

**TAX COURT OF CANADA / COUR CANADIENNE DE L'IMPÔT
MINUTES / PROCÈS-VERBAL**

Judge / Juge	Justice D'Arcy	Date	November 24, 25, and 26, 2014
File No. / No. de dossier	2012-3401(GST)G	Location / Endroit	Vancouver, BC
Between / Entre	<u>Club Inrawest</u>	Applicant / Requéran(e) Appellant / Appelant(e)	M (-) F (-)
and / et	<u>Her Majesty the Queen</u>	Respondent / Intimé(e)	
and / et	-----	Intervenor / Intervenat(e)	M (-) F (-)
APPEARANCES / COMPARUTIONS			
For the / Pour l'	Name / Nom	Address / Adresse	
Applicant / Requéran(e)	Mr. Chia-yi Chua	McCarthy Tétrault LLP	
Appellant / Appelant(e)	Ms. Wendy Brosseau		
	M (x) F (x)		
For the / Pour le	Name / Nom	Address / Adresse	
Respondent / Intimé(e)	Ms. Lynn Burch	Dept. of Justice Vancouver	
Representative	Ms. Shannon Currie		
	M (-) F (x)		
For the / Pour l'	Name / Nom	Address / Adresse	
Intervenor / Intervenat(e)	-----	-----	
	M (-) F (-)		
Court Reporter / Sténographe Judiciaire	(-)	Firm / Firme	-----
Recording Technician / Technicien d'enregistrement	(-)	Name / Nom	-----
DARS Laptop Inventory No. / SEAN No. d'inventaire du portable			Z005157
Before the Court / Devant la Cour Appeal			
Decision / Décision Matter adjourned. Appeal to resume at the Tax Court in Ottawa, Ontario on January 27, 2015 at 9:30 am.			
Court Registrar's Name / nom du greffier audienier	S. Lee		
CD Requested by Presiding Judge / CD demandé par le juge qui préside	Yes/Oui	(-)	No/Non (x)
Transcript Requested by Presiding Judge / Transcription demandée par le juge qui préside	Yes/Oui	(x)	No/Non (-)

MINUTES OF HEARING

Session: TC125141124_0837

Date: 2014/11/24

Time: 08:37

City: Vancouver

Province: British Columbia

In the presence of: The Honourable Justice Steven D'Arcy

Court Registrar: Lee, Suzanna

Court Reporter: DARS / SEAN,

Courtroom: Tax Court of Canada-:

Recording ID: 0001

File Number: 2012-3401(GST)G

Style of Cause: Club Intrawest v. Her Majesty the Queen

App./Plaintiff: Club Intrawest,

Solicitor for App./Plaint.: Brousseau, Wendy

Solicitor for Resp./Def.: Burch, Lynn

2014/11/24

00:00:00 08:37:45 - Operator

Recording:

00:00:00 08:37:45 - New case

00:01:34 08:39:12 - Operator

Stop recording: (On Recess)

00:01:34 08:41:27 - Operator

Recording:

00:01:34 08:41:27 - Record

00:01:51 08:41:43 - Operator

Stop recording: (On Recess)

00:01:51 09:31:55 - Operator

Recording:

00:01:51 09:31:55 - Record

00:12:34 09:42:38 - Annotation:

Sitting is open.

00:12:35 09:42:40 - Annotation:

Case called. Counsel introduced.

00:12:38 09:42:43 - The Honourable Justice Steven D'Arcy:

00:12:41 09:42:46 - Solicitor for App./Plaint.: Chua, Chia-yi

Has some preliminary matters.

00:14:02 09:44:07 - Solicitor for App./Plaint.: Chua, Chia-yi

1) scheduling of witnesses and breaks

00:15:03 09:45:08 - Annotation:

Discussion between Court and Mr. Chua.

00:15:25 09:45:30 - Solicitor for Resp./Def.: Burch, Lynn

Provides her position.

00:15:43 09:45:48 - Solicitor for App./Plaint.: Chua, Chia-yi

2) Joint Book of documents

00:16:18 09:46:23 - Annotation:

Discussion between the court and the parties regarding documents.

00:17:08 09:47:13 - Annotation:

Any documents not mentioned will be removed.

00:19:28 09:49:32 - Solicitor for Resp./Def.: Currie, Shannon

3) Motion by consent re: technical issue. Motion to quash for last period in

00:20:34 09:50:39 - Solicitor for Resp./Def.: Currie, Shannon

issue, para. 16 of notice of appeal.

00:21:56 09:52:02 - Solicitor for Resp./Def.: Currie, Shannon

Refers to appeal, paragraph 35.

00:21:59 09:52:04 - The Honourable Justice Steven D'Arcy:

Requests appellant's position.

00:22:01 09:52:06 - Solicitor for App./Plaint.: Chua, Chia-yi

Replies.

00:23:02 09:53:07 - The Honourable Justice Steven D'Arcy:

Court directs appeal for Oct. 2008 month will be quashed and be added to

00:23:23 09:53:28 - The Honourable Justice Steven D'Arcy:

judgment for the entire appeal.

00:23:35 09:53:39 - Solicitor for Resp./Def.: Currie, Shannon

4) Partial agreed statement of facts - 2 copies to the court. Notes revisions.

00:24:55 09:55:00 - The Honourable Justice Steven D'Arcy:

Requests parties file an amended copy and initial change.

00:25:46 09:55:52 - Solicitor for Resp./Def.: Currie, Shannon

Refers to correction in para. 92 and word should be fees instead of points.

00:27:28 09:57:33 - Annotation:

Court directs it will read the agreed statement of facts and orders a recess.

00:27:31 09:57:36 - Operator

Stop recording: (On Recess)

00:27:31 10:45:28 - Operator

Recording:

00:27:31 10:45:28 - Record

00:28:09 10:46:06 - Annotation:

Court is resumed.

