement SET19907	41,506.79
2018-05-17	2276230 Ontario Inc.	Settlement SET19929	48,336.60
2018-05-18	MC Gold Refining Inc	Settlement SET19936	26,916.76
2018-05-23	Gold & Silver Inc.	Settlement SET19982	21,981.70
2018-05-23	9437690 Canada Inc	Settlement SET19983	42,250.65
2018-05-23	8958238 Canada Inc	Settlement SET19991	43,306.90
2018-05-23	2602265 Ontario Inc.	Settlement SET19996	13,791.05
2018-05-25	9437690 Canada Inc	Settlement SET20026	42,290.30
2018-05-25	8958238 Canada Inc	Settlement SET20032	42,426.15
2018-05-25	2276230 Ontario Inc.	Settlement SET20036	58,145.75
2018-05-25	MC Gold Refining Inc	Settlement SET20034	6,875.70
2018-05-28	MC Gold Refining Inc	Settlement SET20057	27,259.05
2018-05-29	9437690 Canada Inc	Settlement SET20094	42,785.99
2018-05-29	2602265 Ontario Inc.	Settlement SET20096	21,383.57
2018-05-30	8958238 Canada Inc	Settlement SET20105	47,195.72
2018-05-30	MC Gold Refining Inc	Settlement SET20109	27,069.90
2018-05-31	9437690 Canada Inc	Settlement SET20133	42,622.32
<b>Total for Period Ended 2018-05-31</b>			<b>\$ 1,267,537.44</b>
2018-06-01	Gold & Silver Inc.	Settlement SET20157	\$ 18,258.50
2018-06-01	9437690 Canada Inc	Settlement SET20156	28,272.14
2018-06-01	8958238 Canada Inc	Settlement SET20155	48,653.02
2018-06-05	8958238 Canada Inc	Settlement SET20217	49,414.04
2018-06-06	9437690 Canada Inc	Settlement SET20226	49,379.33
2018-06-07	8958238 Canada Inc	Settlement SET20253	43,224.09
2018-06-07	2602265 Ontario Inc.	Settlement SET20257	35,010.43
2018-06-08	Gold & Silver Inc.	Settlement SET20275	22,479.60
2018-06-08	9437690 Canada Inc	Settlement SET20270	49,363.60
2018-06-11	2276230 Ontario Inc.	Settlement SET20298	57,788.38
2018-06-11	MC Gold Refining Inc	Settlement SET20297	13,657.15
2018-06-12	9437690 Canada Inc	Settlement SET20321	42,168.62
2018-06-12	8958238 Canada Inc	Settlement SET20334	36,860.85
2018-06-13	Gold & Silver Inc.	Settlement SET20344	29,784.17
2018-06-13	9437690 Canada Inc	Settlement SET20352	35,074.00
2018-06-14	8958238 Canada Inc	Settlement SET20377	30,516.20
2018-06-14	2276230 Ontario Inc.	Settlement SET20379	35,528.35
2018-06-14	MC Gold Refining Inc	Settlement SET20373	20,602.14
2018-06-15	9437690 Canada Inc	Settlement SET20390	21,428.81
2018-06-15	8958238 Canada Inc	Settlement SET20392	30,108.65
2018-06-15	2602265 Ontario Inc.	Settlement SET20399	34,923.20
2018-06-18	MC Gold Refining Inc	Settlement SET20417	13,613.86
2018-06-19	Gold & Silver Inc.	Settlement SET20436	22,768.20
2018-06-19	9437690 Canada Inc	Settlement SET20462	28,179.45
2018-06-20	9437690 Canada Inc	Settlement SET20469	42,125.72
2018-06-20	8958238 Canada Inc	Settlement SET20473	39,145.99
2018-06-20	MC Gold Refining Inc	Settlement SET20467	20,549.23
2018-06-21	9437690 Canada Inc	Settlement SET20486	34,997.82
2018-06-21	8958238 Canada Inc	Settlement SET20485	21,416.20

<b>Posting Date</b>	<b>Vendor Name</b>	<b>Description</b>	<b>ITC Denied</b>
2018-06-21	2602265 Ontario Inc.	Settlement SET20493	35,107.80
2018-06-22	2276230 Ontario Inc.	Settlement SET20511	77,878.06
2018-06-25	9437690 Canada Inc	Settlement SET20544	35,501.57
2018-06-25	8958238 Canada Inc	Settlement SET20543	44,246.02
2018-06-25	MC Gold Refining Inc	Settlement SET20534	20,465.77
2018-06-26	Gold & Silver Inc.	Settlement SET20556	29,918.72
2018-06-26	9437690 Canada Inc	Settlement SET20563	41,673.45
2018-06-26	8958238 Canada Inc	Settlement SET20555	35,499.62
2018-06-27	8958238 Canada Inc	Settlement SET20587	8,594.95
2018-06-27	2276230 Ontario Inc.	Settlement SET20605	95,769.05
2018-06-28	MC Gold Refining Inc	Settlement SET20618	33,417.15
2018-06-29	2276230 Ontario Inc.	Settlement SET20658	95,221.88
2018-06-29	2276230 Ontario Inc.	RCredit for SET20605	(95,769.05)
<b>Total for Period Ended 2018-06-30</b>			<b>\$ 1,412,816.73</b>
2018-07-09	MC Gold Refining Inc	Settlement SET20669	\$ 33,319.39
2018-07-11	2276230 Ontario Inc.	Settlement SET20736	74,392.24
2018-07-12	MC Gold Refining Inc	Settlement SET20748	26,746.46
2018-07-13	2602265 Ontario Inc.	Settlement SET20772	34,208.07
2018-07-16	MC Gold Refining Inc	Settlement SET20799	33,222.15
2018-07-17	2276230 Ontario Inc.	Settlement SET20851	68,233.88
2018-07-19	MC Gold Refining Inc	Settlement SET20877	19,544.59
2018-07-20	2602265 Ontario Inc.	Settlement SET20911	33,698.86
2018-07-20	2578202 Ontario Inc	Settlement SET20915	14,701.57
2018-07-23	MC Gold Refining Inc	Settlement SET20922	39,366.86
2018-07-24	9437690 Canada Inc	Settlement SET20971	44,990.53
2018-07-24	8958238 Canada Inc	Settlement SET20970	48,994.66
2018-07-26	9437690 Canada Inc	Settlement SET21000	44,706.87
2018-07-26	8958238 Canada Inc	Settlement SET21001	35,827.61
2018-07-26	2578202 Ontario Inc	Settlement SET21010	19,649.50
2018-07-26	MC Gold Refining Inc	Settlement SET20999	25,959.05
2018-07-27	2602265 Ontario Inc.	Settlement SET21046	33,363.07
2018-07-27	2276230 Ontario Inc.	Settlement SET21053	26,429.65
2018-07-31	Gold & Silver Inc.	Settlement SET21086	14,041.95
2018-07-31	9437690 Canada Inc	Settlement SET21098	44,490.55
2018-07-31	8958238 Canada Inc	Settlement SET21099	49,996.05
2018-07-31	MC Gold Refining Inc	Settlement SET21080	32,192.55
<b>Total for Period Ended 2018-07-31</b>			<b>\$ 798,076.11</b>
<b>Total adjustments for all periods</b>			<b>\$ 10,028,332.27</b>
			<b>To WP 0036</b>

## Schedule "C" – 2020 Reassessment

Period Ended	GST/HST Reconciliation <sup>5</sup>	ITC Reconciliation <sup>6</sup>	ITCs Denied	Total Adjustments	GNP
2016-06-30	\$ (53.17)	\$ -	\$ 1,990,205.67	\$ 1,990,152.50	\$ 497,538.13
2016-07-31	279.09	-	2,067,401.02	2,067,680.11	516,920.03
2016-08-31	70.48	-	2,065,681.17	2,065,751.65	516,437.91
2016-09-30	32.50	-	1,659,086.46	1,659,118.96	414,779.74
2016-10-31	335.54	-	1,655,893.10	1,656,228.64	414,057.16
2016-11-30	21.25	(21.25)	2,321,434.45	2,321,434.45	580,358.61
2016-12-31	-	-	2,136,320.52	2,136,320.52	534,080.13
2017-01-31	19.50	-	3,196,920.97	3,196,940.47	799,235.12
2017-02-28	4,276.32	(4,266.57)	3,038,312.96	3,038,322.71	759,580.68
2017-03-31	3,819.66	-	3,507,382.12	3,511,201.78	877,800.45
2017-04-30	84.50	-	4,025,781.37	4,025,865.87	1,006,466.47
2017-05-31	(84.50)	(130.00)	4,915,438.41	4,915,223.91	1,228,805.98
2017-06-30	-	-	4,307,535.06	4,307,535.06	1,076,883.77
2017-07-31	19.50	-	3,065,534.04	3,065,553.54	766,388.39
2017-08-31	-	-	4,948,418.34	4,948,418.34	1,237,104.59
2017-09-30	67.60	-	5,307,169.71	5,307,237.31	1,326,809.33
2017-10-31	(232.70)	(4,199.55)	6,255,352.47	6,250,920.22	1,562,730.06
2017-11-30	-	-	5,399,164.62	5,399,164.62	1,349,791.16
2017-12-31	(52.00)	-	2,981,760.44	2,981,708.44	745,427.11
2018-01-31	-	-	5,185,133.32	5,185,133.32	1,296,283.33
2018-02-28	(117.00)	-	6,192,957.26	6,192,840.26	1,548,210.07
2018-03-31	(162.50)	-	7,741,165.77	7,741,003.27	1,935,250.82
2018-04-30	-	(19,500.00)	5,907,256.16	5,887,756.16	1,471,939.04
2018-05-31	-	-	7,506,656.43	7,506,656.43	1,876,664.11
2018-06-30	-	-	6,612,145.41	6,612,145.41	1,653,036.35
2018-07-31	-	-	5,884,757.19	5,884,757.19	1,471,189.30
<b>Totals</b>	<b>\$8,324.07</b>	<b>\$(28,117.37)</b>	<b>\$109,874,864.44</b>	<b>\$ 109,855,071.14</b>	<b>\$27,463,767.84</b>

<sup>5</sup><sup>10</sup> The GST/HST Reconciliation column represents compliance/corrections adjustments based on the Appellant's books and records. The amounts are not at issue in this Appeal. They are included to show the calculation of Total Adjustments.

<sup>6</sup><sup>11</sup> The ITCs Reconciliation column represents compliance/corrections adjustments based on the Appellant's books and records. The amounts are not at issue in this Appeal. They are included to show the calculation of Total Adjustments.

## Schedule "C1" - ITCs Denied - By Vendor

<b>Registrant's Name:</b>	Express Gold Refining Ltd.	<b>WP:</b>	6001
<b>Account No:</b>	13855 7095 RT0001	<b>Auditor:</b>	Jaclyn Bartlett
<b>Year End:</b>	05-31	<b>Date:</b>	2020-05-15
<b>Subject:</b>	ITCs Denied - By Vendor	<b>Audit Period:</b>	2016-06-01 to 2018-10-31

**Objective:**

To show ITCs denied, identified by vendor, based on analysis in WP 6100.

**Procedures:**

- Copy data from WP6002.1 (on detail tab)
- Summarize total ITCs claimed by vendor
- Carry information from WP 6001.1 - ITCs denied in previous audit with some overlapping periods
- Identify which ITCs will be denied per WP 6100, reduce by information from WP 6001.1.
- Carry those ITCs identified ITCs to WP 6000 to show adjustments by reporting period.

**Conclusion:**

The listing below shows all ITCs denied, identified by vendor on WP 6100, sorted and subtotaled by vendor. ITCs in the amount of \$133,451,149.90 are denied per the analysis on WP 6100. Transactions have been carried to WP 6000 in order to sort and deny per reporting period.

**Largest Vendors:**

	Total ITCs claimed	Denied per WP 6100 (Y/N)	Previously Denied (Integras 77823631) - See WP 6001.1	ITCs Not Denied	ITCs Denied in this Audit (WP 6100)
Bijouterie Lotus (9346-8460 Quebec Inc)	9,986,886.49	Y		-	9,986,886.49
Asia Pacific International Inc.	8,160,019.15	Y		-	8,160,019.15
2417916 Ontario Inc. (Cash 4 Gold)	8,064,734.25	Y		-	8,064,734.25
2337980 ONTARIO INC.	6,701,629.73	Y		-	6,701,629.73
9710990 CANADA INC	6,419,152.42	Y		-	6,419,152.42
9747583 Canada Ltd	6,226,700.00	Y		-	6,226,700.00
8561648 Canada Inc	6,219,630.20	Y		-	6,219,630.20
Elite Precious Metal Exchange Inc.	5,342,160.24	Y		-	5,342,160.24
92957216 Quebec Inc (Bijoux Royal)	5,191,658.57	Y		-	5,191,658.57
GTA Gold Refining Inc	4,738,836.25	Y		-	4,738,836.25
Sam Bijouterie Inc.	3,962,022.73	Y		-	3,962,022.73
Bijouterie Yakona Inc	3,872,070.35	Y		-	3,872,070.35
2402270 Ontario Inc.	3,699,804.26	Y		-	3,699,804.26
2500028 Ontario Inc. (Aar Ess Bullion Trading)	3,532,186.09	Y		-	3,532,186.09
9982132 Canada Inc.	3,496,815.83	Y		-	3,496,815.83
8958238 Canada Inc	3,300,093.09	Y	2,453,291.16	-	846,801.93
2474722 Ontario Inc.	3,262,834.19	Y		-	3,262,834.19
9324-5371 Quebec Inc	3,199,115.01	Y		-	3,199,115.01
2276230 Ontario Inc (Alishan Cash 4 Gold)	2,943,689.13	Y	2,363,240.56	-	580,448.57
S.S. Cash for Gold Inc	2,926,255.89	Y		-	2,926,255.89
S.K. Bijouterie (2268805258 )	2,831,056.43	N		2,831,056.43	-
Fast Money Auction	2,709,832.44	Y		-	2,709,832.44
9437690 Canada Inc	2,621,861.97	Y	1,797,354.65	-	824,507.32
9776087 Canada Inc.	2,525,491.80	Y		-	2,525,491.80
2466778 Ontario Inc	2,362,421.38	Y		-	2,362,421.38
Oliver Jewellery	2,020,634.12	N		2,020,634.12	-
2576393 Ontario Inc.	2,016,255.49	Y		-	2,016,255.49
Ontario MX (9989676 Canada Inc)	1,966,580.50	Y		-	1,966,580.50
9348417 CANADA INC	1,787,614.82	Y		-	1,787,614.82
S.A. Rajgan Enterprises Corp.	1,700,587.85	Y		-	1,700,587.85
Empire Trading Limited - Gold Mart	1,630,661.76	Y		-	1,630,661.76
K.M.Q. Precious Metal Inc.	1,596,409.92	Y		-	1,596,409.92
2457041 Ontario Ltd (Swiss Cash For Gold)	1,583,855.26	Y		-	1,583,855.26
2575720 Ontario Inc. (AM Cash for Gold)	1,495,765.28	Y		-	1,495,765.28
Gold & silver Inc. (1961146 Ontario)	1,481,276.83	Y	1,481,276.83	-	-
M.A.C Precious Metal Refining Inc	1,343,714.42	Y		-	1,343,714.42
MC Gold Refining Inc	1,060,432.23	Y	526,328.14	-	534,104.09
Pasricha Inc.	961,631.72	Y		-	961,631.72
SH Refining Ltd.	958,787.05	Y		-	958,787.05
8537399 Canada Inc	887,260.93	Y		-	887,260.93
2602265 Ontario Inc.	850,114.14	Y	718,502.66	-	131,611.48
The Gold Spot Refinery Ltd	788,576.64	N		788,576.64	-
Galaxy Precious Metals Corp.	785,850.33	Y		-	785,850.33

