

Angels victory; Outlaw bikers don't have to reveal financial records, offshore interests

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Dozens of high-profile B.C. Hells Angels, associates, wives and girlfriends have succeeded in getting the taxman to withdraw demands for detailed financial information about their earnings and assets, including any "hidden" outside the country, The Vancouver Sun has learned.

Law-enforcement agencies are increasingly going after the assets of gangsters in an effort to combat organized crime. The decision to withdraw the demand for disclosure in the Federal Court case would appear to be a setback to these efforts.

The two-year court battle apparently inspired a similar tactic by the notorious United Nations gang, which is also challenging demand letters issued by the Canada Revenue Agency.

The UN case, filed in April and including two gangsters who have since been shot dead, cites the Federal Court case of Brian Airth against the minister of national revenue as precedent. Both cases allege police and the revenue agency colluded and improperly shared information as part of a joint strategy to target the proceeds of organized crime.

The 42 related Hells Angels cases were originally filed in August 2006 by full-patch members of the bikers' chapters -- the Nomads, Vancouver, East End, Haney, Mission City, White Rock and Nanaimo, according to documents obtained by The Sun.

The cases were consolidated and a new statement of claim filed against the government in January 2008.

The statement of claim says Airth, listed as a full-patch Haney Angel, and others linked to the infamous motorcycle gang want a declaration that the revenue agency "has engaged in a continuing course of illegal conduct by targeting the plaintiffs through an initiative variously known as 'Project MOGAL,' the 'Hells Angels Project' or the 'HA Project.'"

"The Plaintiffs are all members, spouses of members and associates of the Hells Angels Motorcycle Club," the court documents say.

"The HAMC is the target of ongoing criminal investigations by the RCMP, The Vancouver Police Department, and other police services in British Columbia, including the Organized Crime Agency, the Combined Forces Special Enforcement Unit and the Criminal Intelligence Service."

East End chapter president John Bryce complained in his affidavit that after the CRA probe began "I have had considerable difficulty with my banking."

He said he was kicked out of the Bank of Nova Scotia after 27 years as a customer.

"I then transferred my business and personal accounts to North Shore Credit Union. The same thing happened," Bryce swore. "I have now transferred my banking to a trust company. I fear that the same thing will happen again. I believe that there is a direct connection between the police, my problems with CRA and my banking problems."

The claim, filed by Vancouver lawyer David Martin, also says the Hells Angels want a declaration that the CRA violated the Income Tax Act by passing confidential information to "third parties, including the police."

Like the UN case, the Hells Angels allege their Charter rights were violated by the CRA letters sent out between 2004 and 2006.

Hells Angels Vancouver president Rick Ciarniello says in his affidavit that Vancouver police biker specialist Sgt. Larry Butler stopped outside the East End Clubhouse in 2004 and said to a number of members: "The tax guys are going to get you all."

"It seemed as if he was running the show and directing the tax guys to come after us," Ciarniello said.

He also said one CRA official told Angels that the government wanted "the location of hidden assets such as property owned in foreign countries or held under another person's name."

"The nature of these demands for hidden assets further strengthens my belief that this is a criminal investigation that is being carried out by the CRA under the direction of the police," he said.

Despite the heated rhetoric and apparent impasse, an out-of-court agreement was mysteriously reached on the same day the Federal Court challenge was to be heard this spring.

The CRA backed down and revoked "the letters of requirement" and the case was withdrawn despite the lengthy tax probe that generated thousands of pages of file documents and hundreds of hours of court time.

None of the Justice Department lawyers who worked on the Airth case were available to comment about why the government would withdraw the requests years after they were issued.

Martin, the Hells Angels lawyer, did not return phone messages left at his Vancouver office.

Nor did Ciamiello, longtime gang spokesman, respond to a request for an interview about the apparent success of the group's court challenge.

CRA communications manager Bradley Alvarez said confidentiality laws prevented him from commenting on any audits or actions being taken by the revenue agency against any individual.

"We can't comment on individual cases because of the privacy provisions," Alvarez said.

He said that goes for "any of our enforcement activities with the Special Enforcement Program -- for the most part they are civil activities -- which are covered under the Privacy Act."

But in its response filed in Federal Court last February, the government said the CRA's Special Enforcement Program does in fact target HA members and others believed to be involved in organized crime, but does not violate any laws by doing so.

"[The minister] admits that the SEP targeted individuals due to their association with the HA, among other outlaw motorcycle gangs, but says that this was because this was founded on the CRA's suspicion that members of those gangs may derive income from illegal sources," the government defence says.

"SEP officers relied on information from the Vancouver Police Department and the Organized Crime Agency and on media reports of arrests of alleged gang members to identify the persons who were associated with the various outlaw motorcycle gangs in order to determine who should be included in this review."