

Citation: *R. v. Hutton and 11907 Yukon Inc.*, 2011 YKTC 8

Date: 20091216
Docket: 08-00148
08-00149
08-00152
Registry: Whitehorse

IN THE TERRITORIAL COURT OF YUKON
Before: His Worship Justice of the Peace Cameron

REGINA

v.

TERRY HUTTON (aka TERRANCE KEVIN HUTTON)
and 11907 YUKON INC.

Appearances:

Ludovic Gouaillier
Terry Hutton

Counsel for the Crown
Appearing on his own behalf and as a
Director of 11907 Yukon Inc.

REASONS FOR SENTENCING

[1] CAMERON J.P.T.C. (Oral): Essentially, the matter that we are dealing with here is Mr. Hutton has run a business in Mayo for a number of years, and was required by law to be filing his taxes, personal and corporate, as well as Goods and Services Sales Tax returns. There were a number of years where he failed to provide that filing.

[2] The years for the GST were from 1999 through to 2004, personal tax returns from 2001 to 2006, and corporate tax returns from 2000 to 2007. He has now complied in some instances, and some of those years have been filed. There are still some

outstanding years. However, at the time that these charges were finally laid, there had been no filing of any of those forms for any of those years.

[3] The minimum penalty is \$1,000 per count. The total counts are 13, pursuant to s. 238(1) of the *Income Tax Act*, R.S.C. 1985, c. 1 (Fifth Supp.), and four counts under s. 326(1) of the *Excise Tax Act*, R.S.C. 1985, c. E-15. So the total penalty is \$17,000.

[4] The Court is content that one year time to pay is not unreasonable. You can set up a payment schedule with the Court, Mr. Hutton, where once a month you make a payment towards it. It is not something that has to be paid all at once. In addition, after a year, if it has not been totally paid, you can certainly approach the Court for an extension on the time to pay those particular fines. The Court, at that time, is going to want to see what efforts are being made in regards to the payment. I do not know if that raises any questions for you at all as to how you go about paying these fines?

[5] THE ACCUSED: No, I'm good there.

[6] THE COURT: Okay. Now, in regards to the compliance order that is sought, the Crown has sought a compliance order and I think as clearly as -- are you still there, Mr. Hutton? I think we have lost him.

(CLERK RESTABLISHES TELEPHONE CONTACT WITH ACCUSED)

[7] Basically, the only thing left to deal with is this compliance order that is being sought by the Crown, and what that would require is that you still must carry on trying to get these things filed and to whatever limited success there is. I think the suggestion by Crown that you get close and personal with a Canada Revenue agent to see what

options and what they can suggest in manners and means for you to find these filings, because I am sure that at this point it is not a matter that you have them and just do not want to put them in, I think it is a matter of you probably do not have the records. So you have to make sure that, with the Canada Revenue Agency, that they are in the loop and can give you ways and means to try and figure out back then what the records would have reflected, in some way. So it is important for you to do that, either through counsel or on your own, but you have got to make that connection with a particular agent, I suspect, and work closely with them.

[8] This compliance order would mean, as I say, you have a four-month time frame from today in which to comply. Failure to comply from that point on and, again, entirely driven by Canada Revenue, they may choose then to charge you further and of course we would wind up back here again. So all I can suggest is that you have got to get real cozy with them in regards to these matters that you have been unable to comply with.

[9] THE ACCUSED: Okay. I understand.

[10] MR. GOUAILLIER: And Your Worship, the person, in fact, that Mr. Hutton should be contacting is Barbara Fox in Prince George. Unfortunately, I don't have a direct line for her. She has to be reached through the general Canada Revenue call centre.

[11] THE COURT: Okay. But the name is Barbara Fox, if that is of any help.

[12] THE ACCUSED: Okay. Thank you very much.

[13] THE COURT:

All right. Thank you, Mr. Hutton.

CAMERON J.P.T.C.