9896643 Canada Inc.(IB Gold Touch)	746,031.64	Y	-	746,031.64
2589913 Ontario Inc	737,724.34	Y	-	737,724.34
Bijouterie Safa Inc	662,186.33	Y	-	662,186.33
JK	659,022.52	Y	-	659,022.52
AK Traders (9839143 Canada Inc)	652,007.59	Y	-	652,007.59
Talus Gold Inc.	571,346.36	Y	-	571,346.36
Canadian Coin & Currency	562,664.14	N	562,664.14	-
93124071 Quebec Inc (Global Gold)	496,968.42	Y	-	496,968.42
Victoria Gold INC (002515619)	479,000.16	Y	479,000.16	-
GTA Jewellery Loan Inc	469,174.68	N	469,174.68	-
2615041 Ontario Inc.	454,182.57	Y	-	454,182.57
Sri Vijeyalitha Gold (2407938 Ontario Inc)	454,108.72	Y	-	454,108.72
GoldBrex International Inc	437,485.85	Y	-	437,485.85
2499583 ONTARIO INC	419,271.60	Y	-	419,271.60
Tree Jewellers Inc	414,222.38	Y	-	414,222.38
Naysa Bijouterie (9372-8483 Quebec Inc)	387,751.26	Y	-	387,751.26
Cash For Gold Jewellery (2103710 Ontario Inc.)	364,576.10	Y	-	364,576.10
Bullion Partners Of Canada Ltd.	352,911.48	N	352,911.48	-
Gold City	332,171.32	Y	-	332,171.32
Reserve D'or (8545855 CANADA INC)	324,236.74	N	324,236.74	-
A&Z Creations(2388905 Ontario)	312,893.36	Y	-	312,893.36
Asahi Refining	233,474.29	N	233,474.29	-
Coins Unlimited	225,799.73	N	225,799.73	-
Ace of Gold Inc	218,089.30	Y	-	218,089.30
1994930 Ontario Inc.	204,197.50	Y	-	204,197.50
Bal Jewellers & Trading Inc.	200,426.46	Y	-	200,426.46
Amulet Jewellery (2003324 ONT.Inc.)	199,064.32	N	199,064.32	-
Maple Leaf Jewellery & Coin Exchange	179,068.50	N	179,068.50	-
A & A General Trading Inc.	173,587.11	N	173,587.11	-
1696156 Alberta Inc. (Gold Star Jewe. Bonnie)	163,219.69	N	163,219.69	-
Finley's Estate Jewellery (10549134 Canada Corp	156,615.09	N	156,615.09	-
Solid Gold (3385132 Canada Inc)	149,773.02	N	149,773.02	-
Omni Jewel Crafters	144,938.30	N	144,938.30	-
2578202 Ontario Inc	139,970.35	Y	34,351.07	105,619.28
Eternal Gems Jewellers	135,709.60	N	135,709.60	-
Bearington Fine Jewellery (1028462 ONT. Ltd)	131,508.14	N	131,508.14	-
Sundee Jewellers (7771086 Alberta Ltd)	121,120.57	N	121,120.57	-
Best Price 4 Gold Inc.	119,880.14	Y	-	119,880.14
2440838 KMQ Jeweller Inc	112,852.07	N	112,852.07	-
2344967 Ontario Inc	104,326.58	Y	104,326.58	-
<b>\$ 152,616,525.50</b>			<b>\$ 9,957,671.81</b>	<b>\$ 9,475,984.66</b>
				<b>\$ 133,182,869.03 * full totals at bottom of next section</b>

**Small Vendors:**

	Total ITCs claimed	Denied per WP 6100 (Y/N)	Previously Denied (Integras 77823631)	ITCs Not Audited (WP 6100)	ITCs Denied
2473927 Ontario Inc	\$ 93,483.00	Y		\$ -	\$ 93,483.00
P.A. Jewellery Sales Group Ltd	80,607.28	N		80,607.28	-
Krish Gold Impex (2462300 Ontario)	70,660.46	Y	\$ 70,660.46	-	-
CASHFORGOLD.TO CORP.	70,328.18	N		70,328.18	-
Gold & Time Centre LTD	69,419.35	N		69,419.35	-
TORONTO RESERVE GOLD	49,348.13	Y		-	49,348.13
Daco Manufacturing (2015) Inc	48,639.91	N		48,639.91	-
Ora Italia Inc.	48,216.74	Y		-	48,216.74
Farag Properties	46,595.43	N		46,595.43	-
10250180 Canada Inc (Golden Metals)	44,603.13	N		44,603.13	-
Smart Gold (1884905 ON.)	43,169.36	N		43,169.36	-
Jewels Of Canada Inc	36,838.61	N		36,838.61	-
Regal Gold Inc.	34,532.42	N		34,532.42	-
Robert I. Carruth	32,150.17	N		32,150.17	-
Armoured Security (CANADA) Inc.	30,375.21	N		30,375.21	-
Harold Gerstel Holdings inc.	29,779.62	N		29,779.62	-
Azam Tavakoli	29,722.73	N		29,722.73	-
L. Diamond Studio	29,680.56	N		29,680.56	-
3526763 Canada Ltd	26,903.63	Y		-	26,903.63
Banz Refining (2349460 On. Inc)	25,288.38	Y		-	25,288.38
Suhaag Jewellers	25,040.99	Y		-	25,040.99
MegaVi Cash for Gold (1849114 Ont. Ltd)	24,291.28	N		24,291.28	-
Maratek Environmental Inc.	21,953.24	N		21,953.24	-
Elizabeth Precious Metal Ltd	20,638.80	N		20,638.80	-
Jomark Distribution Inc.	20,324.33	N		20,324.33	-
Tuan Anh Nguyen (Jewellery Expert Ltd)	20,167.29	N		20,167.29	-
2252541 Ontario Inc.	19,717.88	N		19,717.88	-

Prestige Precious Metals	19,500.00	N	19,500.00	-
R.S. Trading Inc.	19,287.78	N	19,287.78	-
National Jewel Creation Ltd.	19,172.66	N	19,172.66	-
Expenses	18,516.69	N	18,516.69	-
Naz Enterprises Inc.	15,639.78	N	15,639.78	-
Saks Jewellery Inc	15,595.45	N	15,595.45	-
2618451 Ontario Inc/ Alisha Jewellers	15,587.78	N	15,587.78	-
Traders Atlantic Inc	15,322.45	N	15,322.45	-
7963327 Canada Inc.	14,345.50	N	14,345.50	-
1983575 Ontario Inc	13,446.16	N	13,446.16	-
Refine It Now	13,155.22	N	13,155.22	-
Rafidian Jewelry	12,952.29	N	12,952.29	-
2205669 Ontario Inc.	12,914.20	N	12,914.20	-
Deloitte LLP	12,212.98	N	12,212.98	-
D'Oro Designs	11,861.20	N	11,861.20	-
1808113 Alberta Inc.	11,638.12	N	11,638.12	-
Yellow Pages Group	11,464.80	N	11,464.80	-
P.D. Murphy Ltd	11,281.79	N	11,281.79	-
The Swatch Group (Canada) Ltd.	10,481.74	N	10,481.74	-
9416595 Canada Inc.	10,236.35	N	10,236.35	-
Yang's Jewellery	9,094.28	N	9,094.28	-
The Gold Market	8,913.84	N	8,913.84	-
Jewels by Koby	8,892.78	N	8,892.78	-
Jones Brown Inc.	8,640.00	N	8,640.00	-
Urban Miner	8,571.03	N	8,571.03	-
Shibley Righton	7,571.35	N	7,571.35	-
EXEC Armor (1791213 Ontario Ltd.)	7,410.00	N	7,410.00	-
Royal Canadian Mint	7,289.08	N	7,289.08	-
King Canada Operations Limited	7,158.23	N	7,158.23	-
H.Williams Jewellery	7,011.42	N	7,011.42	-
Al Pinto Sales & Services Ltd	6,567.34	N	6,567.34	-
Hagersville Jewellers Ltd.	6,522.23	N	6,522.23	-
NoGlobalBorders	6,513.24	N	6,513.24	-
Baker Mckenzie	6,302.99	N	6,302.99	-
UPS Canada	5,626.07	N	5,626.07	-
Kenilworth Media Inc.	5,362.50	N	5,362.50	-
Fedex Express	4,628.21	N	4,628.21	-
Greenbacks	4,362.93	N	4,362.93	-
IBMG Canada	4,309.12	N	4,309.12	-
Connectability	4,301.46	N	4,301.46	-
Sami Yehia	3,900.00	N	3,900.00	-
DK Cash 4 Gold	3,278.34	N	3,278.34	-
D'Oro Design	3,268.20	N	3,268.20	-
Tri Smith Recycling (1990) Ltd	3,187.47	N	3,187.47	-
European Design Jewellery Ltd.	3,030.48	N	3,030.48	-
Bell Canada	2,858.05	N	2,858.05	-
Cash 4 Less	2,744.30	N	2,744.30	-
Equifax	2,563.56	N	2,563.56	-
Gemsys Money Handling Systems Inc.	2,484.20	N	2,484.20	-
Canada Post	2,262.32	N	2,262.32	-
Honda Financial Services	2,131.34	N	2,131.34	-
Sam & Tony's Inc	2,127.71	N	2,127.71	-
Prima Pack Inc.	2,028.13	N	2,028.13	-
Davpart	2,027.01	N	2,027.01	-
Susan Diamond Jewellery	2,023.45	N	2,023.45	-
SF MECHANICAL	1,922.05	N	1,922.05	-
Sonitrol	1,795.98	N	1,795.98	-
Rogers Media Inc.	1,713.97	N	1,713.97	-
Brinks Canada Limited	1,661.64	N	1,661.64	-
Stratford Vault	1,601.99	N	1,601.99	-
D Gemz Company Inc.	1,587.30	N	1,587.30	-
Watchman's Gold Ltd. (Moments Watches & Jew	1,379.95	N	1,379.95	-
Van Rijk	1,367.86	N	1,367.86	-
Asbury Wilkinson	1,364.35	N	1,364.35	-
Boris Jewellery of Toronto	1,163.11	N	1,163.11	-
Pour Concrete and Drain	1,122.42	N	1,122.42	-
ICS Great Western LP	1,087.97	N	1,087.97	-
Desloges Law Group	1,068.90	N	1,068.90	-
Praxair distribution	1,065.59	N	1,065.59	-
Q DIAMOND	987.88	N	987.88	-
Oren Inc.	975.00	N	975.00	-
Kent Jewellery Wholesale Ltd	955.50	N	955.50	-



Jewellery by Maurice Limited	884.00	N	884.00	-
Tam Benoit	845.00	N	845.00	-
Inkas Security Services Ltd	822.79	N	822.79	-
ProTherm	796.25	N	796.25	-
7829124 CANADA CORP	780.00	N	780.00	-
V.C Diamonds	775.58	N	775.58	-
L'oro Jewellery	741.00	N	741.00	-
Univar	723.67	N	723.67	-
Rogers Cable	700.64	N	700.64	-
Perfect Pen & Stationery	644.17	N	644.17	-
Compressed Air Solutions Inc	617.92	N	617.92	-
Peninsula Employment Services LTD	617.50	N	617.50	-
Entrepreneurco Inc	504.66	N	504.66	-
Cambium Inc.	499.85	N	499.85	-
Burtec Instrument	486.85	N	486.85	-
Alphachem Limited	479.18	N	479.18	-
Art of Jewellery	473.72	N	473.72	-
Collector's Centre	448.37	N	448.37	-
2250995 Ontario Inc.	432.90	N	432.90	-
Electricom Systems Ltd.	420.55	N	420.55	-
Best Buy	393.60	N	393.60	-
Enbridge	392.33	N	392.33	-
Agilent Technologies	388.44	N	388.44	-
Stuller	351.57	N	351.57	-
Vortex Fire Consulting Inc.	338.00	N	338.00	-
Walk-IN	337.04	N	337.04	-
Staples Business Depot	306.52	N	306.52	-
H.G. Jewellers LTD	301.21	N	301.21	-
Toronto Hydro	296.33	N	296.33	-
Khaztech	295.75	N	295.75	-
Hartwick O'shea	281.24	N	281.24	-
Rive Guache Media In Ri Toronto	260.00	N	260.00	-
Bowiss Cartage Inc.	255.13	N	255.13	-
Canadian Trade-EX	250.47	N	250.47	-
Canadian Jewellery Group	234.00	N	234.00	-
Moses Structural Engineers Inc	225.97	N	225.97	-
Rajdular Group Inc	214.50	N	214.50	-
Uline Canada Corporation	213.91	N	213.91	-
Prestige Ontario Delivery	203.76	N	203.76	-
NEBS Business Products Limited	198.44	N	198.44	-
TELUS Communications Company	193.02	N	193.02	-
Princess Auto	184.60	N	184.60	-
Canadian Tire	179.77	N	179.77	-
Clear View Systems	179.18	N	179.18	-
Imperial Coffee and Services Inc.	173.22	N	173.22	-
Hospital Activity Book For Children Ltd.	154.05	N	154.05	-
C & D Jewellery & Gifts	150.15	N	150.15	-
Transcontinental Tools Co.	149.56	N	149.56	-
American Casting & Mfg Corp	148.47	N	148.47	-
Intertex Textiles Ltd.	141.75	N	141.75	-
TROI Mailing Services	134.81	N	134.81	-
Marc Davis & Associates	120.90	N	120.90	-
Umicore Precious Metals Canada Inc	119.93	N	119.93	-
Better Business Bureau	109.20	N	109.20	-
411.ca	107.00	N	107.00	-
Pitney Bowes	106.46	N	106.46	-
Gesswein Canada	97.92	N	97.92	-
Ultimate Security Services	86.19	N	86.19	-
Non-Destructive Testing Products Limited	75.66	N	75.66	-
Interweigh Systems Inc	65.00	N	65.00	-
M-C Gems Limited	63.57	N	63.57	-
Tesla Electric LTD.	61.10	N	61.10	-
Professional Engineers	57.20	N	57.20	-
Shopper+ Inc.	56.55	N	56.55	-
Air Liquide Canada Inc.	56.07	N	56.07	-
Laipac Technology Inc	55.90	N	55.90	-
T.G. W Tools & Supplies	53.14	N	53.14	-
D+H	52.18	N	52.18	-
TigerDirect	52.18	N	52.18	-
Costco	45.35	N	45.35	-
Canadian Spring	45.30	N	45.30	-
DHL Express	45.00	N	45.00	-

ESC Corporate Services Ltd	41.29	N	41.29	-
Tonerpart.com	39.60	N	39.60	-
Parcel Pro Inc	37.77	N	37.77	-
Golden Reflections	26.00	N	26.00	-
Vanakkam Service LTD	25.22	N	25.22	-
Mackenzie Milne	23.24	N	23.24	-
Spectris Canada Inc dba OMEGA Environmental	19.24	N	19.24	-
Stephenson's Rent-All	15.22	N	15.22	-
Unitrade Associates	10.20	N	10.20	-
Wolseley Canada Inc.	5.31	N	5.31	-
The Home Depot	3.04	N	3.04	-
Amazon	2.44	N	2.44	-
407 ETR	1.42	N	1.42	-
HDS Canada Inc.	1.01	N	1.01	-
2125005 Ontario Inc	-	N	-	-
2209925 ONT. Ltd (Global Gold Trader)	-	N	-	-
Access Securirty Products Ltd.	-	N	-	-
Almer Corporation	-	N	-	-
DELL CANADA INC.	-	N	-	-
Hidden Treasure Cash for Gold	-	N	-	-
MC CLYMONT AND RAK ENGINEERS, INC.	-	N	-	-
Property Valuators	-	N	-	-
Wishah Imports (1737392 Ontario Inc)	-	N	-	-
Paragon Fine Jewellery Ltd	- 2.60	N	- 2.60	-
Edmonton Jewellers	- 4.60	N	- 4.60	-
Phung Goldsmith & Jeweller	- 8.46	N	- 8.46	-
Can. Fine Metals Inc	- 12.14	N	- 12.14	-
Shawn Kates	- 12.53	N	- 12.53	-
Carati Corporation	- 13.00	N	- 13.00	-
Victoria L. Opolinskaia	- 22.82	N	- 22.82	-
ItaCast nb ltd	- 26.09	N	- 26.09	-
Signet Jewelers	- 52.00	N	- 52.00	-
Richter	- 130.00	N	- 130.00	-
No Vendor - Adjustments	- 38,232.69	N	- 38,232.69	-
	<u>1,558,360.43</u>		<u>\$ 70,660.46</u>	<u>\$ 1,219,419.10</u>
	<u><b>\$ 154,174,885.93</b></u>		<u><b>\$ 10,028,332.27</b></u>	<u><b>\$ 133,451,149.90</b></u>
	<b>Agrees to WP 1000</b>		<b>Agrees to WP 6001.1</b>	<b>Agrees to WP 6000</b>
			<b>and Integras 77823631</b>	