00:28:11 10:46:09 - The Honourable Justice Steven D'Arcy:

Court addresses the parties re: agreed statement of facts. Requests

00:28:31 10:46:28 - The Honourable Justice Steven D'Arcy:

clarification re: para. 6

00:28:56 10:46:53 - Annotation:

Discussion between the court and the parties.

00:32:27 10:50:24 - Annotation:

Discussion between the court re: joint book of documents and

00:32:55 10:50:52 - Annotation:

agreed statement of facts and latter needs to be revised.

00:33:07 10:51:05 - Annotation:

Further discussion between the court and the parties re: legal title

00:34:16 10:52:13 - Annotation:

Court discusses with parties to agreed statement of facts: para 18, 19.

00:35:15 10:53:12 - Annotation:

Issue is regarding evidence contrary to agreed statement of facts.

00:35:46 10:53:43 - Annotation:

Court queries second issue re: para. 86 that it is argument.

00:42:21 11:00:18 - Annotation:

Discussion between the court and the parties. Partial agreed statement of

00:43:04 11:01:01 - Annotation:

facts to refile tomorrow morning.

00:44:02 11:01:59 - Solicitor for Resp./Def.: Burch, Lynn

Rises to clarify to the court.

00:45:55 11:03:51 - Annotation:

Further discussion between the court and the parties.

00:48:03 11:06:00 - Annotation:

re: documents referred to in agreed statement of facts. Parties will address

00:50:00 11:07:56 - Annotation:

issue tomorrow morning.

00:50:07 11:08:04 - Solicitor for App./Plaint.: Chua, Chia-yi

Opening statement on behalf of the appellant.

01:01:01 11:18:58 - The Honourable Justice Steven D'Arcy:

Queries parties regarding references ie. para 16 resort points and fees and

01:02:41 11:20:37 - The Honourable Justice Steven D'Arcy:

their definitions.

01:03:18 11:21:14 - Solicitor for App./Plaint.: Chua, Chia-yi

Outlines evidence and witnesses.

01:04:03 11:21:59 - Annotation:

Discussion between the court and the parties.

01:07:06 11:25:02 - Annotation:

Robert Keith Thompson SWORN

01:07:08 11:25:04 - Annotation:

Occupation: Retired, 3370 Rockhampton Rd., Nanoose Bay, BC

01:07:10 11:25:06 - The Honourable Justice Steven D'Arcy:

Addresses the witness.

01:07:19 11:25:16 - Solicitor for App./Plaint.: Chua, Chia-yi

Evidence-in-chief of the witness.

01:11:58 11:29:55 - Solicitor for Resp./Def.: Burch, Lynn

Rises to query re: Intrawest Corporation.

01:12:37 11:30:33 - Solicitor for App./Plaint.: Chua, Chia-yi

Requests witness identify parties correctly and continues

01:13:12 11:31:08 - Solicitor for App./Plaint.: Chua, Chia-yi

examination-in-chief.

01:19:54 11:37:50 - The Honourable Justice Steven D'Arcy:

Queries the witness and requests witnesses leave the room.

01:20:19 11:38:16 - Annotation:

Discussion between the court and the parties regarding privilege of the

01:25:19 11:43:15 - Annotation:

client and waiver.

01:28:48 11:46:45 - Solicitor for Resp./Def.: Burch, Lynn

Raises another concern regarding witness re: not a party.

01:30:01 11:47:58 - Annotation:

Discussion between the court and the parties regarding issue of waiver of

01:31:51 11:49:48 - Annotation:

privilege.

01:34:21 11:52:17 - The Honourable Justice Steven D'Arcy:

Court requests witness return.

01:34:31 11:52:27 - The Honourable Justice Steven D'Arcy:

Addresses the witness regarding issue of privilege.

01:35:24 11:53:21 - Annotation:

Mr. Thompson replies on this issue.

01:36:08 11:54:04 - Annotation:

Discussion between the Court and Mr. Chua.

01:37:36 11:55:33 - The Honourable Justice Steven D'Arcy:

Requests Ms. Ruff take the stand.

01:37:38 11:55:35 - Annotation:

Sandra Ruff SWORN

01:37:40 11:55:37 - Annotation:

Occupation: Accountant, 2028 Lloyd Ave., North Vancouver, BC

01:37:43 11:55:39 - The Honourable Justice Steven D'Arcy:

Court requests the witness provide her title.

01:39:00 11:56:56 - Annotation:

Discussion between the court and Ms. Ruff.

01:39:10 11:57:07 - Annotation:

Court is in recess.

01:39:13 11:57:10 - Operator

Stop recording: (On Recess)

01:39:14 12:07:53 - Operator

Recording:

01:39:14 12:07:53 - Record

01:39:49 12:08:28 - Annotation:

Court is resumed.

01:39:51 12:08:30 - The Honourable Justice Steven D'Arcy:

Requests Ms. Ruff return to the witness stand.

01:39:56 12:08:36 - Annotation:

Discussion between the Court and Ms. Ruff re: authorization and waiver of

01:40:23 12:09:03 - Annotation:

privilege. Witness is excused.

01:41:00 12:09:40 - Annotation:

Discussion between the court and Mr. Thompson re: issue of privilege.

01:42:31 12:11:10 - Solicitor for Resp./Def.: Burch, Lynn

Rises to query waiver

01:43:10 12:11:50 - Annotation:

Discussion between the court and the parties regarding extent of privilege

01:43:44 12:12:23 - Annotation:

for Mr. Thompson's waiver. Witness clarifies.

01:44:23 12:13:02 - Solicitor for App./Plaint.: Chua, Chia-yi

Queries the court.

