Federal Court Cour fédérale

Date: 20261008

Docket: T-5112-25

2026 CanLII 105745 (FC)

St. John's, Newfoundland and Labrador, October 8, 2026

PRESENT: Associate Judge Trent Horne

BETWEEN:

MANOR WINDSOR REALTY LTD.

Appellant

and

THE ATTORNEY GENERAL OF CANADA

Respondent

REASONS AND ORDER

I. Overview

[1] The appellant [Manor Windsor] is a small real estate brokerage in southern Ontario.

[2] In a decision dated November 27, 2025, the Director of the Financial Transactions and Reports Analysis Centre of Canada [FINTRAC] held that Manor Windsor had committed four serious violations of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act, SC 2000, c 17*. To reduce the number of acronyms and initialisms in this decision, I will refer to this as the "Money Laundering Act." The decision imposed a penalty of $107,250.00.

[3] Manor Windsor appealed the decision. The notice of appeal seeks a declaration that the imposition of the penalty violated section 7 of the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [*Charter*], an order that the decision be set aside, and in the alternative, an order that the penalty be reduced to an amount that properly reflects the legally mandated criteria.

[4] The notice of appeal sets out a broad request under Rule 317 of the *Federal Courts Rules*, SOR/98-106 [Rules], including a request for disclosure of copies of the notices of violation and any subsequent decisions by the Director for 16 enumerated cases involving third parties, as well as "any other cases between July 1 and December 31, 2025 where a penalty was imposed for a violation of section 9.6 of the [Money Laundering Act] that has not been publicly reported on FINTRAC's website" as of the date of the notice of appeal.

[5] A certified tribunal record [CTR] was filed on April 17, 2026. The CTR was divided into two appendices. The documents in appendix A were stated to be confidential under Rule 152 because they were required by law to be treated confidentially, specifically pursuant to subsections 55(1) and 73.21(4) of the Money Laundering Act. The covering letter for the CTR stated that the documents in appendix B were not required to be treated as confidential. The covering letter also objected to the production of notices of violation and subsequent decisions involving third parties on the basis that: the documents were not before the Director and did not form part of the record of the decision under appeal; the documents are not relevant; and the request was in the nature of discovery, improper under Rule 317, was too broad, and did not relate to the allegations set out in the notice of appeal.

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[6] Manor Windsor has brought a motion for, among other things, a declaration that subsection 73.21(4) of the Money Laundering Act does not mandate the confidentiality of documents in appendix A to the CTR, and an order compelling the respondent to produce the documents in the Rule 317 request.

[7] The motion in these respects is dismissed. There is binding precedent that the classes of documents described in subsection 55(1) of the Money Laundering Act are required by law to be confidential. Principles of vertical *stare decisis* do not permit me to hear the same argument that was presented in another case and reach a different conclusion. The notice of appeal does not include allegations of maladministration. Even if the notice of appeal can be read to include such allegations, the document request more closely resembles what would be disclosed on a discovery.

II. Preliminary Issue

[8] The notice of motion seeks, as alternative relief, an order that subsection 73.21(4) of the Money Laundering Act is unconstitutional. The moving motion record was served on August 14, 2026. The respondent wrote to the Court on September 3, 2026 and submitted that, while the respondent does not oppose the Court adjudicating this issue, this relief is beyond the initial scope of the motion. The respondent asked that either the hearing of the motion be postponed to permit a complete record to be presented on the constitutional issue, or that the appellant withdraw this relief from the motion and commence a standalone application on this point.

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[9] A case management conference was held on September 11, 2026. After hearing from the parties, I decided that the motion would proceed without considering a constitutional challenge. I agreed with the respondent that, when the motion date was fixed during a case management conference on June 30, 2026, it was not clear that a constitutional challenge would form part of the relief sought. More importantly, as of September 11, 2026, the appellant had not served a notice of constitutional question as required by section 57 of the *Federal Courts Act*, RSC 1985, c F-7. Absent proper service of a notice of constitutional question, the issue was not properly before the Court. Even if the appellant immediately delivered such a notice (and one was filed on September 16, 2026), it was unknown whether any of the provincial Attorneys General would exercise their right to adduce evidence and make submissions, and whether that would delay the hearing.