Schedule "C2" - Minimum Deduction Review

Review of deductions for the largest vendors

VENDOR_NAME	BN	Average discount	Sum of Minimum deduction	# of transactions with deduction	Average Deduction	Deduction	NO. OF RECS	NET WEIGHT SUM	WEIGHT COMPLETE SUM (Gross)	AVERAGE WEIGHTED PURITY
Bijouterie Lotus (9346-8460 Quebec Inc)	744513094	98.00%	204.88	341.00	0.60	Yes on all 341 transactions in the GL, averaging .6 kg	341	1516002.61	1759842.4	86.14%
Asia Pacific International Inc.	888835519	99.25%	-	-	-	No for 137 transactions	137	1262447.79	1521220.7	82.99%
2417916 Ontario Inc. (Cash 4 Gold)	805282233	98.50%	6.33	8.00	0.79	196.00 Yes - 8 of 204 transactions	204	1207292.3	1337024	90.30%
2337980 ONTARIO INC.	805270303	98.51%	4.40	11.00	0.40	210.00 Yes - 11 of 221 transaction	221	1009044.51	1161203.8	86.90%
9710990 CANADA INC	774179329	98.25%	1.57	13.00	0.12	206.00 Yes 13 of 219 transactions	219	960695.228	1160865.1	82.76%
9747583 Canada Ltd	769896523	98.25%	2.78	13.00	0.21	272.00 Yes 13 of 285 transactions	284	959189.978	1364893.8	70.28%
8561648 Canada Inc	805626645	98.25%	2.82	20.00	0.14	210.00 Yes 20 of 230 transactions	230	936845.193	1137982.2	82.33%
Elite Precious Metal Exchange Inc.	777622697	98.26%	1.44	27.00	0.05	199.00 Yes 27 of 226 transactions	212	802415.321	930209.8	86.26%
GTA Gold Refining Inc	744820523	99.00%	-	-	-	No for 212 transactions	212	792512.984	916086.9	86.51%
92957216 Quebec Inc (Bijoux Royal)	819336033	98.00%	89.42	149.00	0.60	Yes on all 149 transactions in the GL, averaging .6kg	149	786677.008	868908.5	90.54%
Sam Bijouterie Inc.	779984319	98.00%	64.22	106.00	0.61	Yes on all 106 transactions in the GL, Averaging .6kg	106	599726.977	659446	90.94%
Bijouterie Yakona Inc	780168282	98.00%	62.21	101.00	0.62	Yes on all 101 transactions in the GL, Averaging .6kg	101	584804.391	643276	90.91%
2402270 Ontario Inc.	823987235	98.26%	1.84	2.00	0.92	77.00 Yes 2 of 79 transactions	79	548987.9	638532.1	85.98%
2500628 Ontario Inc. (Aur Ess Bullion Trading)	788827491	98.50%	2.68	14.00	0.19	123.00 Yes 14 of 137 transactions	137	535402.661	618595.2	86.55%
9982132 Canada Inc.	742307929	98.25%	0.70	3.00	0.23	93.00 Yes 3 of 96 transaction	96	530898.753	616996	86.05%
8958238 Canada Inc	842090581	98.25%	1.47	9.00	0.16	92.00 Yes 9 of 101 transactions	101	493946.092	588327.1	83.96%
2474722 Ontario Inc.	812501765	98.51%	0.75	6.00	0.13	114.00 Yes 6 of 120 transactions	120	492387.119	565976.6	87.00%
9324-5371 Quebec Inc	813525722	98.00%	49.92	83.00	0.60	Yes on all 83 transactions	83	488492.58	535908.1	91.15%
2276230 Ontario Inc (Alishan Cash 4 Gold)	828704916	98.50%	0.16	5.00	0.03	65.00 Yes 5 of 70 transactions	70	470330.568	516447.5	91.07%
S.S. Cash for Gold Inc	808207260	98.01%	9.28	28.00	0.33	315.00 Yes 28 of 343 transactions ( there are also 4 negative deductions)	342	442762.779	493561.79	89.71%
S.K. Bijouterie (2268805258 )	830419644	98.00%	154.72	245.00	0.63	18.00 Yes on 245 of 263 transactions	263	421335.815	703651.43	59.88%
Fast Money Auction	727877896	98.25%	2.84	6.00	0.47	106.00 Yes 6 of 112 transactions	112	410227.382	495578.9	82.78%
9437690 Canada Inc	806024527	98.25%	1.00	12.00	0.08	68.00 Yes 12 of 80 transactions	80	392990.086	453755.5	86.61%
9776087 Canada Inc.	766582524	98.49%	2.17	14.00	0.16	83.00 Yes 14 of 97 transactions	97	379359.127	421349.6	90.03%
2466778 Ontario Inc	801714999	98.50%	1.76	4.00	0.44	76.00 Yes 4 of 80 transactions	80	352347.374	391396.16	90.02%
2576393 Ontario Inc.	714609724	98.26%	0.29	5.00	0.06	43.00 Yes 5 of 48 transactions	48	306772.151	354443.3	86.55%
Oliver Jewellery	133598813	97.24%	86.83	143.00	0.61	44.00 Yes 143 of 187 transactions	187	297208.742	492357.8	60.36%
Ontario MX (9989676 Canada Inc)	741371124	98.25%	0.74	5.00	0.15	47.00 Yes 5 of 52 transactions	52	295235.485	344923	85.59%
9348417 CANADA INC	817437726	98.01%	17.05	28.00	0.61	32.00 Yes 28 of 60 transactions	60	271560.037	310928.5	87.34%
S.A. Rajjan Enterprises Corp.	767967912	98.00%	36.32	60.00	0.61	Yes on all 60 transactions	60	254603.267	290168.5	87.74%
			Total KG Deduction	1,461.00		3,038.00				
				840.00		349.00				
				621.00		2,689.00				

There doesn't appear to be a tie to the purity level or a set quantity level for when the minimum deduction is applied or how much is applied.

A scan of the settlement information was completed noting the minimum deduction can range from no deduction as little as .02 of a KG up to 10.38 KG (note there are an additional 3 over this amount that appear to be anomalies)

Of the 12,601 settlement records the deduction break down is as follows:

Number of records	Deduction amount (KG)
4331	0.00
111	0.02
125	0.30
229	0.56
479	0.58
3541	0.60
488	0.62
294	0.64
184	0.66
248	1.00
10030	
Total Settlement records	12601
Remaining records with less than 100 at that deduction level	2571

The remaining 2,571 settlement records have a deduction amount that applies to less than 100 transaction

The deduction amounts range from 0 all the way up to 10.38KG

There are 130 instances where only one transaction exists for the deduction amount.

The most common deduction amount is 0 or .6. which account for 62% of the settlement transaction.

## Schedule "D": Gold Carousel Scheme

**Refinery**

Refines on behalf of the Direct Refinery Feeder ("DRF") and credits the DRF's pool account. This pool balance can be taken back as pure gold or sold for cash. The refinery never takes ownership of the scrap gold.

**Direct Refinery Feeder ("DRF")**

Contracts with a refinery to refine the scrap gold into pure gold

**Direct Refinery Feeder**

Returns pure gold to its suppliers as consideration for the supply of scrap gold. The gold is a zero-rated supply, so no tax is collected, and the DRF claims large refunds for the purchases of scrap.

**Intermediary Company**

Sells the taxable scrap gold back to the DRF. They collect an amount on account of tax and claim almost equivalent ITCs for the purported purchase of scrap gold from their suppliers. They are thin debit filers.

**Intermediary Company**

Receives pure gold from the DRF. This pure gold is melted and mixed with other alloys into a rough bar. This bar is no longer a financial instrument and the sale is a taxable supply.

**Missing Trader**

The missing trader is set up for the sole purpose of generating invoices of accommodation. There is an **artificial transaction** showing the intermediary purchasing scrap gold from the missing trader. This transaction is used to generate an ITC for the intermediary. The amounts collected as or on account of tax by the missing trader are never remitted.

**2020-1214(GST)G**

**TAX COURT OF CANADA**

BETWEEN:

**EXPRESS GOLD REFINING LTD**

Appellant

- and -

**HER MAJESTY THE QUEEN**

Respondent

---

**CONSENT TO FILE AN AMENDED REPLY TO THE FRESH AS AMENDED  
NOTICE OF APPEAL**

---

The Appellant consents to the Respondent filing the attached Amended Reply to the Fresh as Amended Notice of Appeal dated May 19, 2022.

Dated at the City of Toronto, Ontario, May 26, 2022.



---

Baker & McKenzie LLP  
181 Bay Street  
Suite 2100  
Toronto, ON  
M5J 2T3

**Per: Jacques Bernier  
Bryan Horrigan**

Counsel for the Appellant



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## Session Details

**Submitted on:** May 26, 2022 3:02:52 EDT PM

**Company's Name (if appellant):** Express Gold Refining Ltd.

**Appeal Number:** 2020-1214(GST)G

Type of Document	Document Name
Reply Amended - Amended Notice of Appeal	EXPRESS GOLD REFINING LTD. v. H.M.Q. - 2020-1214(GST)G - Consent to File an Amended Reply to the Fresh as Amended Notice of Appeal.pdf

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**Submitted on:** May 26, 2022 4:21:39 EDT PM

**Company's Name (if appellant):** Express Gold Refining Ltd.

**Appeal Number:** 2020-1214(GST)G

Type of Document	Document Name
Miscellaneous	EXPRESS GOLD REFINING LTD. v. H.M.Q. - 2020-1214(GST)G - Consent to File an Amended Reply to the Fresh as Amended Notice of Appeal.pdf

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**THIS IS EXHIBIT "C"**

**Referred to in the Affidavit of Sean Evans**

**Affirmed remotely on the 27<sup>th</sup> day of October 2023**

A handwritten signature in black ink, appearing to read 'Fozia', is positioned above a horizontal line.

**Name: Fozia Chaudary**

**LSO No. 52787D**

**A Commissioner for Oaths in and for the Province of Ontario**



Docket: 2020-1214(GST)G

BETWEEN:

EXPRESS GOLD REFINING LTD.,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

---

Case Management Conference held on August 16, 2022,  
at Ottawa, Canada

Before: The Honourable Justice Bruce Russell

Appearances:

Counsel for the Appellant:	Bryan Horrigan
Counsel for the Respondent:	Marilyn Vardy Jasmine Mann

---

DIRECTIVE

FURTHER TO the above case management conference held by telephone in which counsel and the undersigned discussed the request of the Appellant's assigned CCAA Monitor to attend at the Respondent's discovery examination of the Appellant, which request was supported by the Appellant and opposed by the Respondent;

AND UPON the undersigned expressing the view that this Court does not wish its discovery examinations, which are not public proceedings, attended by persons other than the parties and their respective counsel;

AND FURTHER UPON my recent review of correspondence on this topic sent to my attention dated August 19, 2022 from Respondent's counsel and from Appellant's counsel dated August 22, 2022;

I HEREBY DIRECT that each party's discovery examination in this matter is to be conducted without the CCAA Monitor and or its counsel present or in any other way observing or listening, particularly given that, unlike typical hearings and trials, discovery examinations including in this Court are not public proceedings.

Signed at Ottawa, Canada, this 8th day of September 2022.

"B. Russell"

---

Russell J.

**THIS IS EXHIBIT “D”**

**Referred to in the Affidavit of Sean Evans**

**Affirmed remotely on the 27<sup>th</sup> day of October 2023**

A handwritten signature in black ink, appearing to read 'Fozia', is written over a horizontal line.

**Name: Fozia Chaudary**

**LSO No. 52787D**

**A Commissioner for Oaths in and for the Province of Ontario**

**Baker & McKenzie LLP**  
Barristers & Solicitors

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\* Associated Firm  
\*\* In cooperation with  
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Advogados

April 17, 2023

Hearings Coordinator  
Tax Court of Canada  
180 Queen Street West  
Suite 200  
Toronto, Ontario M5V 3L6

**ATTENTION: MS. NATASHA ANDEEL, HEARINGS  
COORDINATOR**

Dear Ms. Andeel:

**RE: Express Gold Refining Ltd. v. HMK  
Court File No. 2020-1214(GST)G**

We are writing to the Court in response to your April 5, 2023 letter, which responded to the parties' joint letter of March 31, 2023 requesting a settlement conference be held July 20, 2023.

We have since understood from you that the Court no longer has availability for a settlement conference on July 20, 2023 but that it does have availability on July 13, 2023. The Parties are available on July 13, 2023 and request that the settlement conference be scheduled for that date.

The information requested in your April 5, 2023 letter is as follows.

**1. Should the appeal proceed, the length of the hearing of the appeal**

The hearing of the appeal is currently expected to be lengthy.

The Appellant expects to require approximately 3 weeks to enter its evidence at trial (factoring in expected time for cross examination). The Respondent estimates that the parties would potentially require approximately 3 to 3.5 months to enter all evidence (including cross-examinations). Additional time would subsequently be required for closing arguments.

**2. The issue or remaining issues in the appeal and the amounts at issue**

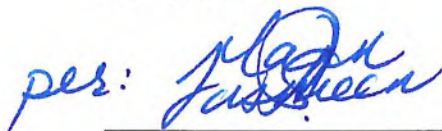
The Minister of National Revenue ("Minister") disallowed approximately \$120,000,000 of input tax credits ("ITCs") for the June 1, 2016 to July 31, 2018 reporting periods, on the basis that the Appellant was a participant in a scrap gold carousel scheme. There are three issues in the appeal:

- I. Whether the Appellant is entitled to approximately \$120,000,000 of ITCs disallowed by the Minister for the reporting periods June 1, 2016 to July 31, 2018 in respect of impugned scrap gold transactions;
- II. Alternatively, whether the Appellant is entitled to a rebate under s. 261, Part IX of the *Excise Tax Act* in respect of the disallowed ITCs; and
- III. Whether the Appellant is liable for gross negligence penalties of approximately \$30,000,000 respect of the impugned scrap gold transactions.

**3. Whether the parties have exchanged settlement offers**

The Appellant made a written settlement offer to the Respondent on February 23, 2023. The Respondent rejected the offer on March 10, 2023.