01:45:31 12:14:10 - Annotation:

Discussion between the court and Mr. Chua.

01:45:46 12:14:25 - Solicitor for App./Plaint.: Chua, Chia-yi

Examination-in-chief of the witness, Mr. Thompson continues.

01:49:04 12:17:43 - Solicitor for Resp./Def.: Burch, Lynn

Rises to object as witness is giving an opinion.

01:49:31 12:18:10 - Annotation:

Discussion between the court and the parties regarding hearsay.

01:50:03 12:18:42 - Solicitor for App./Plaint.: Chua, Chia-yi

Examination-in-chief of the witness continues.

01:54:28 12:23:07 - Annotation:

Ex. A-1 (Tab 1) Disclosure Statement of Intrawest Corporation for Club

01:54:59 12:23:38 - Annotation:

Intrawest dated December 14, 2006 with 16 tables.

02:01:08 12:29:47 - The Honourable Justice Steven D'Arcy:

Ex. A-2 (Tab 2) Prospectus Intrawest Corporation for Club Intrawest.

02:02:44 12:31:24 - Operator

Court is adjourned for the lunch break. Stop recording: (On Recess)

02:02:45 13:59:11 - Operator

Recording:

02:02:45 13:59:11 - Record

02:06:41 14:03:06 - Annotation:

Court is resumed.

02:06:44 14:03:10 - Solicitor for App./Plaint.: Chua, Chia-yi

Requests to clarify Oct 1 to 31, 2003, 2004, 2006 and 2007.

02:07:57 14:04:22 - Solicitor for App./Plaint.: Chua, Chia-yi

Examination-in-chief continues.

02:09:17 14:05:43 - Solicitor for Resp./Def.: Burch, Lynn

Rises to object as to nature of ownership of members who are the beneficial

02:10:06 14:06:33 - Solicitor for Resp./Def.: Burch, Lynn

owners.

02:10:40 14:07:06 - Solicitor for App./Plaint.: Chua, Chia-yi

Rises to clarify.

02:11:42 14:08:08 - Annotation:

Discussion between the court and the parties.

02:13:10 14:09:36 - Solicitor for App./Plaint.: Chua, Chia-yi

Examination-in-chief continues.

02:14:28 14:10:54 - The Honourable Justice Steven D'Arcy:

Court cautions the parties regarding the reporting periods at issue.

02:20:46 14:17:12 - Solicitor for Resp./Def.: Burch, Lynn

Rises to object re: same issue previously stated.

02:21:12 14:17:39 - The Honourable Justice Steven D'Arcy:

Directs witness is providing a roadmap and notes concerns.

02:30:25 14:26:50 - Annotation:

Discussion between the court and the parties regarding documents.

02:35:23 14:31:50 - The Honourable Justice Steven D'Arcy:

Requests book of documents be numbered consecutively for each exhibit by

02:38:08 14:34:33 - The Honourable Justice Steven D'Arcy:

the end of the hearing.

02:43:35 14:40:01 - Solicitor for Resp./Def.: Burch, Lynn

Rises to object re: interpretation.

02:44:14 14:40:40 - The Honourable Justice Steven D'Arcy:

Replies.

02:51:09 14:47:34 - The Honourable Justice Steven D'Arcy:

Requests precisions from the witness.

03:16:07 15:12:32 - The Honourable Justice Steven D'Arcy:

Directs Mr. Chua that this may be hearsay.

03:19:59 15:16:25 - The Honourable Justice Steven D'Arcy:

Requests precisions from the witness.

03:27:45 15:24:10 - Solicitor for App./Plaint.: Chua, Chia-yi

Discussion between the court and the parties re: document at Tab 19.

03:30:38 15:27:04 - Annotation:

Ex. A-4 Tab 19 Minutes of the Meeting of the Board of Directors of Club

03:31:28 15:27:54 - Annotation:

Intrawest.

03:32:47 15:29:13 - The Honourable Justice Steven D'Arcy:

Requests precisions from the witness.

03:36:46 15:33:12 - Operator

Court is in recess. Stop recording: (On Recess)

03:36:47 16:03:08 - Operator

Recording:

03:36:47 16:03:08 - Record

03:39:05 16:05:27 - Annotation:

Court is resumed.

03:39:10 16:05:32 - The Honourable Justice Steven D'Arcy:

Refers to partial agreed statement of facts should be entered tomorrow

03:39:38 16:05:59 - The Honourable Justice Steven D'Arcy:

morning. Any document reference can be amended later.

03:42:23 16:08:46 - Solicitor for App./Plaint.: Chua, Chia-yi

Requests permission if production of documents can be entered.

03:43:31 16:09:53 - Annotation:

Discussion between the court and the parties on further documents and

03:46:28 16:12:49 - Annotation:

witness.

03:46:41 16:13:03 - Solicitor for App./Plaint.: Chua, Chia-yi

2nd issue. re: statement of issues.

03:47:57 16:14:19 - Solicitor for Resp./Def.: Currie, Shannon

Requests clarification from the court.

03:49:09 16:15:31 - The Honourable Justice Steven D'Arcy:

Can deal with how documents are referred to in agreed statement of facts

03:50:45 16:17:06 - The Honourable Justice Steven D'Arcy:

later.

03:51:14 16:17:35 - Annotation:

Witness, Mr. Thompson returns to stand.

03:51:32 16:17:54 - Solicitor for Resp./Def.: Burch, Lynn

Cross-examination of the witness.

03:55:48 16:22:10 - Annotation:

Witness refers to Robert Chasnow, Joe Houssian, Daniel Jarvis,

03:56:27 16:22:49 - Annotation:

James Gibbons, Ronald Zimmer, and Ronald Tanner.

03:58:46 16:25:07 - Annotation:

Witness refers to Ingersoll and Bloch.