[10] The determination of any constitutional question requires that all parties have full opportunity to present evidence and argument. Even disregarding the absence of a notice of constitutional question, it would be unfair to the respondent to respond to a constitutional question on short notice. The motion as it relates to the constitutionality of subsection 73.21(4) of the Money Laundering Act is therefore adjourned *sine die*.

III. Leave to Amend

[11] The respondent does not oppose the appellant's request to amend the notice of appeal. Leave to amend is granted. Even though an amended pleading has not been served and filed, I have considered the appellant's Rule 317 request in light of the notice of appeal as it will read after the amendments have been formally made.

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IV. Analysis

A. *This Court has Already Determined that Documents Filed Under Subsections 55(1) and 73.21(4) of the Money Laundering Act are Required by Law to be Treated Confidentially*

[12] There are two ways that documents can be placed in the Court file and treated as confidential.

[13] The first is under Rule 151, which gives the Court the discretion to order that material to be filed be treated as confidential. In making such an order, the Court must consider the public interest in open and accessible court proceedings (subrule 151(2)). The open court principle is jealously guarded. A person asking a court to exercise discretion in a way that limits the open court presumption must establish that: court openness poses a serious risk to an important public interest; the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and as a matter of proportionality, the benefits of the order outweigh its negative effects (*Sierra Club of Canada v Canada (Minister of Finance)*, 2002 SCC 41 at para 69; *Sherman Estate v Donovan*, 2021 SCC 25 at para 13).

[14] The second way to file a document confidentially involves no exercise of discretion. Under Rule 152, where the material is required by law to be treated confidentially, a party who files the material shall separate and clearly mark it as confidential, identifying the legislative provision under which it is required to be treated as confidential.

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[15] Whether, by enacting subsection 73.21(4) of the Money Laundering Act, Parliament left it up to the Court to exercise discretion and determine what documents should or should not be filed under seal, or whether such documents are required by law to be treated confidentially, has been adjudicated and determined.

[16] In *British Columbia Lottery Corporation v Canada (Attorney General)*, 2013 FC 307 [*BC Lottery*], Justice Russell upheld a decision of Prothonotary (as she then was) Milczynski who determined that confidential filings under this subsection are not a matter of discretion, and that the classes of document referred to and identified in that Act must be filed confidentially (para 74). Justice Russell was not satisfied that the decision below was clearly wrong, and indeed he concurred with the Prothonotary's findings and conclusions (para 88).

[17] Manor Windsor says that Justice Russell got it wrong. Relying on *R v Sullivan*, 2022 SCC 19 [*Sullivan*] at paragraph 77, Manor Windsor argues that a judge can depart from a decision where it was reached *per incuriam*, meaning "through lack of care." The cited paragraph does not support this argument. I reproduce it in full:

> [77] Second, a judge can depart from a decision where it was reached without considering a relevant statute or binding authority. In other words, the decision was made *per incuriam*, or by inadvertence, a circumstance generally understood to be "rare" (see, e.g., *The Owners, Strata Plan BCS 4006 v. Jameson House Ventures Ltd.*, 2017 BCSC 1988, 4 B.C.L.R. (6th) 370, at para. 132). The standard to find a decision *per incuriam* is well-known: the court failed to consider some authority such that, had it done so, it would have come to a different decision because the inadvertence is shown to have struck at the essence of the decision. It cannot merely be an instance in which an authority was not mentioned in the reasons; it must be shown that the missing authority affected the judgment (Rowe and Katz, at p. 19).