Best regards,

per: 

---

Marilyn Vardy  
Attorney General of Canada  
Department of Justice Canada  
Ontario Regional Office  
120 Adelaide Street West, Suite 400  
Toronto ON M5H 1T1

Counsel for the Respondent

Per: 

---

Jacques Bernier  
Baker & McKenzie LLP  
Brookfield Place  
181 Bay Street Suite 2100  
Toronto, M5J 2T3

Counsel for the Appellant

- c. B. Horrigan D. Gadsden, B. O'Grady, A. Boyd, Baker & McKenzie LLP (by email)
- c. J. Mann, K. Coward, P. Gotla, Department of Justice (by email)



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## Session Details

**Submitted on:** April 17, 2023 2:02:32 EDT PM

**Company's Name (if appellant):** Express Gold Refining Ltd.

**Appeal Number:** 2020-1214(GST)G

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Type of Document	Document Name
Settlement Conference - Request for a	20230417-1 - (Joint LT - TCC - SC Request).pdf

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**THIS IS EXHIBIT “E”**

**Referred to in the Affidavit of Sean Evans**

**Affirmed remotely on the 27<sup>th</sup> day of October 2023**

A handwritten signature in black ink, appearing to read 'Fozia Chaudary', is positioned above a horizontal line.

**Name: Fozia Chaudary**

**LSO No. 52787D**

**A Commissioner for Oaths in and for the Province of Ontario**

**BY EMAIL ONLY**

May 29, 2023

Jacques Bernier  
 Baker & McKenzie LLP  
 181 Bay Street, Suite 2100  
 Toronto, Ontario  
 M5J 2T3

Marilyn Vardy  
 Department of Justice  
 120 Adelaide Street West  
 Suite 400  
 Toronto, Ontario  
 M5H 1T1

Dear counsel:

RE: Express Gold Refining Ltd.  
 v. His Majesty the King  
 2020-1214(GST)G

Reference is made to the parties' letter dated April 17, 2023.

Please be advised that the Court has directed that your request for a Settlement Conference is denied. Parties must have exchanged written offers of settlement before the Court will consider scheduling a Settlement Conference.

As such, the parties are asked to submit a Joint Application for hearing **on or before June 12, 2023.**

Yours truly,

Natasha Andeel  
 Hearings Coordinator  
 (613) 992-1097

ADDRESS ALL COMMUNICATIONS  
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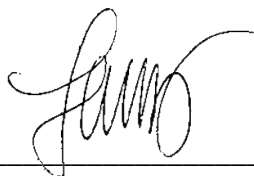
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**THIS IS EXHIBIT “F”**

**Referred to in the Affidavit of Sean Evans**

**Affirmed remotely on the 27<sup>th</sup> day of October 2023**

A handwritten signature in black ink, appearing to read 'Fozia', is positioned above a horizontal line.

**Name: Fozia Chaudary**

**LSO No. 52787D**

**A Commissioner for Oaths in and for the Province of Ontario**

Tax Court of Canada



Cour canadienne de l'impôt

## **PRACTICE NOTE NO. 21**

### **SETTLEMENT CONFERENCES**

Please be advised of the following:

1. Settlement conferences will not be scheduled unless parties to the litigation have confirmed that a written offer of settlement has been made and that a written reply has been provided.
2. Both parties must be present at all times during the settlement conference.
3. Parties to the settlement conference must ensure that a representative with full authority to settle the appeal is present at all times.
4. The Court may award costs against a party where it deems the conduct of that party to have impeded on the efficient functioning of the settlement conference.

Dated this 30th day of November 2018.

*(Original signed by)*

Eugene P. Rossiter  
Chief Justice

**THIS IS EXHIBIT “G”**

**Referred to in the Affidavit of Sean Evans**

**Affirmed remotely on the 27<sup>th</sup> day of October 2023**

A handwritten signature in black ink, appearing to read 'Fozia', is positioned above a horizontal line.

**Name: Fozia Chaudary**

**LSO No. 52787D**

**A Commissioner for Oaths in and for the Province of Ontario**

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\* Associated Firm  
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Advogados

June 12, 2023

Natasha Andeel  
Hearings Coordinator  
Tax Court of Canada  
180 Queen Street West  
Suite 200  
Toronto, Ontario M5V 3L6

**By E-Filing**

Dear Ms. Andeel:

**RE: Express Gold Refining Ltd. v. HMK  
Court File No. 2020-1214(GST)G**

We are writing to the Court in response to your May 29, 2023 letter, which asked the parties to submit a joint application for hearing on or before June 12, 2023.

The parties are in agreement that a hearing of this appeal should be scheduled. The parties have not, however, been able to reach an agreement as the timing and conduct of the hearing.

The Appellant requests a trial as soon as possible in 2024, and that the trial be conducted without any unnecessary breaks in sitting days, either in entering evidence or making closing arguments (save for a 2-3 week break between entering evidence and making closing submissions).

So far as the Appellant is concerned, the information set out in Form 123 is as follows:

- (a) the hearing should be held at Toronto, Ontario;
- (b) the Appellant and its trial team are available any days from April 1, 2024 onwards for a hearing (though the Appellant's understanding is that barring other matters being settled, the earliest available hearing dates the Registry has available are from May of 2024 onwards).
- (c) the Appellant estimates it will need up to 16 hearing days to tender its evidence, and two days to make its closing submissions;
- (d) without admissions from the Respondent, there will be approximately 11 witnesses and approximately 15,000 documents for the Appellant, approximately 95% of which will be commercial transaction documents (e.g., invoices, account statements etc.);
- (e) the Appellant will call up to 8 fact witnesses and up to 3 expert witnesses; and
- (f) the Appellant's evidence and argument will be in the English language.

To the extent the Respondent decides to call witnesses who may choose to testify in French, the Appellant will require an interpreter on those particular days to translate those witness' testimony.

The reassessments under appeal have caused the Appellant to file for protection under the *Companies' Creditors Arrangement Act* resulting in significant, on-going expense. Delays in adjudicating this matter only increase these expenses and place the Appellant's survival at further risk. The Appellant is therefore filing and serving this letter to request a trial as soon as possible.

The person who can answer any inquiries about the convenience or acceptability of other dates or places for the hearing on behalf of the appellant is Andrew Boyd, who can be reached by telephone at (647) 201-7133 in Toronto.

Yours very truly,



Jacques Bernier  
Counsel for the Appellant

- c. A. Boyd, B. Horrigan, D. Gadsden, and B. O'Grady, Baker & McKenzie LLP (by email)
- c. M. Vardy, J. Mann, K. Coward, P. Gotla, Department of Justice (by email)



Tax Court of Canada



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## Session Details

**Submitted on:** June 12, 2023 5:00:22 EDT PM

**Company's Name (if appellant):** Express Gold Refining Ltd.

**Appeal Number:** 2020-1214(GST)G

Type of Document	Document Name
Hearing Date - Request for	20230612 (LT - TCC - Hearing Memo).pdf

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**THIS IS EXHIBIT “H”**

**Referred to in the Affidavit of Sean Evans**

**Affirmed remotely on the 27<sup>th</sup> day of October 2023**

A handwritten signature in black ink, appearing to read 'Fozia', is positioned above a horizontal line.

**Name: Fozia Chaudary**

**LSO No. 52787D**

**A Commissioner for Oaths in and for the Province of Ontario**



**Department of Justice  
Canada**

**Ministère de la Justice  
Canada**

Ontario Regional Office  
National Litigation Sector  
120 Adelaide Street West Suite  
#400  
Toronto, ON M5H 1T1

Région de l'Ontario  
Secteur national du contentieux  
120, rue Adelaide ouest, pièce 400  
Toronto (Ontario) M5H 1T1

Telephone/Téléphone: 647-408-8689  
Fax /Télécopieur: 416- 973-0810  
Email/Courriel: Jasmeeen.Mann@justice.gc.ca  
Our File Number: LEX-500025225

## BY E-FILING

June 12, 2023

The Hearings Coordinator  
Tax Court of Canada  
200 Kent Street  
4<sup>th</sup> Floor  
Ottawa, Ontario  
K1A 0M1

**Attention: Natasha Andeel**

**Re: EXPRESS GOLD REFINING LTD v HMK**  
**Court File No.: 2020-1214(GST)G**

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We are writing further to the Court's letter dated May 29, 2023 in which the parties were required to file a Joint Application pursuant to Rule 123(2) of the *Tax Court of Canada Rules (General Procedure)*.

The parties were unable to reach an agreement on a few issues required in the Joint Application, and as such, the parties are submitting their own applications pursuant to Rule 123(3).

In particular, the parties did not agree on availability, with the appellant requesting a start date in May 2024, while the respondent requests a start date beginning June 2024. The parties still have matters outstanding that they wish to resolve without the Court's assistance, and the respondent believes that these matters can be resolved by June 2024.

The parties also disagree in terms of trial scheduling. The parties agree that there should be a break between presenting evidence and scheduling argument. The respondent requests a break of at least three months between the hearing of evidence and the presentation of oral argument in order to give the parties sufficient time to order and receive transcripts and to incorporate references to the transcripts and to documentary exhibits (which are expected to be quite voluminous) into the written submissions and oral arguments.

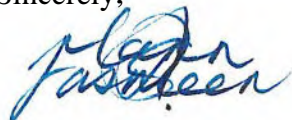
Secondly, since the hearing is expected to be lengthy, the respondent believes there should be a break in the hearing schedule of the trial, such that there would be two consecutive weeks of hearing of evidence, followed by a one-week interval before continuing with the next two weeks of hearing. The respondent believes a one-week interval between each two weeks of evidence is reasonable and will likely contribute to a more organized, efficient, and streamlined hearing. The break will give the parties time to review the evidence adduced over the previous two weeks and to plan and organize the calling of evidence for the next two weeks, so that the trial runs more



smoothly and efficiently. This will ultimately save time for the Court and parties, as well as provide some time to rest, and address other matters that may arise at trial.

Finally, the respondent anticipates calling certain witnesses from Quebec, who are expected to testify in French, and anticipates tendering certain documents written in the French language into evidence.

Sincerely,

A handwritten signature in blue ink that reads "Jasmeen Mann". The signature is written in a cursive style with a large initial "J" and "M".

Jasmeen Mann  
Senior Counsel  
Tax Law Services Division

Encl.

c. Marilyn Vardy, Pallavi Gotla and Kaitlin Coward, Counsel for the Respondent – Department of Justice (*by email*)

c. Jacques Bernier, Bryan Horrigan, David Gadsden, Andrew Boyd and Brendan O'Grady, Counsel for the Appellant – Baker & McKenzie (*by email*)

**2020-1214(GST)G**  
**TAX COURT OF CANADA**

BETWEEN:

**EXPRESS GOLD REFINING LTD.**

Appellant

- and -

**HIS MAJESTY THE KING**

Respondent

**APPLICATION FOR HEARING**

The Respondent hereby represents that this appeal is ready for hearing and applies to the Registrar to fix a time and place for the hearing as follows:

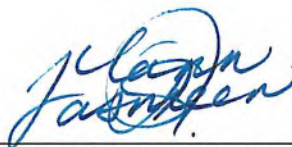
- a) the hearing should be held at Toronto, Ontario.
- b) the most convenient times for the hearing in order of preference are:
  - i. June 3, 2024 onwards
- c) the hearing of evidence will not last longer than 3 months;
- d) there will be approximately 60 witnesses and 57,601 documents for the Respondent;
- e) the Respondent will call 3 expert witnesses;

- f) the evidence will be partly in French and partly in English and the argument will be in English.

The person who can answer any inquiries about the convenience or acceptability of other dates or places for the hearing:

- a) on behalf of the Respondent, Jasmeen Mann, who can be reached by telephone at 647-408-8689.

DATED at the City of Toronto, in the Province of this 12<sup>th</sup> day of June 2023.



---

**ATTORNEY GENERAL OF CANADA**

Department of Justice Canada  
Ontario Regional Office  
National Litigation Sector  
120 Adelaide Street West, Suite 400  
Toronto, ON M5H 1T1  
Fax number: 416-973-0810

**Per: Marilyn Vardy / Jasmeen Mann  
Pallavi Gotla / Kaitlin Coward**

Tel: 647-256-7454 / 647-256-7414  
647-256-7378 / 647-256-7378

E-mail: Marilyn.Vardy@justice.gc.ca  
Jasmeen.Mann@justice.gc.ca  
Pallavi.Gotla@justice.gc.ca  
Kaitlin.Coward@justice.gc.ca

Counsel for the Respondent

**TO:**

The Registrar  
Tax Court of Canada  
200 Kent Street  
Ottawa, Ontario  
K1A 0M1

**AND TO:**

Jacques Bernier and Bryan Horrigan  
Baker & McKenzie LLP  
Toronto Office  
Brookfield Place  
181 Bay Street, Suite 2100  
Toronto M5J 2T3

Counsel for the Appellant



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## Confirmation

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Your Reference Number is: **WEB848070**

## Session Details

**Submitted on:** June 12, 2023 3:36:07 EDT PM

**Company's Name (if appellant):** Express Gold Refining Ltd.

**Appeal Number:** 2020-1214(GST)G

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Type of Document	Document Name
Miscellaneous	Express Gold Refining v HMK - 2020-1214(GST)G - Letter dated June 12, 2023 enclosing Application for Hearing.pdf

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**THIS IS EXHIBIT “I”**

**Referred to in the Affidavit of Sean Evans**

**Affirmed remotely on the 27<sup>th</sup> day of October 2023**

A handwritten signature in black ink, appearing to read 'Fozia', is written above a horizontal line.

**Name: Fozia Chaudary**

**LSO No. 52787D**

**A Commissioner for Oaths in and for the Province of Ontario**

**IN THE MATTER OF THE COMPANIES' CREDITORS'  
ARRANGEMENT ACT, R.S.C. 1985, c.C-36 AS AMENDED  
AND IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
EXPRESS GOLD REFINING LTD.**

**List of Creditors**

1. The attached list of creditors with claims > \$1,000 was prepared based on information available from the books and records of EGR as of October 15, 2020.
2. This list is provided pursuant to section 23(1)(a) of the CCAA and the regulations made thereunder. This list of creditors has been prepared without admission as to the liability for, or the quantum of, any of the amounts shown.
3. Creditors are not required to submit a proof of claim at this time.

