

Earl Jones victims set for battle

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MONTREAL - Victims of imprisoned fraud artist **Earl Jones** are mounting a last-ditch effort to recuperate taxes they paid on falsified income.

They will file documents in provincial court in the next 30 days attempting to void the fraudulent contracts - both verbal and written - they made with Jones. Once they file the documents, it's a matter of waiting for an answer from Canada Revenue Agency.

Those who fell prey to Jones's scheme are also contending with the drying up of their charitable support and a roadblock in their lawsuit against the Royal Bank.

The case has baffled tax officials because they've never dealt with a **Ponzi** scheme on this scale. Jones was convicted on two counts of defrauding 158 people out of \$50 million and sentenced to 11 years in prison in February.

Since the decades-long **Ponzi** scheme blew up in July 2009, a feisty organizing committee representing the victims has pulled out all the stops.

First, they petitioned the two levels of government for tougher sentences for white-collar crime.

Now, they are challenging the tax man to recoup \$3 million in taxes erroneously paid by the victims on their own capital. That chunk of change is owed to 75 victims of Jones's **Ponzi** scheme, with amounts ranging from \$4,000 to \$100,000, for taxes they paid on interest. In reality, there was no interest, merely fictitious statements issued by Jones's company.

Problem is, tax officials have thus far resisted writing cheques to the victims because of the confusion caused by the lack of precedent.

"There is nothing in the mechanism of the Canada Revenue Agency to deal with the issue of **Ponzi** income," said Kevin Curran, the son of one of the victims, who is working with the victims committee.

The victims have been dealing with the CRA since August 2009. Misinformation and confusion have reigned as one bureaucrat after another tried to grapple with the unusual situation.

First all the victims were told to refile their previous returns. They did. Then they were told their losses were deemed bad debt and therefore refused.

After Curran, along with a tax preparer and a tax lawyer, met with the minister of national revenue in March to lay out the specifics of this unusual case, an appeals officer with the CRA ruled in May that the victims should each apply to provincial court to have their contracts with Jones voided. Then the CRA would look at each instance of loss on a case-by-case basis.

That was good news and bad news, Curran said, as each filing would take about \$25,000 in legal costs, far beyond what the victims can afford individually.

"They offered us an olive branch but in reality it was a bramble bush," Curran said.

For five months, Curran has been collecting data from all those who stand to benefit with the intention of voiding all contracts in a single filing, to avoid filing for each victim. The \$25,000 legal cost came from an anonymous benefactor.

"We've done our due diligence in providing all the information to the CRA - and Revenue Quebec - and we hope once we've satisfied their demands, the income tax refunds will come in a swift manner," Curran said.

It can't be soon enough for some.

Charitable programs to help the mostly senior and neediest **Earl Jones** victims dried up this summer. No more vouchers for gas, groceries, help with medication bills or heating costs. Meanwhile, the director of the West Island Community Resource Centre, which devoted much of its efforts to help victims since the story broke, was summarily dismissed in late summer.

"Some of the people felt completely abandoned," said Karlene Kennedy, who used to help out with support groups at the centre.

And the wheels of justice need a little grease, as well.

A class-action lawsuit filed by the victims against the Royal Bank was dealt a blow this month when the bank's lawyers filed a motion to dismiss the action.

Lawyers representing the bank and the victims are holding a closed-door planning session today on this issue.

"Once these procedural items are out of the way, we'll get to the big stuff, the court date and determining the exact losses," Curran said.

The \$40-million lawsuit alleges RBC was negligent and wilfully blind to the way Jones operated an account containing all his clients' money.

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