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[18] On this motion, Manor Windsor relies on *Ruby v Canada (Solicitor General)*, 2002 SCC 75 [*Ruby*] which it says deals with identical language in the *Privacy Act*, RSC 1985, c P-21 and *Hunter v Canada (Consumer and Corporate Affairs)* (C.A.), 1991 CanLII 8251 (FCA), [1991] 3 FC 186 [*Hunter*] which it says deals with identical language in the *Access to Information Act*, RSC 1985, c A-1. Both *Ruby* and *Hunter* were expressly considered by Justice Russell in *BC Lottery*.

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[19] Manor Windsor argues that Justice Russell gave only scant attention to *Ruby*, and misread *Hunter* because he relied on a concurring opinion of Justice Pratte, rather than the majority opinion that reached an opposite conclusion on this very point.

[20] Manor Windsor does not argue that Justice Russell did not consider other binding authorities, or that higher decisions have since been released that undercut the reasoning in *BC Lottery*. Essentially, Manor Windsor repeats arguments that were made in *BC Lottery*, and urges a different outcome.

[21] *Sullivan* instructs that a court can depart from an earlier decision where it was reached without considering a binding authority. All of the cases that Manor Windsor relies on in this motion as binding authority were expressly considered by Justice Russell, therefore it is not open to me to conclude that his decision was made *per incuriam*.

[22] Common law courts are bound by authoritative precedent. This principle, *stare decisis*, is fundamental for guaranteeing certainty in the law. Subject to extraordinary exceptions, a lower

court must apply the decisions of higher courts to the facts before it. Without this foundation, the law would be ever in flux, subject to shifting judicial whims or the introduction of new esoteric evidence by litigants dissatisfied by the *status quo* (*R v Comeau*, 2018 SCC 15 at para 26).

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[23] *Stare decisis* applies only to questions of law. Under this principle, a lower court is bound by particular findings of law made by a higher court to which decisions of that lower court could be appealed, directly or indirectly (*Tuccaro v Canada*, 2014 FCA 184 at para 18; see also *Mugesera v Canada (Attorney General)*, 2026 FC 1084 at paras 126-127).

[24] Justice Russell was, at the time of the decision in *BC Lottery*, a judge of the Federal Court. Judges of the Federal Court directly hear appeals of associate judges (Rule 51). Whether subsection 73.21(4) of the Money Laundering Act creates a legal obligation to file documents confidentially or involves an exercise of discretion is a question of law. That question has been determined in a decision that is binding on me, and I must follow it.

[25] There are no rare or exceptional circumstances that would permit me to deviate from my obligation to follow binding precedent. Manor Windsor's motion in this respect is dismissed.

B. *Argument Directed to New Issues not Considered*

[26] At the hearing of the motion, Manor Windsor began to argue that not all the documents that have been filed confidentially fall within the categories of documents listed in subsection 55(1) of the Money Laundering Act.

[27] I declined to hear argument on this issue because no request for such relief is set out in the appellant's notice of motion or written representations. It would be unfair to the respondent and the Court to permit this issue to be raised for the first time at the hearing.

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[28] There is ample authority that a notice of application must set out all issues that the applicant intends to argue, and that arguments not included in the notice of application or the memorandum of fact and law will not be considered. Fairness demands that the opposite party and the Court know the case being asserted before the hearing (*Brauer v Canada (Attorney General*), 2016 FC 124 at para 34).

[29] In the context of applications, I also refer to *Johnson v. Canada (Attorney General)*, 2026 FC 1171 where Justice Whyte Nowak refused to entertain an evidentiary objection at the hearing because the respondent did not raise the point in written argument, and oral argument is limited to issues raised in the memorandum of fact and law (paras 21-22).

[30] I see no reason to treat motion materials differently than materials filed for applications.

[31] Specifically in the context of motions, failure to set out meaningful written representations in a motion record, particularly where the moving party had ample time to consider what arguments ought to be made, should be fatal in itself. Arguments not at least touched upon in a moving party's written representations ought neither to be made nor accepted. Subrule 364(2)(e) requires that there must at least be an outline of the points counsel will raise,

otherwise an ambush may result (*Wuskwi Sipihk Cree Nation v Canada (Minister of National Health and Welfare)*, 1999 CanLII 7454 (FCTTD) at para 5).