Customer Name	Address	City	Country	Postal Code	Amount (\$)
1509739 Ontario Inc	1612 Watersedge Road	MISSISSAUGA	CA	L5J 1A4	\$ 244,200.00
1696156 Alberta Inc. (Gold Star Jewe. Bonnie)	P.O Box 22508 - 1109 James Mowatt Trail	EDMONTON	CA	T6W 0C3	\$ 18,184.01
1808113 Alberta Inc.	222 16 Ave NE Bay 1	CALGARY	CA	T2E 2E1	\$ 2,340.00
1983575 Ontario Inc	3 Kaiser Dr	WOODBRIIDGE	CA	L4L 3V2	\$ 189,565.87
1994930 Ontario Inc.	221 Victoria St Suite #315	TORONTO	CA	M5B 1V4	\$ 137,031.05
2073035 Ontario Inc	265 Brant Ave	BRANTFORD	CA	N3T 3J6	\$ 25,900.00
2276230 Ontario Inc (Alishan Cash 4 Gold)	7071 Airport Rd	MISSISSAUGA	CA	L4T 2J3	\$ 1,000,294.36
2337980 ONTARIO INC.	234 Elderberry St	ORANGEVILLE	CA	L9W 5J9	\$ 710,614.06
2417916 Ontario Inc. (Cash 4 Gold)	7118 Airport Rd	MISSISSAUGA	CA	L4T 2G8	\$ 1,405,356.94
2457041 Ontario Ltd (Swiss Cash For Gold)	5-21 Signal Hill	ETOBICOKE	CA	M9W 6V8	\$ 650,918.71
2466778 Ontario Inc	4 Serviceberry Cres	BRAMPTON	CA	L6P 2J7	\$ 520,762.45
2474722 Ontario Inc.	253 Queen St E Unit #3	BRAMPTON	CA	L6W 2B8	\$ 303,999.41
2500028 Ontario Inc. (Aar Ess Bullion Trading)	253 Queen St E Unit #3	BRAMPTON	CA	L6W 2B8	\$ 302,034.85
2575720 Ontario Inc. (AM Cash for Gold)	27 Merganser Cres	BRAMPTON	CA	L6W 4G1	\$ 493,879.23
2576393 Ontario Inc.	41A Dundas St E	MISSISSAUGA	CA	L5A 1V9	\$ 65,626.34
2578202 Ontario Inc	55 Elm Dr W Suite 1707	MISSISSAUGA	CA	L5B 3Z3	\$ 89,210.16
2602265 Ontario Inc.	44 Meadowcrest Lane	BRAMPTON	CA	L7A 0V7	\$ 131,611.48
3526763 Canada Ltd	2750 14th Ave Unit #308	MARKHAM	CA	L3R 0B6	\$ 7,210.84
504970 Ontario Inc.	18-777 Apricot Dr	LONDON	CA	N6K 5B3	\$ 85,475.00
8561648 Canada Inc	700-55 Town Centre Crt	SCARBOROUGH	CA	M1P 4X4	\$ 1,233,856.39
8958238 Canada Inc	55 Town Centre Court #700	TORONTO	CA	M1P 4X4	\$ 873,574.52
92957216 Quebec Inc (Bijoux Royal)	798 B Rue Liege Ouest	MONTREAL	CA	H3N 1B2	\$ 1,315,192.71
93124071 Quebec Inc (Global Gold)	405 Rue Guillemette 401	LAVAL	CA	H7P 2N6	\$ 4,834.05
9324-5371 Quebec Inc	1123 - 9310 Boul St-Laurent	MONTREAL	CA	H2N 1N4	\$ 1,114,419.41
9348417 CANADA INC	1981 Boylen Rd - Unit#7	MISSISSAUGA	CA	L5S 1R9	\$ 40,856.53
9437690 Canada Inc	439 University Ave - 5th floor	TORONTO	CA	M5G 1Y8	\$ 824,507.32
9710990 CANADA INC	260 Church St	TORONTO	CA	M5B 1Z2	\$ 1,181,067.29
9747583 Canada Ltd	200-107 Church St	TORONTO	CA	M5C 2G5	\$ 688,837.76
9776087 Canada Inc.	1A28-7215 Goreway Dr	MISSISSAUGA	CA	L4T 0B4	\$ 468,530.92
9896643 Canada Inc.(IB Gold Touch)	499 Raylawson Blvd - Unit 11	BRAMPTON	CA	L6Y 4E6	\$ 239,228.21
9982132 Canada Inc.	225 Poplar Rd	SCARBOROUGH	CA	M1E 1Z9	\$ 1,078,614.55
A & A General Trading Inc.	55 Queen St E - Unit #1406	TORONTO	CA	M5C 1R6	\$ 1,003,858.54
A&Z Creations(2388905 Ontario)	34 Orangeblossom Trl	BRAMPTON	CA	L6X 3B5	\$ 218,679.11
Ace of Gold Inc	80 Pertosa Dr - Suite 18	BRAMPTON	CA	L6X 5E9	\$ 308,061.91
AK Traders (9839143 Canada Inc)	301 Prince Arthur St	CORNWALL	CA	K6H 4P1	\$ 194,064.39
ALEB JEWELRY INC	69 Daphina Dr	THORNHILL	CA	L4J 8X4	\$ 482,673.89
Ali Jewellers	124 Kennedy Rd S	BRAMPTON	CA	L6W 3E7	\$ 110,055.92
Asahi Refining	130 Glidden Rd	BRAMPTON	CA	L6W 3M8	\$ 13,671.36
Asia Pacific International Inc.	16 Mallard Rd - Suite# A301	TORONTO	CA	M3B 0A7	\$ 3,386.14
Bal Jewellers & Trading Inc.	7156 A Airport Rd	MISSISSAUGA	CA	L4T 2H1	\$ 358,288.06
Bijouterie Lotus (9346-8460 Quebec Inc)	2425 Rue Provost	MONTREAL	CA	H8S 1R1	\$ 1,768,581.75
Bijouterie Safa Inc	7233 St-Hubert St	MONTREAL	CA	H2R 2N2	\$ 934,061.18

**IN THE MATTER OF THE COMPANIES' CREDITORS'  
ARRANGEMENT ACT, R.S.C. 1985, c.C-36 AS AMENDED  
AND IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
EXPRESS GOLD REFINING LTD.**

**List of Creditors**

1. The attached list of creditors with claims > \$1,000 was prepared based on information available from the books and records of EGR as of October 15, 2020.
2. This list is provided pursuant to section 23(1)(a) of the CCAA and the regulations made thereunder. This list of creditors has been prepared without admission as to the liability for, or the quantum of, any of the amounts shown.
3. Creditors are not required to submit a proof of claim at this time.

Customer Name	Address	City	Country	Postal Code	Amount (\$)
Bijouterie Yakona Inc	185 Rue Gounod Port 9	MONTREAL	CA	H2R 1A8	\$ 1,217,901.23
Bullion Partners Of Canada Ltd.	667 Welham Rd Unit #1	BARRIE	CA	L4N 0B7	\$ 37,156.73
Canadian Coin & Currency	10355 Yonge St	RICHMOND HILL	CA	L4C 3C1	\$ 108,078.69
Cash For Gold Jewellery (2103710 Ontario Inc.)	2387 Finch Ave W	TORONTO	CA	M9M 2W8	\$ 33,195.37
CASHFORGOLD.TO CORP.	874 Danforth Ave	TORONTO	CA	M4J 1L7	\$ 30,701.97
Clear View Systems	1608-2004 Fullerton Ave.	North Vancouver	CA	V7P 3G8	\$ 1,328.04
Coins Unlimited	620 Niagara St	WELLAND	CA	L3C 1L8	\$ 43,492.02
Customer Accounts					\$ 4,105,434.80
D Gemz Company Inc.	215 Victoria St Unit #504	TORONTO	CA	M5B 1T9	\$ 6,195.93
Daco Manufacturing (2015) Inc	70 East Beaver Creek Rd - Unit #42	RICHMOND HILL	CA	L4B 3B2	\$ 40,415.69
DK Cash 4 Gold	1E24-7215 Goreway Dr	MISSISSAUGA	CA	L5V 1W3	\$ 3,278.34
El Dorado Trading	136 Young St - Kingston	GEORGETOWN	GY		\$ 27,612.16
Elite Precious Metal Exchange Inc.	577 Burnhamthorpe Rd - Unit #3	ETOBICOKE	CA	M9C 2Y3	\$ 925,961.14
Empire Trading Limited - Gold Mart	8975 McLaughlin Road S Unit 6	BRAMPTON	CA	L6Y 2C7	\$ 1,019,892.12
Employees					TBD
EMR	2 West 47th St - Suite 804	NEW YORK	US	10036	\$ 1,122,619.67
Eternal Gems Jewellers	600 Steeles Ave W - Unit #27	CONCORD	CA	L4K 4M2	\$ 17,051.06
Farg Properties	215 Victoria St., Suite 400	TORONTO	CA	M5B 1T9	\$ 14,480.45
Fast Money Auction	2201-250 Yonge St	TORONTO	CA	M5G 1B1	\$ 903,588.01
Finley's Estate Jewellery (10549134 Canada Corp)	25 Sheppard Ave E	TORONTO	CA	M2N 6S6	\$ 2,244.97
Gain Jewellery Ltd	40-2901 Steeles Ave W	NORTH YORK	CA	M3J 3A5	\$ 56,900.80
Galaxy Precious Metals Corp.	7 - 5 Bridsdale Dr	BRAMPTON	CA	L7A 0S9	\$ 240,167.85
Gem Bijou	200 Front St W - Simcoe Place	TORONTO	CA	M5V 3K2	\$ 33,930.00
Gold & Time Centre LTD	650 Bloor St E	MISSISSAUGA	CA	L5A 3V9	\$ 1,892.80
Gold City	801 Bovaird Dr West	BRAMPTON	CA	L6X 0T9	\$ 424,122.14
Gold Rush	360 Royal York Rd	TORONTO	CA	M8Y 2R2	\$ 23,785.77
GoldBrex International Inc	1625 Steeles Ave E - Unit #9	BRAMPTON	CA	L6T 4T7	\$ 137,473.70
Goldguys.ca	5367 Rama Rd	ORILLIA	CA	L3V 6H5	\$ 1,995.03
Goldmark Jewellers	14-2136 McPhillips St	WINNIPEG	CA	R2V 3C8	\$ 3,000.00
GTA Jewellery Loan Inc	670 Rexdale Blvd - Unit #5	ETOBICOKE	CA	M9W 0B5	\$ 487,311.11
High Glow Jewellers	122 Millbourne Mall	EDMONTON	CA	T6K 3L6	\$ 3,529.26
ItaCast nb ltd	175 Edinburgh Drive	MONCTON	CA	E1E 2K9	\$ 57,331.41
Jalandhar Jewellery ( 9898565 Canada Inc )	88 Crocker Dr	BRAMPTON	CA	L6P 1Z7	\$ 5,902.45
Jewels Of Canada Inc	55 Queen St E - Suite #303	TORONTO	CA	M5C 1R6	\$ 13,718.90
JK	308 - 221 Victoria St	TORONTO	CA	M5B 1V4	\$ 268,497.58
KTI Corporation	5137 Tomken Road	MISSISSAUGA	CA	L4W 1P1	\$ 121,474.99
M.A.C Precious Metal Refining Inc	144 Kennedy Rd - Unit #4	BRAMPTON	CA	L6W 3G4	\$ 233,844.13
Mc Diamond Corp	2104 Hwy 7 West	CONCORD	CA	L4K 2S9	\$ 17,242.29
MC Gold Refining Inc	2980 Drew Rd - Unit 240B	MISSISSAUGA	CA	L4T 0A7	\$ 571,287.99
National Jewel Creation Ltd.	215 Victoria Street - Suite #300	TORONTO	CA	M5B 1T9	\$ 1,006.43
Naysa Bijouterie (9372-8483 Quebec Inc)	12 3E Avenue North	ROXBORO	CA	H8X 2L9	\$ 589,838.21
Omni Jewel Crafters	7733 Keele St	CONCORD	CA	L4K 1Y5	\$ 4,030.00



**IN THE MATTER OF THE COMPANIES' CREDITORS'  
ARRANGEMENT ACT, R.S.C. 1985, c.C-36 AS AMENDED  
AND IN THE MATTER OF A PROPOSED PLAN OF  
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3. Creditors are not required to submit a proof of claim at this time.

<b>Customer Name</b>	<b>Address</b>	<b>City</b>	<b>Country</b>	<b>Postal Code</b>	<b>Amount (\$)</b>
Ontario Ministry of Finance	33 King Street West, 6th Floor	OSHAWA	CA	L1H 8H5	TBD
Ontario MX (9989676 Canada Inc)	5977 Dixie Rd Suite #2	MISSISSAUGA	CA	L4W 1E8	\$ 711,714.64
Ora Italia Inc.	221 Victoria St - Suite 312A	TORONTO	CA	M5B 1V4	\$ 144,812.72
P.A. Jewellery Sales Group Ltd	2490 Yonge St	TORONTO	CA	M4P 2H7	\$ 11,226.54
Protium Metals Inc.	McMaster University Innovation Park	HAMILTON	CA	L8P 0A1	\$ 50,391.38
R.S. Trading Inc.	2565 Steeles Ave E - Unit # 10	BRAMPTON	CA	L6T 4L6	\$ 21,592.61
Rafidain Company	105-1729 Bank Street	OTTAWA	CA	K1V 7Z5	\$ 42,579.17
Receiver General of Canada/Canada Revenue Agency	875 Heron Road	OTTAWA	CA	K1A 1B1	TBD
Refine It Now	1801-375 King St N	WATERLOO	CA	N2J 4L6	\$ 3,673.54
Ron Wilkin Jewellers Ltd	109 St. Andrew St W	FERGUS	CA	N1M 1N6	\$ 4,090.32
RRR Buy And Sell Gold Inc.	2244 Drew Road - Unit 06	MISSISSAUGA	CA	L5S 1B1	\$ 3,534.70
S.A. Rajgan Enterprises Corp.	1D21 - 7205 Goreway Dr	MISSISSAUGA	CA	L4T 2T9	\$ 555,446.32
S.S. Cash for Gold Inc	2985 Drew Rd & Airport Rd Unit #116	MISSISSAUGA	CA	L4T 0A1	\$ 1,335,350.69
Sam Bijouterie Inc.	6342 Boul Saint-Laurent	MONTREAL	CA	H2S 3C4	\$ 1,210,660.88
SH Refining Ltd.	6175 129A ST	SURREY	CA	V3X 1S2	\$ 430,908.79
Solid Gold (3385132 Canada Inc)	1255 Phillips Square Suite 1005	MONTREAL	CA	H3B 3G1	\$ 3,746.60
Suhaag Jewellers	31 Steeple Bush Ave (Jaipur Bazaar)	BRAMPTON	CA	L6R 3V4	\$ 37,943.75
Sundee Jewellers (7771086 Alberta Ltd)	9286 - 34th Ave NW	EDMONTON	CA	T6E 5P2	\$ 119,095.08
Susan Diamond Jewellery	1921 Eglinton Ave E	SCARBOROUGH	CA	M1L 2L6	\$ 54,337.97
Talus Gold Inc.	72 Commuter Drive Unit 1	BRAMPTON	CA	L7A 0P8	\$ 373,287.20
The Gold Market	600 Ontario St - Unit 24	ST CATHARINES	CA	L2N 7H8	\$ 2,230.80
The Gold Spot Refinery Ltd	1135 Highgate Pl	MISSISSAUGA	CA	L4W 3H3	\$ 591,433.05
TORONTO RESERVE GOLD	1052 Albion Road	ETOBICOKE	CA	M9V 1A7	\$ 59,930.91
Traders Atlantic Inc	321 Freshwater Road	ST JOHN'S	CA	A1B 1C3	\$ 11,811.15
Tree Jewellers Inc	133 Inspire Blvd	BRAMPTON	CA	L6R 3X9	\$ 342,737.33
Tuan Anh Nguyen (Jewellery Expert Ltd)	9635-107 A Ave	EDMONTON	CA	T5H 0Z6	\$ 5,937.88
Yang's Jewellery	355 Hespeler Rd	CAMBRIDGE	CA	N1R 6B3	\$ 2,994.55

**THIS IS EXHIBIT “J”**

**Referred to in the Affidavit of Sean Evans**

**Affirmed remotely on the 27<sup>th</sup> day of October 2023**

A handwritten signature in black ink, appearing to read 'Fozia', is positioned above a horizontal line.

**Name: Fozia Chaudary**

**LSO No. 52787D**

**A Commissioner for Oaths in and for the Province of Ontario**

## AGREEMENT ON GENERAL TERMS AND CONDITIONS

EXPRESS GOLD REFINING LTD. ("Express Gold") and



(the "Customer" or "you" or "your")

The following terms and conditions shall apply to all purchases or sales of goods or services between Express Gold and the Customer, until such time as these terms and conditions are revised or cancelled. These terms and conditions shall be automatically incorporated into all agreements of purchase and sale (whether written or oral) between Express Gold and the Customer.

1. **Quotes** – All quotes provided by Express Gold to the Customer shall remain in effect only for such time as Express Gold specifically sets out when giving such quote. If no time frame is given any quote will expire one hour after it has been given. All prices are F.O.B. the Express Gold offices unless otherwise stated in such quote.
  