04:56:34 17:22:55 - Annotation:

Discussion between the court and the parties regarding any additional

04:56:53 17:23:14 - Annotation:

documents and refers to agreed statement of facts may be added.

04:59:09 17:25:30 - Annotation:

2nd issue: Page numbers need to be added.

05:01:13 17:27:34 - Operator

Hearing is adjourned until Tuesday at 9:30 am. Stop recording: (On Recess)

05:01:14 17:31:48 - Operator

Recording:

05:01:14 17:31:48 - Record

05:01:16 17:31:51 - Operator

Stop recording:

MINUTES OF HEARING

Session: TC125141125_0910

Date: 2014/11/25

Time: 09:10

City: Vancouver

Province: British Columbia

In the presence of: The Honourable Justice Steven D'Arcy

Court Registrar: Lee, Suzanna

Court Reporter: DARS / SEAN,

Courtroom: Tax Court of Canada-:

Recording ID: 0001

File Number: 2012-3401(GST)G

Style of Cause: Club Intrawest v. Her Majesty the Queen

App./Plaintiff: Club Intrawest,

Solicitor for App./Plaint.: Brousseau, Wendy

Solicitor for Resp./Def.: Burch, Lynn

2014/11/25

00:00:00 09:10:39 - Operator

Recording:

00:00:00 09:10:39 - New case

00:00:46 09:11:13 - Operator

Stop recording: (On Recess)

00:00:47 09:14:00 - Operator

Recording:

00:00:47 09:14:00 - Record

00:00:47 09:14:01 - Annotation:

00:00:51 09:14:04 - Annotation:

Day 2 Appeal Same counsel, same court registrar

00:00:53 09:14:06 - Operator

Stop recording: (On Recess)

00:00:53 09:44:19 - Operator

Recording:

00:00:53 09:44:19 - Record

00:02:18 09:45:45 - Annotation:

Court is resumed.

00:03:06 09:46:32 - Solicitor for Resp./Def.: Currie, Shannon

Provides 2 copies of amended partial agreed statement of facts and issues to

00:03:26 09:46:52 - Solicitor for Resp./Def.: Currie, Shannon

the court. Refers to changes.

00:04:38 09:48:04 - The Honourable Justice Steven D'Arcy:

Court directs it will accept the partial agreed statement of facts and

00:05:01 09:48:26 - The Honourable Justice Steven D'Arcy:

amended agreed statement of facts.

00:05:11 09:48:36 - The Honourable Justice Steven D'Arcy:

Requests witness, Mr. Thompson return to the stand. Refers witness to Tab 8.

00:08:39 09:52:04 - Annotation:

Discussion between the Court and the parties regarding complete documents.

00:09:27 09:52:52 - Solicitor for App./Plaint.: Chua, Chia-yi

Re-direct of the witness.

00:12:51 09:56:17 - Solicitor for Resp./Def.: Burch, Lynn

Rises to object as to intent.

00:14:11 09:57:36 - Annotation:

Discussion between the court and the parties on this issue of concern.

00:19:32 10:02:57 - Annotation:

Discussion between the court and the parties regarding redirect questions.

00:22:30 10:05:56 - The Honourable Justice Steven D'Arcy:

Court directs it will allow question and respondent can cross.

00:23:52 10:07:18 - Annotation:

Further discussion between the court and the parties.

00:26:21 10:09:46 - Solicitor for Resp./Def.: Burch, Lynn

Refers to amended agreed statement of facts para. 18, pg. 5

00:33:36 10:17:01 - Annotation:

Witness is excused.

00:33:54 10:17:19 - Annotation:

Discussion between the court and the parties. Refers to Joint Book of

00:34:31 10:17:56 - Annotation:

Documents Tab 40 as to clarity.

00:38:06 10:21:31 - Operator

Court is in recess.

Stop recording: (On Recess)

00:38:06 10:28:05 - Operator

Recording:

00:38:06 10:28:05 - Record

00:39:03 10:29:03 - Annotation:

Court is resumed.

00:39:11 10:29:12 - Annotation:

Confirmation that witness was sworn previously.

00:39:15 10:29:15 - Solicitor for App./Plaint.: Chua, Chia-yi

Examination-in-chief of the witness, Ms Sandra Ruff.

00:54:57 10:44:56 - Solicitor for App./Plaint.: Chua, Chia-yi

Ex. A-5 Tab 4a Summary of Key Elements of Your Membership

00:55:02 10:45:02 - Solicitor for App./Plaint.: Chua, Chia-yi

Ex. A-6 Tab 4b Pamphlet called Understanding Your Resort Fees

00:55:07 10:45:07 - Solicitor for App./Plaint.: Chua, Chia-yi

Ex. A-7 Information sent to Members

00:55:11 10:45:11 - Solicitor for App./Plaint.: Chua, Chia-yi

Ex. A-8 Board Candidate Biographies

00:55:14 10:45:15 - Solicitor for App./Plaint.: Chua, Chia-yi

Ex. A-9 Tab 21 (Duplicates removed. Exhibit starts at doc dated April 21, 2004)

Package sent to members

00:56:04 10:46:04 - Solicitor for App./Plaint.: Chua, Chia-yi

Ex. A-10 Tab 9 Club Intrawest Financial Statements ending Dec. 31, 2003

00:56:04 10:46:04 - Solicitor for App./Plaint.: Chua, Chia-yi

Ex. A-11 Tab 6 Passport Membership Contract

01:00:30 10:50:30 - Solicitor for App./Plaint.: Chua, Chia-yi

Ex. A-12 Tab 7 Welcome to Passport membership

01:01:05 10:51:05 - Solicitor for Resp./Def.: Burch, Lynn

Rises to object.