C. *Rule 317 Documents*

[32] This is a statutory appeal. The parties agree that disclosure motions such as this are governed by the principles developed under Rules 317 and Rule 318 (see also *NexGen Energy Ltd v Canada (Attorney General)*, 2026 FC 870 at para 114).

[33] The scope of Rule 317 production was very recently addressed by the Federal Court of Appeal in *Pacific Coast Terminals Co Ltd v. Vancouver Fraser Port Authority*, 2026 FCA 156 [*Pacific Coast*].

[34] Rule 317 is the codification of the common law writ of *certiorari* that requires that the lower tribunal send the record to the supervisory court without delay. The requirement that a tribunal produce, without hesitation, the entire record before it is central to judicial review (*Pacific Coast* at para 29).

[35] The Federal Court of Appeal has consistently reminded us that Rule 317 does not serve the same purpose as documentary discovery in an action and cannot be used on a fishing expedition (e.g. *Tsleil-Waututh First Nation v Canada (Attorney General)*, 2017 FCA 128 at para 115).

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[36] In *Pacific Coast*, the Court cited one of its own decisions in *China Mobile Communications Group Co, Ltd v Canada (Attorney General)*, 2023 FCA 202 that distinguished civil discovery from record transmittal in judicial review:

> [39] Arguments that seek to infuse Rule 317 with discovery-like attributes are inconsistent with the historical underpinning of judicial review. The writ of *certiorari* was addressed to inferior courts and tribunals, requiring them to return the record that was before them to the supervising court. Rule 317 reflects, precisely, its jurisprudential provenance. Requests for all documents that could potentially bear on a matter in the hopes of establishing relevance have no place under Rule 317. Consequently, parties applying for judicial review cannot rely on Rule 317 to obtain every document they may wish to examine while preparing their application (*Maax Bath Inc. v. Almag Aluminum Inc.*, 2009 FCA 204, 178 A.C.W.S. (3d) 696 at para. 15; *Access Information Agency Inc. v. Canada (Attorney General)*, 2007 FCA 224, 162 A.C.W.S. (3d) 570 at para. 17).

[37] Under Rule 317, a party may request a decision-maker to transmit material that is "relevant to an application". Relevancy, in this context, is defined with reference to the wording of the application (*Pacific Coast* at para 34).

[38] The documents requested by Manor Windsor, and that the respondent refuses to produce, are notices of violation and any subsequent decisions by the Director for 16 enumerated cases, plus unknown others within a certain date range. In brief, Manor Windsor believes that section 73.11 of the Money Laundering Act has not been applied fairly because it has been treated more harshly than its peers.

[39] In seeking production of these documents, Manor Windsor does not contend that the other decisions were before the Director at the time the decision was made. Rather, Manor

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Windsor argues that broader production is required because of its allegations of maladministration.

[40] So what, exactly, does the amended notice of appeal say in this respect?

> 3. The Director erred in law and principle when determining a fit penalty under Section 73.11 of the PCMLTFA:
>
> …….
>
> g. The Director erred by not applying Section 73.11 in a fair, even handed, and transparent fashion:
>
> i. Given the significant and otherwise unexplained divergence between the penalties imposed for similar violations, FINTRAC's publicly reported notices of penalties imposed for 18 violations lack sufficient detail of both the violations, and the 15 rationale for the penalties imposed.
>
> ii. FINTRAC and the Attorney General have adopted the practice of obtaining confidentiality orders in appeals to this Court, such that the Notices of Violation, Director's decisions, and the Attorney General's memoranda of fact and law are redacted.
>
> iii. As a result, the Appellant and other registrants are unable to determine whether FINTRAC and the Director are applying the PCMLTFA, the Regulations, and FINTRAC's own guidance documents, in a consistent and even-handed fashion.