2. **Taxes** – All quotes provided by Express Gold to the Customer, whether to purchase or sell, do not include applicable Goods and Services tax, Harmonized Sales tax, provincial or municipal sales, use, value added or similar tax ("Sales Tax"). Accordingly, in addition to the price specified in any quote the amount of any applicable Sales Tax shall be added to the price quoted. In the circumstance where Express Gold is buying from the Customer, Express Gold reserves the right to delay payment of the Sales Tax to the Customer, at its discretion, for up to three (3) months to ensure proper compliance with the appropriate tax laws. Notwithstanding the foregoing, if the Canada Revenue Agency or other applicable government entity (collectively the "Applicable Government Agency") clears the payment of Sales Tax then Express Gold agrees it will pay such Sales Tax to the Customer upon receipt of such clearance. If, at the end of such three month period the Applicable Government Agency has not determined if the payment of the Sales Tax has been cleared, Express Gold may agree to continue to delay payment of the Sales Tax until such time as the payment of such Sales Tax has been cleared or denied or Express Gold may choose to terminate the transaction at the end of such three month period. If the Applicable Government Agency determines that the Sales Tax should not be paid to the Customer (due to some action or inaction of the Customer), Express Gold may, in its sole discretion, reverse the transaction. If the Applicable Government Agency clears the payment of such Sales Tax and then later reverses its decision, the Customer hereby expressly indemnifies and hold Express Gold harmless from any costs, expenses, fees or damages it may suffer as a result of having paid such Sales Tax to the Customer.
  
3. **Payment** – Unless otherwise specifically stated in any particular agreement of purchase and sale; (i) the payment of the purchase price for any goods sold by Express Gold to you are due at the time of sale, plus all applicable Sales Tax and any other amounts due in connection with such sale; and (ii) the payment of the purchase price for any goods purchased by Express Gold from you shall be paid not more than 30 days after Express Gold has determined the quality and quantity of the metal purchased by Express Gold from you. As stated above, the payment of any applicable Sales Tax by Express Gold to the Customer may be delayed by up to three months in the sole discretion of Express Gold.

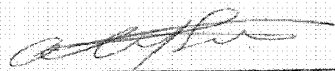
4. Title – You warrant that you are the sole legal and beneficial owner of all goods sold by you to Express Gold, with the full legal right to sell such goods to Express Gold free and clear of all encumbrances, liens or other impediments to title to such goods. Upon delivery of goods to Express Gold title in any such goods sold by you to Express Gold passes to Express Gold regardless of time of payment by Express Gold to you. Title to any goods sold by Express Gold to you passes upon payment by you of the purchase price for such goods (plus any applicable Sales Tax in connection therewith).


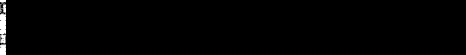
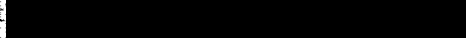
5. Liability – Express Gold shall not be liable for and shall be held harmless by the Customer from any damage, losses or claims of whatsoever nature or kind, contractual, consequential or incidental, direct or indirect, arising out of, in connection with or resulting from any sale of goods governed hereby. In addition Express Gold shall not be held liable for any unauthorized instructions or any payments resulting therefrom in connection with the sale of goods or services governed hereby. It is the responsibility of the Customer to maintain adequate insurance in respect of any materials held by Express Gold on behalf of a Customer and Express Gold will not be liable for any loss or damage which such material may suffer while in the possession of Express Gold. The Customer acknowledges that if the Customer requests that Express Gold arrange hedging in respect of materials held by Express Gold on behalf of such Customer, the Customer takes on all liability in respect of such hedging arrangements, including any losses suffered as a result of such hedging arrangements being put in place. The Customer acknowledges that Express Gold may arrange hedging through third parties and the Customer will be responsible for any losses that may occur as a result of the termination of such hedging arrangements at any time and for any reason.

6. Advances of Purchase Price – Express Gold may, in its sole and unfettered discretion, agree to advance to the Customer prior to the payment date for any goods purchased by Express Gold from the Customer, a portion of the purchase price for such goods. Any such advance will be deemed to be a deposit from Express Gold to you and will be deducted from any payments owing by Express Gold to you. To the extent that any such advances are determined to be in excess of the amounts owing by Express Gold to you, you agree to forthwith pay any such excess to Express Gold. To the extent that such advance is made in the form of metals, you agree that the amount of such advance in dollars will be determined on the date of payment by Express Gold to you of the purchase price for such goods. The Customer bears the risk of any movement in the price of such metals from the date of such advance to the date of settlement of such loan.

Date: OCTOBER 24, 2017

**EXPRESS GOLD REFINING LTD.**

Per:   
 Name: ATEF SALAMA  
 Title:

\_\_\_\_\_  
 Per:   
 Name:   
 Title: 

Court File No. : CV-20-00649558-00CL

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
EXPRESS GOLD REFINING LTD.**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at Toronto

**AFFIDAVIT OF SEAN EVANS**

**(Affirmed October 27, 2023)**

ATTORNEY GENERAL OF CANADA  
Department of Justice  
120 Adelaide Street West  
Suite 400  
Toronto, Ontario  
M5H 1T1

Kevin Dias  
Tel : 647-256-7360  
Fax : 416-973-0810  
Email : kevin.dias@justice.gc.ca  
39035N

Lawyer for the Canada Revenue Agency

# TAB 2

Court File No. CV-20-00649558-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
EXPRESS GOLD REFINING LTD.**

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**QUESTIONS FOR THE  
MONITOR**

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**Monitor's 16<sup>th</sup> Report, Paragraph 20(e):**

“CRA is not the sole stakeholder in these CCAA Proceedings. According to EGR’s books and records, as of October 15, 2020, EGR had 108 creditors, excluding CRA, with aggregate claims of approximately \$39.9 million;”

1. Attached as Exhibit “A” is a list of creditors of EGR found on the Monitor’s website (see: <https://www.insolvencies.deloitte.ca/en-ca/Pages/ExpressGoldRefiningLtd.aspx>). The list indicates it was prepared from “information available from the books and records of EGR as of October 15, 2020.”

**Question 1:** Are the 108 creditors referred to in paragraph 20(e) of your Report together with the amounts owed by EGR to each, which total approximately \$39.9 million, listed in Exhibit “A”?

2. With the consent and cooperation of EGR and the CRA, you developed and implemented the Second Amended and Restated Monitoring Control Protocol, which was approved by the Court on December 14, 2021 (“Monitoring Protocol”). The Monitoring Protocol was intended to permit EGR to pay GST/HST to its customers and commercial suppliers and the

CRA to pay the corresponding net tax refunds to EGR in the ordinary course. **(The Monitoring Protocol is to remain confidential as between the Monitor, EGR and the CRA.)**

Among other things, the Monitoring Protocol was intended to ensure that EGR did not transact with 66 suppliers (or customers connected to those 66 Suppliers) that the CRA identified as being participants in the alleged “carousel scheme” with EGR. Attached as Exhibit “B” is a chart prepared by us that indicates that of the approximately \$39.9 million in aggregate claims against EGR from creditors other than the CRA set out in Exhibit “A”, \$29,743,135.06 is owed to creditors who are among the 66 suppliers identified by the CRA as carousel scheme participants. **(Exhibit “B” contains confidential information derived from the Monitoring Protocol and should remain confidential as between the Monitor, EGR and the CRA.)**

**Question 2:** Please review our chart at Exhibit “B” and advise whether, of the approximately \$39.9 million in claims owed by EGR to creditors other than the CRA, \$29,743,135.06 is owed to creditors who are among the 66 suppliers identified by the CRA as carousel scheme participants.

**Monitor’s 16<sup>th</sup> Report, Paragraph 21:**

“The Monitor notes that EGR has been able to fund the significant costs associated with the Tax Litigation and the CCAA Proceedings to date, with professional fees to August 18, 2023, totalling approximately \$10.6 million, and continuing to accrue pending the resolution of the Tax Litigation and CCAA Proceedings. It is conceivable, however, that this burden and the burden of conducting business in the CCAA Proceeding will wear on EGR’s capacity to continue to fund the Tax Litigation on an indefinite basis.”

3. Attached as Exhibit “C” is a summary of the income received by EGR for 2021-2022 prepared by the CRA using information from the tax returns filed by EGR for those years.



**Question 3:** Please confirm that the figures on the chart are accurate. If they are not, please provide the accurate figures.

4. Attached as Exhibit “D” is a chart prepared by us using information from the 16 reports of the Monitor in this proceeding that sets out EGR’s opening bank balances for each of the periods indicated.

**Question 4:** Please confirm that the opening bank balances for each period are accurate.

5. The figures in Exhibit “C” and “D” indicate that for 2021 and 2022, EGR paid a total of \$7,453,567 in professional fees and still generated a total of \$3,883,415 in after tax profit. Its opening bank balances ranged from \$1.3 million to \$5.3 million.

**Question 5:** Given the above figures, on what evidence do you rely for your statement that “It is conceivable, however, that this burden and the burden of conducting business in the CCAA Proceeding will wear on EGR’s capacity to continue to fund the Tax Litigation on an indefinite basis”?

6. **Question 6:** Of the approximately \$10.6 million in professional fees incurred by EGR as of August 18, 2023, how much was related to the Tax Litigation and how much to the CCAA Proceeding?
7. **Question 7:** Please provide a quarterly breakdown of the CCAA costs incurred by EGR since October 12, 2020. Please indicate how much of the fees incurred by EGR for each quarter were the Monitor’s fees and disbursements and how much were the legal fees incurred by the Monitor.
8. **Question 8:** Of the CCAA costs incurred by EGR as of August 18, 2023, how much was incurred by the Monitor and its counsel in respect of EGR’s tax appeal before the Tax Court of Canada (“TCC”), including but not limited to documentary disclosure issues, attending the

discoveries, alternative dispute resolution to resolve the tax appeal and the current motion?  
Please provide documentation in support of your answer.

**Monitor's 16<sup>th</sup> Report, Paragraph 22:**

“As discussed above, EGR’s tax counsel has recently advised the Monitor that CRA has requested a 65-day trial, with a 90-day break before closing arguments. In contrast, EGR has requested a four-week trial...”

9. Attached as Exhibit “E” are letters to the TCC written by tax counsel for EGR and the CRA setting out, among other things, their positions with respect to the length of the TCC hearing of EGR’s tax appeal.

**Question 9:** Are the letters at Exhibit “E” the sole basis for the statement in paragraph 22 of your Report above? If not, please provide the basis for that statement.

**EXHIBIT "A"**

**IN THE MATTER OF THE COMPANIES' CREDITORS'  
ARRANGEMENT ACT, R.S.C. 1985, c.C-36 AS AMENDED  
AND IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
EXPRESS GOLD REFINING LTD.**

**List of Creditors**

1. The attached list of creditors with claims > \$1,000 was prepared based on information available from the books and records of EGR as of October 15, 2020.
2. This list is provided pursuant to section 23(1)(a) of the CCAA and the regulations made thereunder. This list of creditors has been prepared without admission as to the liability for, or the quantum of, any of the amounts shown.
3. Creditors are not required to submit a proof of claim at this time.

Customer Name	Address	City	Country	Postal Code	Amount (\$)
1509739 Ontario Inc	1612 Watersedge Road	MISSISSAUGA	CA	L5J 1A4	\$ 244,200.00
1696156 Alberta Inc. (Gold Star Jewe. Bonnie)	P.O Box 22508 - 1109 James Mowatt Trail	EDMONTON	CA	T6W 0C3	\$ 18,184.01
1808113 Alberta Inc.	222 16 Ave NE Bay 1	CALGARY	CA	T2E 2E1	\$ 2,340.00
1983575 Ontario Inc	3 Kaiser Dr	WOODBIDGE	CA	L4L 3V2	\$ 189,565.87
1994930 Ontario Inc.	221 Victoria St Suite #315	TORONTO	CA	M5B 1V4	\$ 137,031.05
2073035 Ontario Inc	265 Brant Ave	BRANTFORD	CA	N3T 3J6	\$ 25,900.00
2276230 Ontario Inc (Alishan Cash 4 Gold)	7071 Airport Rd	MISSISSAUGA	CA	L4T 2J3	\$ 1,000,294.36
2337980 ONTARIO INC.	234 Elderberry St	ORANGEVILLE	CA	L9W 5J9	\$ 710,614.06
2417916 Ontario Inc. (Cash 4 Gold)	7118 Airport Rd	MISSISSAUGA	CA	L4T 2G8	\$ 1,405,356.94
2457041 Ontario Ltd (Swiss Cash For Gold)	5-21 Signal Hill	ETOBICOKE	CA	M9W 6V8	\$ 650,918.71
2466778 Ontario Inc	4 Serviceberry Cres	BRAMPTON	CA	L6P 2J7	\$ 520,762.45
2474722 Ontario Inc.	253 Queen St E Unit #3	BRAMPTON	CA	L6W 2B8	\$ 303,999.41
2500028 Ontario Inc. (Aar Ess Bullion Trading)	253 Queen St E Unit #3	BRAMPTON	CA	L6W 2B8	\$ 302,034.85
2575720 Ontario Inc. (AM Cash for Gold)	27 Merganser Cres	BRAMPTON	CA	L6W 4G1	\$ 493,879.23
2576393 Ontario Inc.	41A Dundas St E	MISSISSAUGA	CA	L5A 1V9	\$ 65,626.34
2578202 Ontario Inc	55 Elm Dr W Suite 1707	MISSISSAUGA	CA	L5B 3Z3	\$ 89,210.16
2602265 Ontario Inc.	44 Meadowcrest Lane	BRAMPTON	CA	L7A 0V7	\$ 131,611.48
3526763 Canada Ltd	2750 14th Ave Unit #308	MARKHAM	CA	L3R 0B6	\$ 7,210.84
504970 Ontario Inc.	18-777 Apricot Dr	LONDON	CA	N6K 5B3	\$ 85,475.00
8561648 Canada Inc	700-55 Town Centre Crt	SCARBOROUGH	CA	M1P 4X4	\$ 1,233,856.39
8958238 Canada Inc	55 Town Centre Court #700	TORONTO	CA	M1P 4X4	\$ 873,574.52
92957216 Quebec Inc (Bijoux Royal)	798 B Rue Liege Ouest	MONTREAL	CA	H3N 1B2	\$ 1,315,192.71
93124071 Quebec Inc (Global Gold)	405 Rue Guillemette 401	LAVAL	CA	H7P 2N6	\$ 4,834.05
9324-5371 Quebec Inc	1123 - 9310 Boul St-Laurent	MONTREAL	CA	H2N 1N4	\$ 1,114,419.41
9348417 CANADA INC	1981 Boylen Rd - Unit#7	MISSISSAUGA	CA	L5S 1R9	\$ 40,856.53
9437690 Canada Inc	439 University Ave - 5th floor	TORONTO	CA	M5G 1Y8	\$ 824,507.32
9710990 CANADA INC	260 Church St	TORONTO	CA	M5B 1Z2	\$ 1,181,067.29
9747583 Canada Ltd	200-107 Church St	TORONTO	CA	M5C 2G5	\$ 688,837.76
9776087 Canada Inc.	1A28-7215 Goreway Dr	MISSISSAUGA	CA	L4T 0B4	\$ 468,530.92
9896643 Canada Inc.(IB Gold Touch)	499 Raylawson Blvd - Unit 11	BRAMPTON	CA	L6Y 4E6	\$ 239,228.21
9982132 Canada Inc.	225 Poplar Rd	SCARBOROUGH	CA	M1E 1Z9	\$ 1,078,614.55
A & A General Trading Inc.	55 Queen St E - Unit #1406	TORONTO	CA	M5C 1R6	\$ 1,003,858.54
A&Z Creations(2388905 Ontario)	34 Orangeblossom Trl	BRAMPTON	CA	L6X 3B5	\$ 218,679.11
Ace of Gold Inc	80 Pertosa Dr - Suite 18	BRAMPTON	CA	L6X 5E9	\$ 308,061.91
AK Traders (9839143 Canada Inc)	301 Prince Arthur St	CORNWALL	CA	K6H 4P1	\$ 194,064.39
ALEB JEWELRY INC	69 Daphina Dr	THORNHILL	CA	L4J 8X4	\$ 482,673.89
Ali Jewellers	124 Kennedy Rd S	BRAMPTON	CA	L6W 3E7	\$ 110,055.92
Asahi Refining	130 Glidden Rd	BRAMPTON	CA	L6W 3M8	\$ 13,671.36
Asia Pacific International Inc.	16 Mallard Rd - Suite# A301	TORONTO	CA	M3B 0A7	\$ 3,386.14
Bal Jewellers & Trading Inc.	7156 A Airport Rd	MISSISSAUGA	CA	L4T 2H1	\$ 358,288.06
Bijouterie Lotus (9346-8460 Quebec Inc)	2425 Rue Provost	MONTREAL	CA	H8S 1R1	\$ 1,768,581.75
Bijouterie Safa Inc	7233 St-Hubert St	MONTREAL	CA	H2R 2N2	\$ 934,061.18

**IN THE MATTER OF THE COMPANIES' CREDITORS'  
ARRANGEMENT ACT, R.S.C. 1985, c.C-36 AS AMENDED  
AND IN THE MATTER OF A PROPOSED PLAN OF  
COMPROMISE OR ARRANGEMENT WITH RESPECT TO  
EXPRESS GOLD REFINING LTD.**

**List of Creditors**

1. The attached list of creditors with claims > \$1,000 was prepared based on information available from the books and records of EGR as of October 15, 2020.
2. This list is provided pursuant to section 23(1)(a) of the CCAA and the regulations made thereunder. This list of creditors has been prepared without admission as to the liability for, or the quantum of, any of the amounts shown.
3. Creditors are not required to submit a proof of claim at this time.