01:01:28 10:51:27 - The Honourable Justice Steven D'Arcy:

Directs counsel can proceed with question.

01:04:50 10:54:49 - Annotation:

Ex. A-13 Tab 17 Copies of Budgets for 2002 to 2008

01:10:14 11:00:14 - The Honourable Justice Steven D'Arcy:

Court requests precisions from the witness.

01:11:15 11:01:15 - Annotation:

Ex. A-14 Tab 15(a) Samples of resort due letters and budget summaries.

01:15:42 11:05:41 - Annotation:

Ex. A-15 Tab 15(b) Sample invoice for 2008

01:18:05 11:08:04 - Annotation:

Discussion between the Court and the parties regarding clarity of

01:19:08 11:09:08 - Annotation:

a document.

01:20:20 11:10:20 - Annotation:

Ex. A-16 Tab 40 Proposal of allocation for GST prepared by Ms. Ruff

01:21:46 11:11:46 - The Honourable Justice Steven D'Arcy:

Court directs the witness, Ms Ruff will provide a copy later of Tab 40 that

01:22:06 11:12:06 - The Honourable Justice Steven D'Arcy:

is clearer.

01:23:55 11:13:55 - The Honourable Justice Steven D'Arcy:

Requests precisions from the witness.

01:27:44 11:17:44 - Annotation:

Ex. A-17 Tab 22 Letter to Ms. Ussher

01:31:41 11:21:40 - Annotation:

Ex. A-18 Tab 23 Letter to Thomas Akin

01:32:04 11:22:04 - Annotation:

Ex. A-19 Tab 24 Letter from Ms. Ruff to Mr. Lum

01:33:09 11:23:10 - Annotation:

Ex. A-20 Tab 25 Position paper of Mr. Lum

Ex A-21 Tab 26 Letter from Ms. Ruff to Mr. Lum

Ex. A-22 Tab 27 Letter from Mr. Lum to Ms. Ruff

01:33:42 11:23:42 - Operator

Court is in recess Stop recording: (On Recess)

01:33:43 11:42:58 - Operator

Recording:

01:33:43 11:42:58 - Record

01:35:19 11:44:34 - Annotation:

Court is resumed.

01:36:15 11:45:30 - Annotation:

Examination-in-chief of the witness continues by Mr. Chua.

01:39:31 11:48:47 - The Honourable Justice Steven D'Arcy:

Requests precisions from the witness.

01:43:18 11:52:33 - Annotation:

Ex. A-23 Tab 28 Notices of Assessment - October 2002 and 2003

01:45:30 11:54:46 - Annotation:

Ex. A-24 Tab 29 Notices of Assessment for October 2004-2006

01:50:29 11:59:44 - Annotation:

Ex. A-25 Tab 30 Notice of Assessment for 2007 reporting period

01:50:30 11:59:46 - Annotation:

Ex. A-26 Tab 37 Notices of Reassessment for October 2002 to 2006

01:50:31 11:59:46 - Annotation:

Ex. A-27 Tab 36 Notice of assessment for October 2007

01:50:31 11:59:47 - Annotation:

Ex. A-28 Notice of Assessment for October 2008

01:50:32 11:59:48 - Annotation:

Ex. A-29 Tab 31 Letter from Mr. Lum to Ms. Ruff.

01:50:33 11:59:49 - Annotation:

Ex. A-30 Tab 32 GST/HST Audit Proposal

01:50:34 11:59:49 - Annotation:

Ex. A-32 Tab 34 Letter from Mr. Lum to Ms. Ruff

01:50:34 11:59:50 - Annotation:

Ex. A-33 Tab 39 Notices of confirmation

01:51:05 12:00:21 - Annotation:

Ex. A-34 Tab 8 Club Intrawest Financial Statement ending Dec. 31, 2002

01:54:51 12:04:06 - Annotation:

Ex. A-35 Tab 10 Club Intrawest Financial Statement ending Dec. 31, 2004

01:54:57 12:04:12 - Annotation:

Ex. A-36 Tab 11 Club Intrawest Financial Statement ending Dec. 31, 2005

01:55:03 12:04:17 - Annotation:

Ex. A-37 Tab 12 Club Intrawest Financial Statement ending Dec. 31, 2006

01:55:08 12:04:23 - Annotation:

Ex. A-38 Tab 13 Club Intrawest Financial Statement ending Dec. 31, 2007

01:55:12 12:04:27 - Annotation:

Examination-in-chief continues.

01:59:42 12:08:58 - Solicitor for Resp./Def.: Burch, Lynn

Rises to object re: resort fees issue.

02:03:36 12:12:51 - Annotation:

Discussion between the court and Ms. Burch.

02:08:34 12:17:48 - Solicitor for App./Plaint.: Chua, Chia-yi

Concludes cross-examination.

02:08:38 12:17:52 - Annotation:

Discussion between the Court and the parties.

02:08:39 12:17:54 - Annotation:

Court is adjourned for the lunch break.

02:09:25 12:18:41 - Operator

Stop recording: (On Recess)

02:09:26 13:50:53 - Operator

Recording:

02:09:26 13:50:53 - Record

02:10:47 13:52:14 - Annotation:

Court is resumed.

02:11:02 13:52:28 - Solicitor for Resp./Def.: Currie, Shannon

Ms. Currie has a more readable copies of the working papers of Ex. A-16 and

02:13:12 13:54:39 - Solicitor for Resp./Def.: Currie, Shannon

copy with notes will be given to the court later.

02:13:41 13:55:08 - Solicitor for Resp./Def.: Currie, Shannon

Cross-examination of the witness, Ms. Ruff.

02:20:43 14:02:09 - The Honourable Justice Steven D'Arcy:

Requests precisions from the witness.

02:46:28 14:27:56 - Annotation:

Discussion between the Court and the parties re: properties added.