[41] Manor Windsor says that this appeal alleges maladministration. The Federal Court of Appeal provided extensive guidance on this issue in *Jewish National Fund of Canada Inc v Canada (National Revenue)*, 2026 FCA 63 [*JNF*].

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[42] To put *JNF* into context, the appellant in that proceeding challenged a decision of the Minister of National Revenue to revoke its status as a registered charity. Among other things, the appellant asserted that the Minister's decision was fatally tainted by bias. More particularly, the appellant asserted that the Minister acted in response to significant public pressure from the public and the media. This included commentary, petitions, letters, emails, and press releases. The appellant brought a motion for further production, which resulted in the decision in *Jewish National Fund of Canada Inc v Canada (National Revenue),* 2025 FCA 114. In that first decision, the Federal Court of Appeal was satisfied that the appellant's allegation of bias constituted a tenable ground of appeal, and that it was explained in some detail in the pleadings (para 17). An order was made compelling the Minister to disclose any further materials relating to the allegations of bias (para 18).

[43] The appellant was unsatisfied with what it received and brought a further motion for production of documents. On the second motion, Justice Stratas provided guidance to litigants and the courts as to the scope of document production where there are allegations of "maladministration," a term used to broadly describe misconduct in administrative proceedings.

[44] The decision struck a balance. Denying parties search and production orders can keep maladministration hidden and unexposed, immunizing administrative decision-makers from meaningful review and accountability (para 12). A mere allegation of maladministration is not enough. Bare allegations of maladministration do not warrant consideration (para 23). A party seeking a search and production order must go beyond the allegations and give the Court something more (para 26). The "something more" requires that there be an "air of reality" to the

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allegations of maladministration *and* that the order is a proportionate measure (para 27). An air of reality is not suspicions, speculations, conjectures, imaginings, hunches, theories, beliefs or opinions, rather is a tangible concern supported by some circumstantial or direct evidence that is capable of being believed (or is not unbelievable) from the outset (paras 30-31). Proportionality must also be considered, including the time and expense associated with carrying out the search (para 32).

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[45] I agree with Manor Windsor that *Pacific Coast* is more focused on document production where there is a subordinate group to the actual decision-maker, but it reinforces the principle that broader documentary production under Rule 317 is carefully considered in light of the allegations in the originating pleading. The Court must be satisfied that there is a legal foundation by which the disputed documents could be relevant to the argument as framed (para 106). In *Pacific Coast*, the argument was one of procedural fairness.

[46] I begin by noting what the amended notice of appeal does not say. It does not refer to procedural fairness or unfairness. It does not allege improper purpose. It does not allege bias. It does not allege fraud or dishonest conduct. It says nothing about legitimate expectations.

[47] What *is* alleged is that the Director erred in law and principle when determining the penalty Manor Windsor would have to pay by not applying section 73.11 of the Money Laundering Act in a fair, even-handed, and transparent fashion.

[48] While what could fall under the umbrella of maladministration is not a closed list, I have difficulty accepting that the allegations in the amended notice of appeal are directed to maladministration. An alleged error of law arising from the unequal application of a statute may result in the decision being incorrect or unreasonable, but I do not agree that the allegations in subparagraph 3(g) of the amended notice of appeal are directed to administrative misconduct. Without maladministration, the request for documents beyond those considered by the Director must be dismissed – there is no basis upon which to justify expanded production.

[49] If I am incorrect, and in fact subparagraph 3(g) of the amended notice of appeal can be described as an allegation of maladministration, I would not order production of the disputed documents.

[50] Including some kind of maladministration allegation in a notice of application or notice of appeal does not automatically open the door to broader production.

[51] Some administrative law decisions speak to the dangers of immunizing administrative decision-makers from meaningful review and accountability (*JNF* at para 12). This is balanced against a clear prohibition against fishing expeditions and turning Rule 317 into an examination for discovery (*JNF* at para 21).

[52] *Pacific Coast* adds to this discussion by considering document production in the context of the entire judicial review process, including exchange of evidence under Rules 306 and 307.