Customer Name	Address	City	Country	Postal Code	Amount (\$)
Bijouterie Yakona Inc	185 Rue Gounod Port 9	MONTREAL	CA	H2R 1A8	\$ 1,217,901.23
Bullion Partners Of Canada Ltd.	667 Welham Rd Unit #1	BARRIE	CA	L4N 0B7	\$ 37,156.73
Canadian Coin & Currency	10355 Yonge St	RICHMOND HILL	CA	L4C 3C1	\$ 108,078.69
Cash For Gold Jewellery (2103710 Ontario Inc.)	2387 Finch Ave W	TORONTO	CA	M9M 2W8	\$ 33,195.37
CASHFORGOLD.TO CORP.	874 Danforth Ave	TORONTO	CA	M4J 1L7	\$ 30,701.97
Clear View Systems	1608-2004 Fullerton Ave.	North Vancouver	CA	V7P 3G8	\$ 1,328.04
Coins Unlimited	620 Niagara St	WELLAND	CA	L3C 1L8	\$ 43,492.02
Customer Accounts					\$ 4,105,434.80
D Gemz Company Inc.	215 Victoria St Unit #504	TORONTO	CA	M5B 1T9	\$ 6,195.93
Daco Manufacturing (2015) Inc	70 East Beaver Creek Rd - Unit #42	RICHMOND HILL	CA	L4B 3B2	\$ 40,415.69
DK Cash 4 Gold	1E24-7215 Goreway Dr	MISSISSAUGA	CA	L5V 1W3	\$ 3,278.34
El Dorado Trading	136 Young St - Kingston	GEORGETOWN	GY		\$ 27,612.16
Elite Precious Metal Exchange Inc.	577 Burnhamthorpe Rd - Unit #3	ETOBICOKE	CA	M9C 2Y3	\$ 925,961.14
Empire Trading Limited - Gold Mart	8975 McLaughlin Road S Unit 6	BRAMPTON	CA	L6Y 2C7	\$ 1,019,892.12
Employees					TBD
EMR	2 West 47th St - Suite 804	NEW YORK	US	10036	\$ 1,122,619.67
Eternal Gems Jewellers	600 Steeles Ave W - Unit #27	CONCORD	CA	L4K 4M2	\$ 17,051.06
Farg Properties	215 Victoria St., Suite 400	TORONTO	CA	M5B 1T9	\$ 14,480.45
Fast Money Auction	2201-250 Yonge St	TORONTO	CA	M5G 1B1	\$ 903,588.01
Finley's Estate Jewellery (10549134 Canada Corp)	25 Sheppard Ave E	TORONTO	CA	M2N 6S6	\$ 2,244.97
Gain Jewellery Ltd	40-2901 Steeles Ave W	NORTH YORK	CA	M3J 3A5	\$ 56,900.80
Galaxy Precious Metals Corp.	7 - 5 Bridsdale Dr	BRAMPTON	CA	L7A 0S9	\$ 240,167.85
Gem Bijou	200 Front St W - Simcoe Place	TORONTO	CA	M5V 3K2	\$ 33,930.00
Gold & Time Centre LTD	650 Bloor St E	MISSISSAUGA	CA	L5A 3V9	\$ 1,892.80
Gold City	801 Bovaird Dr West	BRAMPTON	CA	L6X 0T9	\$ 424,122.14
Gold Rush	360 Royal York Rd	TORONTO	CA	M8Y 2R2	\$ 23,785.77
GoldBrex International Inc	1625 Steeles Ave E - Unit #9	BRAMPTON	CA	L6T 4T7	\$ 137,473.70
Goldguys.ca	5367 Rama Rd	ORILLIA	CA	L3V 6H5	\$ 1,995.03
Goldmark Jewellers	14-2136 McPhillips St	WINNIPEG	CA	R2V 3C8	\$ 3,000.00
GTA Jewellery Loan Inc	670 Rexdale Blvd - Unit #5	ETOBICOKE	CA	M9W 0B5	\$ 487,311.11
High Glow Jewellers	122 Millbourne Mall	EDMONTON	CA	T6K 3L6	\$ 3,529.26
ItaCast nb ltd	175 Edinburgh Drive	MONCTON	CA	E1E 2K9	\$ 57,331.41
Jalandhar Jewellery ( 9898565 Canada Inc )	88 Crocker Dr	BRAMPTON	CA	L6P 1Z7	\$ 5,902.45
Jewels Of Canada Inc	55 Queen St E - Suite #303	TORONTO	CA	M5C 1R6	\$ 13,718.90
JK	308 - 221 Victoria St	TORONTO	CA	M5B 1V4	\$ 268,497.58
KTI Corporation	5137 Tomken Road	MISSISSAUGA	CA	L4W 1P1	\$ 121,474.99
M.A.C Precious Metal Refining Inc	144 Kennedy Rd - Unit #4	BRAMPTON	CA	L6W 3G4	\$ 233,844.13
Mc Diamond Corp	2104 Hwy 7 West	CONCORD	CA	L4K 2S9	\$ 17,242.29
MC Gold Refining Inc	2980 Drew Rd - Unit 240B	MISSISSAUGA	CA	L4T 0A7	\$ 571,287.99
National Jewel Creation Ltd.	215 Victoria Street - Suite #300	TORONTO	CA	M5B 1T9	\$ 1,006.43
Naysa Bijouterie (9372-8483 Quebec Inc)	12 3E Avenue North	ROXBORO	CA	H8X 2L9	\$ 589,838.21
Omni Jewel Crafters	7733 Keele St	CONCORD	CA	L4K 1Y5	\$ 4,030.00

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3. Creditors are not required to submit a proof of claim at this time.

<b>Customer Name</b>	<b>Address</b>	<b>City</b>	<b>Country</b>	<b>Postal Code</b>	<b>Amount (\$)</b>
Ontario Ministry of Finance	33 King Street West, 6th Floor	OSHAWA	CA	L1H 8H5	TBD
Ontario MX (9989676 Canada Inc)	5977 Dixie Rd Suite #2	MISSISSAUGA	CA	L4W 1E8	\$ 711,714.64
Ora Italia Inc.	221 Victoria St - Suite 312A	TORONTO	CA	M5B 1V4	\$ 144,812.72
P.A. Jewellery Sales Group Ltd	2490 Yonge St	TORONTO	CA	M4P 2H7	\$ 11,226.54
Protium Metals Inc.	McMaster University Innovation Park	HAMILTON	CA	L8P 0A1	\$ 50,391.38
R.S. Trading Inc.	2565 Steeles Ave E - Unit # 10	BRAMPTON	CA	L6T 4L6	\$ 21,592.61
Rafidain Company	105-1729 Bank Street	OTTAWA	CA	K1V 7Z5	\$ 42,579.17
Receiver General of Canada/Canada Revenue Agency	875 Heron Road	OTTAWA	CA	K1A 1B1	TBD
Refine It Now	1801-375 King St N	WATERLOO	CA	N2J 4L6	\$ 3,673.54
Ron Wilkin Jewellers Ltd	109 St. Andrew St W	FERGUS	CA	N1M 1N6	\$ 4,090.32
RRR Buy And Sell Gold Inc.	2244 Drew Road - Unit 06	MISSISSAUGA	CA	L5S 1B1	\$ 3,534.70
S.A. Rajgan Enterprises Corp.	1D21 - 7205 Goreway Dr	MISSISSAUGA	CA	L4T 2T9	\$ 555,446.32
S.S. Cash for Gold Inc	2985 Drew Rd & Airport Rd Unit #116	MISSISSAUGA	CA	L4T 0A1	\$ 1,335,350.69
Sam Bijouterie Inc.	6342 Boul Saint-Laurent	MONTREAL	CA	H2S 3C4	\$ 1,210,660.88
SH Refining Ltd.	6175 129A ST	SURREY	CA	V3X 1S2	\$ 430,908.79
Solid Gold (3385132 Canada Inc)	1255 Phillips Square Suite 1005	MONTREAL	CA	H3B 3G1	\$ 3,746.60
Suhaag Jewellers	31 Steeple Bush Ave (Jaipur Bazaar)	BRAMPTON	CA	L6R 3V4	\$ 37,943.75
Sundeeep Jewellers (7771086 Alberta Ltd)	9286 - 34th Ave NW	EDMONTON	CA	T6E 5P2	\$ 119,095.08
Susan Diamond Jewellery	1921 Eglinton Ave E	SCARBOROUGH	CA	M1L 2L6	\$ 54,337.97
Talus Gold Inc.	72 Commuter Drive Unit 1	BRAMPTON	CA	L7A 0P8	\$ 373,287.20
The Gold Market	600 Ontario St - Unit 24	ST CATHARINES	CA	L2N 7H8	\$ 2,230.80
The Gold Spot Refinery Ltd	1135 Highgate Pl	MISSISSAUGA	CA	L4W 3H3	\$ 591,433.05
TORONTO RESERVE GOLD	1052 Albion Road	ETOBICOKE	CA	M9V 1A7	\$ 59,930.91
Traders Atlantic Inc	321 Freshwater Road	ST JOHN'S	CA	A1B 1C3	\$ 11,811.15
Tree Jewellers Inc	133 Inspire Blvd	BRAMPTON	CA	L6R 3X9	\$ 342,737.33
Tuan Anh Nguyen (Jewellery Expert Ltd)	9635-107 A Ave	EDMONTON	CA	T5H 0Z6	\$ 5,937.88
Yang's Jewellery	355 Hespeler Rd	CAMBRIDGE	CA	N1R 6B3	\$ 2,994.55

**EXHIBIT "B"**

**REDACTED**



**EXHIBIT "C"**

	2021	2022
Trade Revenue	82,065,202	66,796,795
Other	62,869	(5)
Total Revenue	<b>82,128,071</b>	<b>66,796,790</b>
Cost of Materials	72,624,246	60,142,072
Professional Fees	3,503,198	3,950,369
Total Expenses	<b>77,873,033</b>	<b>65,750,656</b>
Net Income	<b>4,255,038</b>	<b>1,046,134</b>
Income Taxes	1,126,366	291,391
Net Profit	<b>3,128,672</b>	<b>754,743</b>

EGR's fiscal year ends on May 31st

**EXHIBIT "D"**

<b>Period at Issue</b>	<b>Opening Cash Balance</b>	<b>Monitor's Report</b>
October 12, 2020 to January 1, 2021	\$2,600,000	<a href="#">Report of the Proposed Monitor - October 14, 2020.pdf</a>
November 30, 2020 to March 19, 2021	\$5,300,000	<a href="#">Second Report of the Monitor - December 10, 2020.pdf</a>
February 15 to June 11, 2021 Note: Para 20 refers to Feb 15, but para 22 references the opening date as Feb 12.	\$5,300,000	<a href="#">Third Report of the Monitor - March 4, 2021.pdf</a>
May 17 to September 10, 2021	\$2,960,000	<a href="#">Fifth Report - Monitor - Deloitte Restructuring Inc. - June 3, 2021.pdf</a>
August 23 to December 10, 2021	\$3,910,000	<a href="#">Sixth Report of the Monitor - August 31, 2021.pdf</a>
November 29, 2021 to March 18, 2022	\$2,200,000	<a href="#">Seventh Report - Monitor - Deloitte Restructuring Inc. - December 13, 2021.pdf</a>
February 14 to June 17, 2022	\$1,700,000	<a href="#">Eighth Report of the Monitor - March 10, 2022.pdf</a>
May 30, 2022 to September 16, 2022	\$1,500,000	<a href="#">Ninth Report of the Monitor - June 10, 2022.pdf</a>
August 22 to December 16, 2022	\$1,400,000	<a href="#">Eleventh Report of the Monitor - September 12, 2022.pdf</a>
November 28, 2022 to March 24, 2023	\$1,800,000	<a href="#">Twelfth Report of the Monitor - December 12, 2022.pdf</a>
February 20 to June 16, 2023	\$1,800,000	<a href="#">Thirteenth Report of the Monitor - March 10, 2023.pdf</a>
May 15 to September 15, 2023	\$1,300,000	<a href="#">Fourteenth Report of the Monitor - June 8, 2023.pdf</a>
August 21 to December 15, 2023	\$2,100,000	<a href="#">Fifteenth Report of the Monitor - September 6, 2023.pdf</a>

**EXHIBIT "E"**

**Asia Pacific**

Bangkok  
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Brisbane  
Hanoi  
Ho Chi Minh City  
Hong Kong  
Jakarta  
Kuala Lumpur\*  
Manila\*  
Melbourne  
Seoul  
Shanghai  
Singapore  
Sydney  
Taipei  
Tokyo  
Yangon

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& Africa**

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Amsterdam  
Antwerp  
Bahrain  
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Berlin  
Brussels  
Budapest  
Cairo  
Casablanca  
Doha  
Dubai  
Dusseldorf  
Frankfurt/Main  
Geneva  
Istanbul  
Jeddah\*  
Johannesburg  
Kyiv  
London  
Luxembourg  
Madrid  
Milan  
Moscow  
Munich  
Paris  
Prague  
Riyadh\*  
Rome  
St. Petersburg  
Stockholm  
Vienna  
Warsaw  
Zurich

**The Americas**

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Guadalajara  
Houston  
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Lima  
Los Angeles  
Mexico City  
Miami  
Monterrey  
New York  
Palo Alto  
Porto Alegre\*\*  
Rio de Janeiro\*\*  
San Francisco  
Santiago  
Sao Paulo\*\*  
Tijuana  
Toronto  
Valencia  
Washington, DC

\* Associated Firm  
\*\* In cooperation with  
Trench, Rossi e Watanabe  
Advogados

June 12, 2023

Natasha Andeel  
Hearings Coordinator  
Tax Court of Canada  
180 Queen Street West  
Suite 200  
Toronto, Ontario M5V 3L6

**By E-Filing**

Dear Ms. Andeel:

**RE: Express Gold Refining Ltd. v. HMK  
Court File No. 2020-1214(GST)G**

We are writing to the Court in response to your May 29, 2023 letter, which asked the parties to submit a joint application for hearing on or before June 12, 2023.

The parties are in agreement that a hearing of this appeal should be scheduled. The parties have not, however, been able to reach an agreement as the timing and conduct of the hearing.

The Appellant requests a trial as soon as possible in 2024, and that the trial be conducted without any unnecessary breaks in sitting days, either in entering evidence or making closing arguments (save for a 2-3 week break between entering evidence and making closing submissions).

