

2016-953(GST)G

**TAX COURT OF CANADA**

BETWEEN:

**MEDALLION CORPORATION**

Appellant

- and -

**HER MAJESTY THE QUEEN**

Respondent

**REPLY**

In reply to the Appellant's Notice of Appeal with respect to an assessment under Part IX of the *Excise Tax Act* for the periods from January 1, 2011 to December 31, 2013, ("the Relevant Periods") by Notices of Assessment dated February 23, 2015 and March 11, 2015, the Deputy Attorney General of Canada says:

**A. STATEMENT OF FACTS**

1. He admits the allegations of fact stated in paragraphs 1, 2, 3, 4, 20, 21, 23 and 24 of the Notice of Appeal.
2. He denies the allegations of fact stated in paragraphs 7, 10, 14, 15, 22 and 26 of the Notice of Appeal and puts the Appellant to the strict proof thereof.
3. He has no knowledge of and therefore does not admit the allegations of fact stated in paragraphs 5, 6 and 9 of the Notice of Appeal and puts the Appellant to the strict proof thereof.

4. With respect to paragraph 8 of the Notice of Appeal, he denies the existence of the alleged joint ventures and states that the documents labelled "Joint Venture Agreement" speak for themselves.
5. With respect to paragraph 11 of the Notice of Appeal, he denies the existence of the alleged joint ventures and states that the documents labelled "Joint Venture Agreement" speak for themselves. He further:
  - a) denies the allegations of fact as stated in subparagraphs 11(a), (d) and (e);
  - b) has no knowledge of and therefore does not admit the allegations of fact as stated in subparagraphs 11(b), (c), (f), (g), (h), (i), (j) and (k).
6. With respect to paragraph 12 of the Notice of Appeal, he admits the allegations of fact stated in the first sentence, but denies the allegations of fact stated in the second sentence.
7. With respect to paragraph 13 of the Notice of Appeal, he states that the presence of a partnership relationship is a question of law.
8. With respect to paragraph 16 of the Notice of Appeal, he denies the allegations of fact stated therein and states that the Appellant failed to collect and remit the Goods and Services Tax/Harmonized Sales Tax ("GST/HST") owing on the consideration received for its supply of property management services to owners of residential and commercial properties (the "Management Services") during the Relevant Periods.
9. With respect to paragraphs 17, 18 and 19 of the Notice of Appeal, he denies that the Appellant was assessed in respect of its proportionate share of the Gross Rental and Other Income and states that the Minister assessed the Appellant GST/HST on the consideration received for its supply of the Management Services, instead. He otherwise admits the remaining allegations of fact contained in the said paragraphs.

10. With respect to paragraph 25 of the Notice of Appeal, he states that the Notices of Confirmation speaks for themselves.
11. In so reassessing the Appellant, the Minister relied on the following assumptions of fact:
  - a) the facts stated and admitted above;
  - b) the Appellant was wholly owned by Asden Holdings Inc.;
  - c) the Appellant was part of a group of companies comprising of:
    - i) Medallion Realty Holdings Limited;
    - ii) Medallion Developments Inc.;
    - iii) Bleeman Holdings Limited; and
    - iv) Medallion Properties Inc.
  - d) the Appellant was a corporation involved in the provision of property management services to owners of residential and commercial properties located in Southern Ontario (the "Rental Properties");
  - e) the owners of the various Rental Properties included:
    - i) Alameda Apartments Limited;
    - ii) Medallion Realty Holdings Limited;
    - iii) Abraham Bleeman;
    - iv) Abraham Bleeman Foundation;
    - v) Bleeman Holdings Limited;
    - vi) Vaughan Court Limited;
    - vii) Medallion Properties Inc.;
    - viii) 531880 Ontario Limited;
    - ix) Bantron Developments Limited; and
    - x) ADIR Investments.

- f) the Rental Properties managed by the Appellant consisted of:
  - i) 27% commercial rentals;
  - ii) 60% residential rentals; and
  - iii) 8% mixed commercial/residential rentals;
- g) the Appellant entered into written agreements with the respective owners of the Rental Properties titled *Joint Venture Agreement* (the “Joint Venture Arrangements”);
- h) the Appellant did not a file an election with the Minister pursuant to section 273 of the *Excise Tax Act* with respect to the Joint Venture Arrangements;
- i) during the Relevant Periods, the Appellant labelled and reported revenue from the Joint Venture Arrangements as follows:

<b>Fiscal Period</b>	<b>“Non-equity participation in joint venture”</b>
January 1 to December 31, 2011	\$8,850,928
January 1 to December 31, 2012	\$9,105,573
January 1 to December 31, 2013	\$9,787,793
Total:	\$27,744,294

- j) the Appellant’s annual revenues from the Joint Venture Arrangements were based on a proportionate share of the gross rental income from each Rental Properties (the “Gross Rental and Other Income”);
- k) the Gross Rental and Other Income included the gross amount (without set-off, reserves or prior expenditures or disbursements) of all rent, parking and laundry machine income received from each Rental Properties;
- l) the Appellant and the respective owners of the Rental Properties were responsible for their own separate costs and expenses; and

- m) there was no sharing or allocation of expenses between the Appellant and the respective owners of the Rental Properties in proportion to the Gross Rental and Other Income or in any other mutually agreed proportion.

**B. ISSUE TO BE DECIDED**

- 12. The issue is whether the Appellant is liable for the GST/HST as assessed by the Minister for the Relevant Periods.

**C. STATUTORY PROVISIONS RELIED ON**

- 13. He relies on section 273, subsections 123(1), 165(1), 221(1) and 225(1) of the *Excise Tax Act*, R.S.C. 1985, c. E-15.

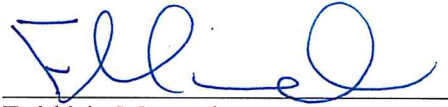
**D. GROUNDS RELIED ON AND RELIEF SOUGHT**

- 14. He respectfully submits that the Appellant failed to collect and remit GST/HST with respect to its taxable supply of Management Services made during the Relevant Periods pursuant to subsections 221(1) and 225(1) of the *Excise Tax Act*.
- 15. He further submits that the Appellant was not in receipt of income from the Joint Venture Arrangements on the basis that the arrangements did not grant the Appellant the right to participate in the profits generated by the Rental Properties.
- 16. He requests that the appeal be dismissed, with costs.

**DATED** at the City of Ottawa, Ontario, this Thursday, June 9, 2016.

William F. Pentney, Q.C.  
Deputy Attorney General of Canada  
Solicitor for the Respondent

Per:



Frédéric Morand  
Counsel for the Respondent

Department of Justice Canada  
Tax Law Services Section  
99 Bank Street, Suite 1133  
Ottawa, Ontario  
K1A 0H8

Telephone: (613) 670-6483  
Facsimile: (613) 941-2293

**TO:** Tax Court of Canada  
200 Kent Street  
4th Floor  
Ottawa, Ontario  
K1A 0M1

**TO:** Neil E. Bass  
Dentons Canada LLP  
77 King Street West Suite 400  
Toronto-Dominion Centre  
Toronto, Ontario  
M5K 0A1

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Submitted on:	June 9, 2016 12:15:51 EDT PM
Company's Name (if appellant):	Medallion Corporation
Appeal Number:	2016-953(GST)G

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<u>Type of Document</u>	<u>Document Name</u>
Miscellaneous	TCC flg ltr - Reply - Medallion Corp.pdf
Reply to notice of appeal	Reply - Medallion Corporation.pdf

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