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[53] I return to subparagraphs 3(g)(i)-(iii) of the amended notice of appeal, and reproduce them again with my conclusions:

> g. The Director erred by not applying Section 73.11 in a fair, even handed, and transparent fashion:
>
> i. Given the significant and otherwise unexplained divergence between the penalties imposed for similar violations, FINTRAC's publicly reported notices of penalties imposed for violations lack sufficient detail of both the violations, and the rationale for the penalties imposed.
>
> > The fact of any divergence in the outcome between decisions involving Manor Windsor and third parties is known. This information is summarized in the affidavit of Mr Agnew filed in support of this motion. Any alleged lack of detail and rationale in the decision under review can be made out on the face of the decision.
> >
> > The fact that the Director did not explain any divergence between the matter involving Manor Windsor and matters involving third parties or refer to the decisions that are the subject of this motion in the decision under review is evident on its face. Any lack of detail relating to violations and penalties imposed across multiple decisions is self-evident based on the documents that Manor Realty has or is unable to get.
> >
> > It is open to Manor Windsor to invite the Court to draw an adverse inference from missing evidence (*Pacific Coast* at para 91).
> >
> > The correctness or reasonableness of third-party decisions is not a live issue on this appeal. Decisions in other matters do not affect the legal rights or obligations of Manor Windsor.
> >
> > In *JNF*, the applicant needed to "see behind the curtain" to make its case on whether there was bias or not. Here, Manor Windsor does not need to look behind the curtain to demonstrate any inconsistency

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> or lack of disclosure in the Director's decision-making.

ii. FINTRAC and the Attorney General have adopted the practice of obtaining confidentiality orders in appeals to this Court, such that the Notices of Violation, Director's decisions, and the Attorney General's memoranda of fact and law are redacted.

> The fact that the Attorney General has obtained confidentiality orders and redacted documents in other Court files is known to Manor Windsor, and these orders and documents can be included in Manor Windsor's Rule 306 evidence if relevant. I do not see how production of other decisions involving other parties could advance this argument.

iii. As a result, the Appellant and other registrants are unable to determine whether FINTRAC and the Director are applying the PCMLTFA, the Regulations, and FINTRAC's own guidance documents, in a consistent and even-handed fashion.

> Any absence of transparency between different decisions made by the Director, or an inability to compare those decisions to FINTRAC's own guidance documents, is self-evident. Manor Windsor does not need to see other decisions involving unrelated parties to prove the point that it and other registrants are presently unable to assess whether guidance documents are applied consistently.

[54] Manor Windsor also relies on *Bell Canada v 7262591 Canada Ltd. (Gusto TV)*, 2016 FCA 123 [*Bell*]. I do not find this case to be of assistance. *Bell* states that past proceedings and regulatory experience can sometimes form part of the data the administrative decision-maker can draw upon in making a decision. Accordingly, parts of that data, identified by the parties as matters that the administrative decision-maker drew upon in making its decision, can form part of the evidentiary record before the reviewing court. The inclusion of that data in the reviewing court's record can often be useful in assessing reasonableness (para 15). Here, the facts are different. There is no indication that the other 16 decisions were part of the data considered by

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the Director when making the decision involving Manor Windsor. The decision being challenged in this appeal does not refer to or rely on the other decisions that Manor Windsor is trying to get by way of this motion. I do not read *Bell* as standing for the proposition that decisions made by the same decision-maker in different proceedings are generally subject to production. What is determinative here is what the Director considered at the time the decision involving Manor Windsor was made, and that did not include the 16 decisions that are the subject of this motion.

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[55] Overall, I agree with the respondent that the appellant's request is more aligned with what would be produced in an examination for discovery and constitutes fishing for information about third parties. The motion in this respect is therefore dismissed.