So far as the Appellant is concerned, the information set out in Form 123 is as follows:

- (a) the hearing should be held at Toronto, Ontario;
- (b) the Appellant and its trial team are available any days from April 1, 2024 onwards for a hearing (though the Appellant's understanding is that barring other matters being settled, the earliest available hearing dates the Registry has available are from May of 2024 onwards).
- (c) the Appellant estimates it will need up to 16 hearing days to tender its evidence, and two days to make its closing submissions;
- (d) without admissions from the Respondent, there will be approximately 11 witnesses and approximately 15,000 documents for the Appellant, approximately 95% of which will be commercial transaction documents (e.g., invoices, account statements etc.);
- (e) the Appellant will call up to 8 fact witnesses and up to 3 expert witnesses; and
- (f) the Appellant's evidence and argument will be in the English language.

To the extent the Respondent decides to call witnesses who may choose to testify in French, the Appellant will require an interpreter on those particular days to translate those witness' testimony.

The reassessments under appeal have caused the Appellant to file for protection under the *Companies' Creditors Arrangement Act* resulting in significant, on-going expense. Delays in adjudicating this matter only increase these expenses and place the Appellant's survival at further risk. The Appellant is therefore filing and serving this letter to request a trial as soon as possible.

The person who can answer any inquiries about the convenience or acceptability of other dates or places for the hearing on behalf of the appellant is Andrew Boyd, who can be reached by telephone at (647) 201-7133 in Toronto.

Yours very truly,



Jacques Bernier  
Counsel for the Appellant

- c. A. Boyd, B. Horrigan, D. Gadsden, and B. O'Grady, Baker & McKenzie LLP (by email)
- c. M. Vardy, J. Mann, K. Coward, P. Gotla, Department of Justice (by email)



Tax Court of Canada



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## Session Details

**Submitted on:** June 12, 2023 5:00:22 EDT PM

**Company's Name (if appellant):** Express Gold Refining Ltd.

**Appeal Number:** 2020-1214(GST)G

Type of Document	Document Name
Hearing Date - Request for	20230612 (LT - TCC - Hearing Memo).pdf

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**Department of Justice  
Canada**

**Ministère de la Justice  
Canada**

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National Litigation Sector  
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Région de l'Ontario  
Secteur national du contentieux  
120, rue Adelaide ouest, pièce 400  
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Telephone/Téléphone: 647-408-8689  
Fax /Télécopieur: 416- 973-0810  
Email/Courriel: Jasmeeen.Mann@justice.gc.ca  
Our File Number: LEX-500025225

## BY E-FILING

June 12, 2023

The Hearings Coordinator  
Tax Court of Canada  
200 Kent Street  
4<sup>th</sup> Floor  
Ottawa, Ontario  
K1A 0M1

**Attention: Natasha Andeel**

**Re: EXPRESS GOLD REFINING LTD v HMK**  
**Court File No.: 2020-1214(GST)G**

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We are writing further to the Court's letter dated May 29, 2023 in which the parties were required to file a Joint Application pursuant to Rule 123(2) of the *Tax Court of Canada Rules (General Procedure)*.

The parties were unable to reach an agreement on a few issues required in the Joint Application, and as such, the parties are submitting their own applications pursuant to Rule 123(3).

In particular, the parties did not agree on availability, with the appellant requesting a start date in May 2024, while the respondent requests a start date beginning June 2024. The parties still have matters outstanding that they wish to resolve without the Court's assistance, and the respondent believes that these matters can be resolved by June 2024.

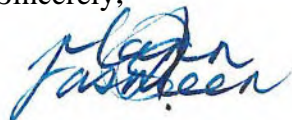
The parties also disagree in terms of trial scheduling. The parties agree that there should be a break between presenting evidence and scheduling argument. The respondent requests a break of at least three months between the hearing of evidence and the presentation of oral argument in order to give the parties sufficient time to order and receive transcripts and to incorporate references to the transcripts and to documentary exhibits (which are expected to be quite voluminous) into the written submissions and oral arguments.

Secondly, since the hearing is expected to be lengthy, the respondent believes there should be a break in the hearing schedule of the trial, such that there would be two consecutive weeks of hearing of evidence, followed by a one-week interval before continuing with the next two weeks of hearing. The respondent believes a one-week interval between each two weeks of evidence is reasonable and will likely contribute to a more organized, efficient, and streamlined hearing. The break will give the parties time to review the evidence adduced over the previous two weeks and to plan and organize the calling of evidence for the next two weeks, so that the trial runs more

smoothly and efficiently. This will ultimately save time for the Court and parties, as well as provide some time to rest, and address other matters that may arise at trial.

Finally, the respondent anticipates calling certain witnesses from Quebec, who are expected to testify in French, and anticipates tendering certain documents written in the French language into evidence.

Sincerely,

A handwritten signature in blue ink that reads "Jasmeen Mann". The signature is written in a cursive, flowing style.

Jasmeen Mann  
Senior Counsel  
Tax Law Services Division

Encl.

c. Marilyn Vardy, Pallavi Gotla and Kaitlin Coward, Counsel for the Respondent – Department of Justice (*by email*)

c. Jacques Bernier, Bryan Horrigan, David Gadsden, Andrew Boyd and Brendan O'Grady, Counsel for the Appellant – Baker & McKenzie (*by email*)

2020-1214(GST)G

**TAX COURT OF CANADA**

BETWEEN:

**EXPRESS GOLD REFINING LTD.**

Appellant

- and -

**HIS MAJESTY THE KING**

Respondent

**APPLICATION FOR HEARING**

The Respondent hereby represents that this appeal is ready for hearing and applies to the Registrar to fix a time and place for the hearing as follows:

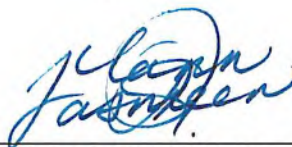
- a) the hearing should be held at Toronto, Ontario.
- b) the most convenient times for the hearing in order of preference are:
  - i. June 3, 2024 onwards
- c) the hearing of evidence will not last longer than 3 months;
- d) there will be approximately 60 witnesses and 57,601 documents for the Respondent;
- e) the Respondent will call 3 expert witnesses;

- f) the evidence will be partly in French and partly in English and the argument will be in English.

The person who can answer any inquiries about the convenience or acceptability of other dates or places for the hearing:

- a) on behalf of the Respondent, Jasmeen Mann, who can be reached by telephone at 647-408-8689.

DATED at the City of Toronto, in the Province of this 12<sup>th</sup> day of June 2023.



---

**ATTORNEY GENERAL OF CANADA**

Department of Justice Canada  
Ontario Regional Office  
National Litigation Sector  
120 Adelaide Street West, Suite 400  
Toronto, ON M5H 1T1  
Fax number: 416-973-0810

**Per: Marilyn Vardy / Jasmeen Mann  
Pallavi Gotla / Kaitlin Coward**

Tel: 647-256-7454 / 647-256-7414  
647-256-7378 / 647-256-7378

E-mail: Marilyn.Vardy@justice.gc.ca  
Jasmeen.Mann@justice.gc.ca  
Pallavi.Gotla@justice.gc.ca  
Kaitlin.Coward@justice.gc.ca

Counsel for the Respondent

**TO:**

The Registrar  
Tax Court of Canada  
200 Kent Street  
Ottawa, Ontario  
K1A 0M1

**AND TO:**

Jacques Bernier and Bryan Horrigan  
Baker & McKenzie LLP  
Toronto Office  
Brookfield Place  
181 Bay Street, Suite 2100  
Toronto M5J 2T3

Counsel for the Appellant



Tax Court of Canada



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## Session Details

**Submitted on:** June 12, 2023 3:36:07 EDT PM

**Company's Name (if appellant):** Express Gold Refining Ltd.

**Appeal Number:** 2020-1214(GST)G

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Type of Document	Document Name
Miscellaneous	Express Gold Refining v HMK - 2020-1214(GST)G - Letter dated June 12, 2023 enclosing Application for Hearing.pdf

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# TAB 3

Court File No. CV-20-00649558-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED***

**AND IN THE MATTER OF A PLAN OF  
COMPROMISE OR ARRANGEMENT OF  
EXPRESS GOLD REFINING LTD. (THE "CCAA PROCEEDINGS")**

**RESPONSE TO QUESTIONS FOR THE MONITOR**

**Question 1:** Are the 108 creditors referred to in paragraph 20(e) of your Report together with the amounts owed by EGR to each, which total approximately \$39.9 million, listed in Exhibit "A"?

**Answer 1:** Yes.

**Question 2:** Please review our chart at Exhibit "B" and advise whether, of the approximately \$39.9 million in claims owed by EGR to creditors other than the CRA, \$29,743,135.06 is owed to creditors who are among the 66 suppliers identified by the CRA as carousel scheme participants.

**Answer 2:** Of the approximately \$39.9 million owed by EGR to creditors other than the CRA, approximately \$30.4 million is owed to creditors who the CRA alleges were carousel scheme participants. Two other entities that the CRA has alleged are also carousel scheme participants, Gold City and JK, appear to be missing from Exhibit "B". The Monitor would like to point out, though, that a formal claims procedure has not yet been approved by the Court (although it is being contemplated). A formal claims procedure would solicit claims against EGR and provide for a determination of those claims. As a result, other claims may be filed against the estate. In addition, those that CRA alleges are part of a carousel scheme would also be afforded an opportunity to file claims. The CRA would also be asked to prove its claim.

**Question 3:** Please confirm that the figures in Exhibit "C" are accurate. If they are not, please provide the accurate figures.

**Answer 3:** Confirmed.



**Question 4:** Please confirm that the opening bank balances in Exhibit “D” are accurate.

**Answer 4:** Confirmed.

**Question 5:** Given the figures in Exhibits “C” and “D”, on what evidence do you rely for your statement that

“It is conceivable, however, that this burden and the burden of conducting business in the CCAA Proceeding will wear on EGR’s capacity to continue to fund the Tax Litigation on an indefinite basis”?

**Answer 5:** In exercising our professional judgment, the Monitor considered:

1. The historical financial performance of EGR. In this regard, we reviewed EGR’s operating performance over the prior 10 years ending with fiscal 2022 and 2023;
2. The estimated go forward costs of EGR’s Tax Litigation and ancillary costs to the Tax Litigation, which include potential trial-related costs and costs related to EGR’s CCAA Proceedings (the “**Tax Litigation and Related Costs**”). In this regard, we solicited and obtained estimates of EGR’s go forward tax counsels’ costs for trial which range from \$6.5 million to \$7.5 million. The future costs of the CCAA Proceedings are additive to this estimate;
3. EGR’s cash position as of August 21, 2023;
4. The working capital requirements of the business;
5. EGR’s ability to obtain financing while in these CCAA Proceedings;
6. Material unpaid amounts owing to EGR’s tax counsel as of August 18, 2023. In this regard, unpaid amounts owed to EGR’s tax counsel as August 18, 2023 totaled approximately \$1.5 million; and
7. Factors which have, and could in the future, materially affect EGR’s business performance, including potentially fluctuating gold prices, among other things.

Based on our review of the factors summarized above, and as noted in the Monitor’s previously filed Court Reports, a liquidity risk continues to exist for EGR that is primarily driven by the likely necessity to fund future Tax Litigation and Related Costs for an undefined period under the *status quo*. This is notwithstanding that EGR has been able to maintain liquidity in the CCAA Proceedings to date.

All the above considered, the Monitor is of the view that it is conceivable that the burden of the Tax Litigation and Related Costs will weigh on EGR’s ability to fund the Tax Litigation for an indefinite period.

**Question 6:** Of the approximately \$10.6 million in professional fees incurred by EGR as of August 18, 2023, how much was related to the Tax Litigation and how much to the CCAA Proceeding?

**Answer 6:** The \$10.6 million in professional fees referenced in paragraph 21 of the Monitor’s Sixteenth Report represents the amount of cash disbursed from the start of the CCAA Proceeding

to August 18, 2023. Of the approximately \$10.6 million in professional fees paid by EGR, approximately \$5.6 million related to the Tax Litigation and approximately \$5.0 million related to the CCAA Proceedings. There are also amounts invoiced by professionals to EGR that have been accrued for in EGR's accounts payable subledger that remain outstanding and unpaid; these amounts will be paid in accordance with payment terms established between EGR and the professionals. EGR's accounts payable subledger as of August 18, 2023 shows an amount owing to EGR's Tax Counsel of approximately \$1.5 million and an amount owing to the Monitor and its counsel of approximately \$100,000.

**Question 7:** Please provide a quarterly breakdown of the CCAA costs incurred by EGR since October 12, 2020. Please indicate how much of the fees incurred by EGR for each quarter were the Monitor's fees and disbursements and how much were the legal fees incurred by the Monitor.

**Answer 7:**

*Chart 2:*

Period		Deloitte	Period		Dentons	Total Monitor and Counsel Fees Accrued (CAD\$)
From	To	CAD \$	From	To	CAD \$	
10/13/2020	12/20/2020	471,875	10/14/2020	12/18/2020	116,736	588,611
12/21/2020	4/4/2021	553,406	12/22/2020	3/31/2021	169,855	723,261
4/5/2021	6/27/2021	483,734	4/1/2021	6/30/2021	118,242	601,975
6/28/2021	10/3/2021	422,533	7/1/2021	9/30/2021	56,042	478,575
10/4/2021	1/9/2022	462,669	10/1/2021	12/31/2021	103,529	566,198
1/10/2022	4/3/2022	204,300	1/1/2022	4/30/2022	220,493	424,793
4/4/2022	6/26/2022	205,526	5/1/2022	6/30/2022	66,342	271,868
6/27/2022	10/2/2022	208,195	7/1/2022	9/30/2022	220,883	429,078
10/3/2022	1/8/2023	174,116	10/1/2022	12/31/2022	220,941	395,057
1/9/2023	4/2/2023	143,061	1/1/2023	3/30/2023	81,401	224,462
4/3/2023	6/25/2023	129,276	4/1/2023	6/30/2023	115,316	244,592
6/26/2023	8/20/2023	75,985	7/1/2023	8/30/2023	93,790	169,775
		<b>3,534,675</b>			<b>1,583,570</b>	<b>5,118,245</b>

**Question 8:** Of the CCAA costs incurred by EGR as of August 18, 2023, how much was incurred by the Monitor and its counsel in respect of EGR's tax appeal before the Tax Court of Canada ("TCC"), including but not limited to documentary disclosure issues, attending the discoveries, alternative dispute resolution to resolve the tax appeal and the current motion? Please provide documentation in support of your answer.

**Answer 8:**

It is difficult to delineate and separate the Monitor's and its counsel's fees in respect of EGR's tax appeal from their fees in the CCAA proceeding generally. This is primarily due to the fact that the tax litigation and the CCAA proceeding are inextricably intertwined and the progress (or delay) of the former directly affects the progress (or delay) of the latter. However, the Monitor

estimates that approximately 25% of its fees directly relate to the tax litigation and its counsel, Dentons, estimates that approximately 60% of its fees directly relate to the Tax Litigation.

**Question 9:** Are the letters at Exhibit “E” the sole basis for the statement in paragraph 22 of [the Monitor’s 16<sup>th</sup>] Report? If not, please provide the basis for that statement.

**Answer 9:** The basis for the statement in paragraph 22 of the Monitor’s Sixteenth Report is also supported by discussions held with EGR’s tax counsel and restructuring counsel, and the Monitor’s legal counsel.

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
EXPRESS GOLD REFINING LTD.**

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at Toronto

**RECORD OF THE ATTORNEY  
GENERAL OF CANADA**

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Department of Justice  
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M5H 1T1

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Fozia Chaudary (LSO#52787D)  
Sarah Mackenzie (LSO# 75127I)

Lawyers for the Attorney General of Canada