03:02:00 14:43:26 - The Honourable Justice Steven D'Arcy:

Court refers to partial agreed statement of facts.

03:02:40 14:44:06 - Operator

Stop recording: (On Recess)

03:02:40 15:11:55 - Operator

Recording:

03:02:40 15:11:55 - Record

03:03:15 15:12:30 - Annotation:

03:03:17 15:12:31 - The Honourable Justice Steven D'Arcy:

Discussion between the court and the parties re: Ex. A-13 and agreed

03:04:09 15:13:24 - The Honourable Justice Steven D'Arcy:

statement of facts, para 20

03:05:12 15:14:26 - Solicitor for Resp./Def.: Currie, Shannon

Cross-examination of the witness continues.

03:20:18 15:29:32 - Solicitor for Resp./Def.: Currie, Shannon

Ex. R-1 Tab 16 Bundle of Invoices

03:20:19 15:29:33 - Annotation:

Ex. R-2 Tab 18 Copies of invoices between Club Intrawest and suppliers.

03:24:32 15:33:47 - Solicitor for App./Plaint.: Chua, Chia-yi

Rises to object as it is a legal conclusion.

03:24:56 15:34:12 - The Honourable Justice Steven D'Arcy:

Objection heard.

03:27:37 15:36:53 - The Honourable Justice Steven D'Arcy:

Requests precisions from the witness.

03:32:42 15:41:57 - Solicitor for App./Plaint.: Chua, Chia-yi

No-redirect of the witness.

03:32:50 15:42:05 - Annotation:

Witness is excused.

03:33:39 15:42:54 - Solicitor for App./Plaint.: Chua, Chia-yi

Requests a read-in be accepted and rebuttal evidence if needed.

03:33:41 15:42:56 - Annotation:

Ex. A-39 Read-ins on behalf of the Appellant - Examination for discovery of Marc Roy

03:34:35 15:43:50 - Solicitor for Resp./Def.: Burch, Lynn

Opening statement on behalf of the respondent.

03:45:34 15:54:48 - Annotation:

Discussion between the court and Ms. Burch regarding assessments before the

03:46:18 15:55:33 - Annotation:

court.

03:46:32 15:55:47 - Operator

Court is in recess Stop recording: (On Recess)

03:46:32 16:00:05 - Operator

Recording:

03:46:32 16:00:05 - Record

03:48:40 16:02:13 - Annotation:

Court is resumed.

03:48:42 16:02:15 - Annotation:

Jaya Abraham SWORN

03:48:43 16:02:16 - Annotation:

Retired Retailer, 2879 Nash Dr., Coquitlam, BC V3B6P9

03:48:55 16:02:28 - Solicitor for Resp./Def.: Burch, Lynn

Examination-in-chief of the witness.

04:07:42 16:21:15 - Annotation:

Ex. R-3 2007 Club Intrawest Resort Dues Invoice

04:10:00 16:23:34 - Annotation:

Ex. R-4 Let us Pay Your 2007 Resort Dues

04:12:44 16:26:16 - Annotation:

Ex. R-5 Club Intrawest 2006 Annual Report

Ex. R-6 Bundle of Documents from Club Intrawest to the witness

04:22:49 16:36:22 - Operator

Witness is excused.

Court is in recess

Stop recording: (On Recess)

04:22:49 16:39:08 - Operator

Recording:

04:22:49 16:39:08 - Record

04:22:54 16:39:14 - Operator

Stop recording: (On Recess)

04:22:55 16:39:33 - Operator

Recording:

04:22:55 16:39:33 - Record

04:24:32 16:41:11 - Annotation:

Court is resumed.

04:24:39 16:41:18 - Annotation:

Brenda Ewing SWORN

04:24:40 16:41:19 - Annotation:

Sales Representative, Ste 126 -5880 Dover Crescent, Richmond, BC

04:24:42 16:41:21 - Solicitor for Resp./Def.: Burch, Lynn

Examination-in-chief of the witness.

04:28:17 16:44:57 - Annotation:

Ex. R-7 Membership and Resort Points Certificate for Brenda Ewing

04:29:30 16:46:09 - Annotation:

Ex. R-8 Purchase and Membership Agreement between Intrawest Resort and Brenda

04:30:06 16:46:45 - Annotation:

Ewing

04:37:16 16:53:54 - Annotation:

Ex. R-9 Prospectus of Intrawest

04:47:59 17:04:38 - Annotation:

Discussion between the court and Ms. Burch.

04:48:42 17:05:21 - Solicitor for App./Plaint.: Chua, Chia-yi

Cross-examination of the witness.

04:49:29 17:06:07 - Annotation:

Witness is excused.

04:49:38 17:06:16 - Annotation:

Discussion between the court and counsel regarding next witness and

04:50:04 17:06:42 - Annotation:

requests issues to be discussed tomorrow.

Hearing is adjourned until Wednesday at 9:30 am.

04:58:39 17:15:16 - Operator

Stop recording: (n/a)

MINUTES OF HEARING

Session: TC125141126_0914

Date: 2014/11/26

Time: 09:14

City: Vancouver

Province: British Columbia

In the presence of: The Honourable Justice Steven D'Arcy

Court Registrar: Lee, Suzanna

Court Reporter: DARS / SEAN,

Courtroom: Tax Court of Canada:-

Recording ID: 0001

File Number: 2012-3401(GST)G

Style of Cause: Club Intrawest v. Her Majesty the Queen

App./Plaintiff: Club Intrawest,

Solicitor for App./Plaint.: Brousseau, Wendy

Solicitor for Resp./Def.: Burch, Lynn

2014/11/26

00:00:00 09:14:47 - Operator

Recording:

00:00:00 09:14:47 - New case

00:00:57 09:15:40 - Operator

Stop recording: (On Recess)

00:00:58 09:30:45 - Operator

Recording:

00:00:58 09:30:45 - Record

00:04:27 09:34:14 - Annotation:

Same counsel, same court registrar. Court is resumed.