D. *Relief from an Undertaking*

[56] Subrule 152(2)(b) states that confidential information shall be given to a solicitor of record only if the solicitor gives a written undertaking to the Court that he or she will not disclose the content to anyone except to solicitors assisting in the proceeding; will not permit the material to be reproduced; and will destroy the material when it is no longer required.

[57] Manor Windsor seeks a declaration that its solicitor be relieved from any obligations relating to an undertaking given in respect of the documents in appendix A.

[58] No such declaration can be made. Appendix A to the CTR was filed confidentially pursuant to Rule 152 and the relevant sections of the Money Laundering Act. Manor Windsor's motion to undo the confidential nature of the documents was not successful. Granting relief from

the undertaking would negate the confidential nature of the filing. The inevitable consequence of Manor Windsor not being successful on the motion is that its solicitor of record remains bound by the undertaking that was given.

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[59] In the alternative, Manor Windsor seeks a declaration that the undertaking does not apply to the appendix A documents that were within Manor Windsor's possession prior to service of the CTR.

[60] Some of the documents in appendix A to the CTR were created by Manor Windsor, and Manor Windsor had the unrestricted ability to share those documents as it saw fit before its dealings with FINTRAC and before the CTR was filed. I understand that the practical relief sought in this respect is an assurance that Manor Windsor can share the documents it created with others, even though those documents are in the CTR.

[61] The difficulty I have in this respect is that subrule 152(2) only requires a written undertaking by the solicitor of record, not the party. The notice of motion asks for a declaration "that the undertaking does not apply" to certain documents. That can only refer to the undertaking given by counsel.

[62] I am not satisfied that the undertaking given by counsel should be relaxed or modified. Manor Windsor's written representations do not identify the specific documents to which the undertaking should not apply. As discussed above, whether some or all of the documents that have been filed confidentially fall within the categories of documents listed in subsection 55(1)

of the Money Laundering Act is not properly before the Court. Having determined that the documents in schedule A to the CTR are required by law to be confidential (*i.e.* all of them), I do not see how I can reverse that finding by undoing counsel's undertaking, particularly when Manor Windsor's written representations do not address this issue.

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V. Costs

[63] At the conclusion of the hearing, the parties advised that an agreement had been reached on costs. Subject to the Court's discretion, the parties agreed that the issues on the motion be divided into two categories – whether confidentiality under the Money Laundering Act is mandated or discretionary, and the Rule 317 request. It was also agreed that the successful party in each category would receive $3,500, payable within 60 days.

[64] The respondent was the successful party on all contested issues. I decline Manor Windsor's request to defer the cost consequences of the confidentiality issue and roll them into any constitutional challenge related to subsection 73.21(4). At the end of his decision in *BC Lotteries*, Justice Russell concluded that what the moving parties were seeking to assert could only be done by way of a constitutional challenge (para 89). I am not satisfied that it was reasonable to pursue, on this motion, a request that I not follow the principles of *stare decisis* and conclude that *BC Lotteries* should have been decided differently. Manor Windsor was unsuccessful on the issues that it argued, and costs will follow that result.

ORDER in T-5112-25

THIS COURT ORDERS that:

1. The appellant's motion for a declaration that subsection 73.21(4) of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act, SC 2000, c 17* is unconstitutional is adjourned *sine die*.

2. The appellant is granted leave to serve and file an amended notice of appeal in the form attached as tab 1 to the notice of motion dated August 13, 2026. An amended notice of appeal shall be served and filed within 10 days of the date of this order.

3. The appellant's motion is otherwise dismissed.

4. Costs of the appellant's motion are fixed at $7,000.00, payable by the appellant to the respondent within 60 days of the date of this order.

"Trent Horne"
Associate Judge

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FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-5112-25
STYLE OF CAUSE:	MANOR WINDSOR REALTY LTD. v. AGC
PLACE OF HEARING:	HELD BY WAY OF VIDEOCONFERENCE
DATE OF HEARING:	OCTOBER 7, 2026
REASONS AND ORDER:	HORNE A.J.
DATED:	OCTOBER 8, 2026

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