



Info-CRAC[®]

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THE HUMAN SIDE OF CORPORATE BUSINESS

Consequences of a Company's Untimely Revocation of Striking Off

The Case of *Intermodal Crane Service Inc. vs. Les Demolitions Mega Inc.*

It will happen that a company will neglect or forget to file its Quebec annual declarations. If they are not filed for 2 consecutive years, the company will be stricken from the Quebec register. This entails its dissolution if it is a Quebec charter (section 50 of the *Act Respecting Legal Publicity* ⁽¹⁾ (hereinafter the "Act")). Essentially, the company ceases to exist. However, it is possible to rectify the situation by following the revocation procedure (section 54 of the Act).

Effect of Striking Off

A quick look at section 57 of the Act reveals that once revocation is completed, the company is deemed to have never been dissolved. This leads us to believe that the dissolution period is "erased" as though it never happened. As we will see, this assumption is incorrect.

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News from CLARA™: Thank You for Your Support!

Dear Friends,

In our previous newsletter, I called upon all of you to help us in the fundraising drive on behalf of the Jean Marc Paquette Foundation for the Clara™ mammography and radiology mobile clinic. I would like to sincerely thank each and every one of you for having participated. Thanks to your support, the Clara™ clinic of hope will go forward in its mission of detecting and preventing breast cancer.

The prize draw took place on June 19th at the annual "Classique Juri Golf" tournament organised by the Foundation. You can view the list of winners on the web at www.paquette.qc.ca by clicking on the "Classique Juri Golf" link and then on the "results" link.

I am pleased to inform you that the "Juri Golf" tournament raised \$67,000.00 for the CLARA™ cause.

Again, my heart-felt thanks to everyone!

Ms. Therese Fredette, President of C.R.A.C. Ltd.

Consequences... (cont'd)

The Facts

In the case of *Intermodal Crane Service Inc. vs. Les Démolitions Mega Inc.*⁽²⁾, Plaintiff filed an action in the amount of \$ 230,727.52 for material damages caused to a construction crane it owned and that had been used by one of the Defendants. Plaintiff had previously been stricken from the register by the Inspector General's Office for having failed to file its annual declarations. The limitation period for filing an action against the Defendants lapsed 3 days later. Plaintiff applied to revoke its striking off eight months after filing its action against the Defendants.

Consequence of the Dissolution

Plaintiff lost its case before it was even heard. A preliminary motion was presented by the Defendants, which was granted. The trial judge determined that the limitation period had expired and hence Plaintiff's suit was dismissed.

Section 57 of the Act stipulates that a revocation is subject to the rights acquired by third parties. In our case, the trial judge, whose decision was confirmed by the Court of Appeal, concluded that the expiration of the delay to take action, was an acquired right by the Defendants to not be sued. A company may be revived but this does not retroactively revive a right that has expired during the time of its dissolution.

This decision relied on a similar case with respect to section 209 of the *Canada Business Corporations Act*⁽³⁾, the federal counterpart of section 57 of the Act. (See the case of *Entreprises Jacques Lebeau vs. Compagnie d'assurance Victoria du Canada*⁽⁴⁾).

Moral of the Story

It is crucial to conduct a preliminary search of the appropriate registers prior to initiating a legal action in order to determine the status of potential plaintiffs and defendants. This will also apply to signing a legal agreement. CRAC is equipped to offer you assistance in conducting a status search or to comply with the requirements for the revocation of striking off of a company.

(1) R.S.Q., c. P-45

(2) Court of Appeal (QC): (500-09-009703-000, January 19th 2001), REJB 2001-22730 / Superior Court decision: (500-05-051495-990, May 4th 2000), REJB 2000-18285

(3) R.S.C. (1985), c. C-44

(4) Court of Appeal (QC) (500-09-001048-941, September 6, 1996).



CLARA and the "Classique Juri Golf" Tournament : A Few Pictures

The "Classique Juri Golf" Tournament raised \$67,000.00 for the CLARA™ cause. From left to right, Mr. JeanMarc Paquette, Mr. Pierre Lamarche, Mr. Francis Gervais and Mr. Charles Paquette.



The winner of the first prize of the fundraiser draw, from right to left: Mr. Jean Marc Paquette, Mr. Guy Pepin, Mr. Sylvain Tremblay (winner of first prize: a Saab 95) and Mr. Jean de Saint-Père, first bailiff of New France.



A word of thought...

*"Trouble is a part of your life,
and if you don't share it,
you don't give the person who loves you
a chance to love you enough".*

Dinah Shore
(1917-1994) – Entertainer



INFO-GUIDE — Updated August 1, 2001

For filing corporate forms and declarations with the Inspector General of Financial Institutions

1. Incorporation pursuant to Part 1A Q.C.A.	<ul style="list-style-type: none"> – Forms 1, 2 and 4 OR – Form 1 and Initial Declaration – Fee: \$300.00 – IGIF returns the Certificate of Incorporation with stamped copies of Forms 1, 2 and 4, as the case may be – No copy of the Initial Declaration is returned (Section 123.14 Q.C.A.)
2. Change of address of head office in the same judicial district.	<ul style="list-style-type: none"> – Amending Declaration – Form 2 is not accepted – No fee – Stamped copy of the Amending Declaration is returned (Sections 123.35 Q.C.A. and 43 L.P.A.)
3. Change of address of head office in another judicial district.	<ul style="list-style-type: none"> – Forms 5 and 2 – Fee: \$140.00 – IGIF returns the Certificate of Amendment with stamped copies of Forms 5 and 2 (Sections 123.36 and 123.14 Q.C.A.)
4. Change of directors but not in the number of directors indicated in the articles.	<ul style="list-style-type: none"> – Amending Declaration – Form 4 is not accepted – Delay to file: within 15 days of change – No fee – Stamped copy of the Amending Declaration is returned (Sections 123.81 Q.C.A. and 43 L.P.A.)
5. Change in the number of directors indicated in the articles.	<ul style="list-style-type: none"> – Forms 5 and 4 OR – Form 5 and Amending Declaration – Fee: \$140.00 – IGIF returns the Certificate of Amendment with stamped copies of Forms 5 and 4 or the Amending Declaration, as the case may be (Sections 123.14, 123.101 and 123.104 Q.C.A.)
6. Any other amendment to the articles: – share capital – corporate name – other provisions	<ul style="list-style-type: none"> – Form 5 – Fee: \$140.00 – IGIF returns the Certificate of Amendment with a stamped copy of Form 5 (Sections 123.101 and 123.104 Q.C.A.)
7. Continuation of a company from Part 1 to Part 1A Q.C.A.	<ul style="list-style-type: none"> – Forms 7, 2 and 4 – Fee: \$197.00 – IGIF returns the Certificate of Continuation with stamped copies of Forms 7, 2 and 4 (Sections 123.135 and 123.14 Q.C.A.)
8. Amalgamation pursuant to Part 1A Q.C.A.	<ul style="list-style-type: none"> – Forms 6, 2 and 4 OR – Form 6 and Initial Declaration (ordinary amalgamation) – Form 6 and Amending Declaration (simplified amalgamation) – Fee: \$482.00 – IGIF returns the Certificate of Amalgamation with stamped copies of Forms 6, 2 and 4 or the Amending Declaration, as the case may be – No copy of the Initial Declaration is returned (Sections 123.14 and 123.117 Q.C.A., and section 35 L.P.A.)

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Q.C.A.: Quebec Companies Act (R.S.Q, c. C-38)

L.P.A.: Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., c. P-45)

IGIF: Inspector General of Financial Institutions

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