00:04:30 09:34:17 - Solicitor for App./Plaint.: Chua, Chia-yi

Has three pages to replace Ex. A-16 in Tab 40.

00:10:20 09:40:06 - Annotation:

Discussion between the court and the parties.

00:10:57 09:40:43 - The Honourable Justice Steven D'Arcy:

Ex. A-16 Tab 40 remove documents from binder and replace with clearer copies.

00:11:48 09:41:34 - Annotation:

Discussion between the court and the parties regarding paging of the joint

00:12:05 09:41:52 - Annotation:

book of documents and if the pages will go in unnumbered.

00:13:29 09:43:16 - Solicitor for Resp./Def.: Currie, Shannon

Requests Ex. A-16 Summary pg in Tab 40 original version to remain.

00:16:00 09:45:45 - Annotation:

Dennis Lum Affirmed

00:16:03 09:45:49 - Annotation:

CRA Auditor, 1166 West Pender St., Vancouver, BC

00:17:24 09:47:10 - Solicitor for Resp./Def.: Currie, Shannon

Examination-in-chief of the witness.

00:18:12 09:47:58 - Annotation:

Discussion between the court and Ms. Currie regarding question.

00:35:42 10:05:26 - The Honourable Justice Steven D'Arcy:

Requests precisions from the witness.

00:50:57 10:20:42 - Operator

Witness is excused.

Stop recording: (On Recess)

00:50:57 10:21:29 - Operator

Recording:

00:50:57 10:21:29 - Record

00:52:31 10:23:03 - Annotation:

Court is resumed.

00:52:41 10:23:13 - Solicitor for App./Plaint.: Chua, Chia-yi

Cross-examination of the witness.

00:53:29 10:24:00 - Solicitor for Resp./Def.: Currie, Shannon

Redirect of the witness.

00:55:56 10:26:26 - Solicitor for Resp./Def.: Currie, Shannon

Requests read-ins on behalf of the respondent to the court.

00:55:58 10:26:28 - Annotation:

Ex. R-10 Respondent's Read-ins of Examination for Discovery of Robert Reyes

00:56:12 10:26:43 - Solicitor for Resp./Def.: Burch, Lynn

Raises a concern.

00:59:06 10:29:37 - Solicitor for App./Plaint.: Chua, Chia-yi

Further read-ins on behalf of the appellant.

00:59:13 10:29:44 - Annotation:

Ex. A-40 Appellant's Read-ins for Examination for discovery of Robert Reyes

00:59:15 10:29:46 - Annotation:

Discussion between the court and the parties re: argument and the law.

01:00:52 10:31:23 - Annotation:

Court is in recess.

01:00:54 10:31:25 - Operator

Stop recording: (On Recess)

01:00:55 10:50:32 - Operator

Recording:

01:00:55 10:50:32 - Record

01:03:47 10:53:26 - Annotation:

Court is resumed.

01:03:52 10:53:30 - Solicitor for Resp./Def.: Burch, Lynn

Has concerns re: issues before the court.

01:07:12 10:56:49 - Annotation:

Discussion between the Court and the parties regarding further written

01:07:31 10:57:10 - Annotation:

submissions.

01:10:01 10:59:40 - Annotation:

ARGUMENT

01:10:32 11:00:10 - Solicitor for App./Plaint.: Brousseau, Wendy

Hands up two copies of the Appellant's submissions.

01:11:15 11:00:53 - Solicitor for App./Plaint.: Brousseau, Wendy

Commences argument on behalf of the appellant re: issue of agency.

01:33:25 11:23:03 - Solicitor for App./Plaint.: Brousseau, Wendy

Refers to Fridmann case.

01:35:13 11:24:51 - Solicitor for App./Plaint.: Brousseau, Wendy

Hands up one Joint Book of Authorities to the court.

01:37:28 11:27:06 - Solicitor for App./Plaint.: Brousseau, Wendy

Refers to Tab 21 Merchant Law Group

01:39:19 11:28:57 - Solicitor for App./Plaint.: Brousseau, Wendy

Refers to Tab 15 Glengarry Bingo case.

01:44:37 11:34:15 - Solicitor for App./Plaint.: Brousseau, Wendy

Refers to Tab 26 Sattva case.

01:50:19 11:39:57 - Solicitor for App./Plaint.: Brousseau, Wendy

Refers to Tab 13 Friedmann Equity Developements Inc. case.

01:51:23 11:41:00 - Solicitor for App./Plaint.: Brousseau, Wendy

Refers to next tab re: General Motors case

01:55:02 11:44:39 - Solicitor for App./Plaint.: Brousseau, Wendy

Refers to typo in para. 96 and 72 in their submissions.

02:02:03 11:51:41 - Solicitor for App./Plaint.: Brousseau, Wendy

Refers to Shell Canada case and Avotus case.

02:08:30 11:58:07 - Solicitor for App./Plaint.: Brousseau, Wendy

duplicate

02:09:30 11:59:09 - Solicitor for App./Plaint.: Brousseau, Wendy

Refers to issue of supply.

02:22:48 12:12:25 - The Honourable Justice Steven D'Arcy:

Discussion with the parties on submissions re: supply issue.

02:24:32 12:14:09 - The Honourable Justice Steven D'Arcy:

ie.: Tab 17 in Joint Book of Documents.

02:27:36 12:17:13 - The Honourable Justice Steven D'Arcy:

delete duplicate

02:28:27 12:18:04 - Annotation:

Further discussion between the court and the parties.

02:31:34 12:21:11 - Operator

Court is adjourned for the lunch break. Stop recording: (On Recess)

02:31:34 14:00:11 - Operator

Recording:

02:31:34 14:00:11 - Record

02:33:23 14:02:01 - Annotation:

Court is resumed.

02:33:41 14:02:17 - Annotation:

Discussion between the court and the parties re: allocation issue and date to

02:34:09 14:02:46 - Annotation:

come back to continue argument and location in Ontario.

02:37:38 14:06:15 - Solicitor for App./Plaint.: Brousseau, Wendy

Clarifies Appellant's position.

02:39:33 14:08:10 - Solicitor for App./Plaint.: Brousseau, Wendy

Queries if parties require a motion to reopen evidence.

02:39:37 14:08:14 - Annotation:

Discussion between the court and the parties on reopening the evidence.

02:44:24 14:13:01 - Solicitor for Resp./Def.: Burch, Lynn

Hands up two copies of the Respondent's written submissions to the court.

02:45:13 14:13:50 - Solicitor for Resp./Def.: Burch, Lynn

Commences argument on behalf of the respondent.

03:03:38 14:32:15 - Solicitor for Resp./Def.: Burch, Lynn

Refers to B&M case

03:11:44 14:40:21 - Solicitor for Resp./Def.: Burch, Lynn

Refers to Kreutz case.

03:48:48 15:17:24 - Solicitor for Resp./Def.: Burch, Lynn

Refers to Velcro Canada Inc. case.

03:51:47 15:20:24 - Solicitor for Resp./Def.: Burch, Lynn

Refers to case of Condominium Plan No. 9422336.

03:53:10 15:21:46 - The Honourable Justice Steven D'Arcy:

Refers to informal decision.

03:53:38 15:22:14 - Solicitor for Resp./Def.: Burch, Lynn

Hands up one copy of a case to the court.

04:12:58 15:41:35 - Operator

Court is in recess. Stop recording: (On Recess)

04:12:59 16:07:38 - Operator

Recording:

04:12:59 16:07:38 - Record

04:14:45 16:09:24 - Annotation:

Court is resumed.

04:15:09 16:09:48 - Annotation:

Discussion between the court and the parties on date in January to resume in

04:16:50 16:11:28 - Annotation:

Ottawa on Tuesday, January 27, 2015 at 9:30 am.

04:16:54 16:11:33 - Solicitor for App./Plaint.: Brousseau, Wendy

Reply commences.

04:19:21 16:14:00 - Solicitor for App./Plaint.: Brousseau, Wendy

Provides a copy of decision of Karroll v. Silver Star Mountain Resorts to the

04:19:21 16:14:00 - Solicitor for App./Plaint.: Brousseau, Wendy

court.

04:25:49 16:20:28 - The Honourable Justice Steven D'Arcy:

Matter is adjourned until January 27, 2015 in Ottawa.

04:26:18 16:20:57 - Operator

Stop recording:

**TAX COURT OF CANADA / COUR CANADIENNE DE L'IMPÔT
EXHIBIT LIST / LISTE DES PIÈCES**

Court File No. / 2012-3401(GST)G club Intrawest
No. de dossier de la Cour

No.	Description of Exhibits / Description des pièces
	Joint Book of Documents (Each tab marked as a separate exhibit)
Ex. A-1	Tab 1 Disclosure Statement of Intrawest Corporation for Club Intrawest dated December 14, 2006 with 16 tables.
Ex. A-2	Tab 2 Prospectus Intrawest Corporation for Club Intrawest
Ex. A-3	Tab 3 Sample Membership Certificate
Ex. A-4	Tab 19 Minutes of the Meeting of the Board of Directors of Club Intrawest
Ex. A-5	Tab 4a Summary of Key Elements of Your Membership
Ex. A-6	Tab 4b Pamphlet: Understanding Your Resort Dues
Ex. A-7	Tab 5 Information sent to members
Ex. A-8	Tab 20 Samples of board candidate biographies
Ex. A-9	Tab 21 Package sent to members
Ex. A-10	Tab 9 Financial statements ending December 31, 2003
Ex. A-11	Tab 6 Passport Membership Contract
Ex. A-12	Tab 7 Welcome to your Passport Membership
Ex. A-13	Tab 17 Club Intrawest budgets for 2002 to 2008
Ex. A-14	Tab 15a Resort dues letters and operating budget summaries for 2002 to 2008
Ex. A-15	Tab 15b Sample invoice for 2008
Ex. A-16	Tab 40 Proposal of allocation for GST prepared by Ms. Ruff
Ex. A-17	Tab 22 Letter to Ms. Ussher
Ex. A-18	Tab 23 Letter to Mr. Akin
Ex. A-19	Tab 24 Letter to Mr. Lum
Ex. A-20	Tab 25 Position paper from Mr. Lum
Ex. A-21	Tab 26 Letter from Ms. Ruff to Mr. Lim
Ex. A-22	Tab 27 Letter from Mr. Lim to Ms. Ruff
Ex. A-23	Tab 28 Notices of assessment for October 2002 and 2003
Ex. A-24	Tab 29 Notices of assessment for October 2004 to 2006
Ex. A-25	Tab 30 Notice of assessment for October 2007
Ex. A-26	Tab 37 Notice of reassessment for October 2002 to 2006
Ex. A-27	Tab 36 Notice of reassessment for October 2007
Ex. A-28	Tab 35 Notice of reassessment for October 2008
Ex. A-29	Tab 31 Letter from Mr. Lum to Ms. Ruff
Ex. A-30	Tab 32 GST/HST Audit Proposal
Ex. A-31	Tab 33 Letter from Mr. Lum to Ms. Ruff
Ex. A-32	Tab 34 Letter from Mr. Lum to Ms. Ruff

