



Citation: *Guy D'Anjou inc. v. Canada* (Canadian Food Inspection Agency), 2015 CART 2

Date: 20150203

Docket: CART/CRAC-1795

BETWEEN:

Guy D'Anjou inc., Applicant

- and -

Canadian Food Inspection Agency, Respondent

[Translation from the official version in French]

BEFORE: Member Bruce La Rochelle

**WITH: Guy D'Anjou, President and representative for the Applicant; and
Claude Imbeau, counsel for the Respondent**

In the matter of an application made by the applicant, pursuant to paragraph 9(2)(c) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act*, for a review of a violation of paragraph 138(2)(a) of the *Health of Animals Regulations*, alleged by the respondent.

DECISION

Following an analysis of the written submissions of the parties, the Canada Agricultural Review Tribunal, by order, determines that the applicant, Guy D'Anjou inc., committed the violation and orders Guy D'Anjou inc. to pay the Canadian Food Inspection Agency a monetary penalty in the amount of \$7,800, within thirty (30) days after the day on which this decision is served.

By written submissions only.

Alleged Incident

[1] By Notice of Violation No. 1213QC0270, dated August 7, 2014, the respondent, the Canadian Food Inspection Agency (Agency) alleges that the applicant, Guy D'Anjou inc. (Guy D'Anjou inc.), committed a violation on August 21, 2012, in Terrebonne, in the province of Quebec, contrary to paragraph 138(2)(a) of the *Health of Animals Regulations* (C.R.C., c. 296), which states as follows:

138. (2) *...no person shall load or cause to be loaded on any railway car, motor vehicle, aircraft or vessel and no one shall transport or cause to be transported an animal*

(a) that by reason of infirmity, illness, injury, fatigue or any other cause cannot be transported without undue suffering during the expected journey....

[2] The facts in this file relate to the health status of two cows, which were found in an emaciated or thin condition and had also sustained various injuries.

Evidence Before the Canada Agricultural Review Tribunal

[3] The following evidence is before the Canada Agricultural Review Tribunal (Tribunal):

- (i) The reasons of Guy D'Anjou inc., contained in its request for review dated August 25, 2014, and the additional reasons dated September 25, 2014, and sent after the Tribunal had requested more specific details;
- (ii) The Agency Report dated October 14, 2014;
- (iii) The additional submissions of the Agency dated November 19, 2014, after the Tribunal had advised the parties of the right to make additional submissions. Guy D'Anjou inc. did not make any additional submissions.

Facts

[4] Guy D'Anjou inc. did not dispute the following facts presented by the Agency (Agency Report, pages 9 to 13, supported by evidence in the exhibits):

- (i) Two cows were purchased by Guy D'Anjou inc. from an auction in St-Isidore, Quebec, on August 20, 2012. The two cows were transported, as part of a group of seven cows, from St-Isidore to a receiving station in St-Agapit, Quebec, on August 20, 2012. The next day, the cows were transported to an abattoir in Terrebonne, where they were slaughtered. The tag numbers of the

cows in question are 124 000 107 366 176 (hereinafter Cow 1) and 124 000 102 730 644 (hereinafter Cow 2).

- (ii) The applicant, Guy D'Anjou inc., did not transport the cows itself, but instead hired a third party as a transporter. The duration of the first part of the journey was approximately half an hour (29 minutes), from the auction site to the receiving station. The next day, the duration of journey from the receiving station to the abattoir was approximately two and a half hours (152 minutes).
- (iii) After they arrived at the abattoir, Cows 1 and 2 were examined during *ante mortem* and *post mortem* inspections by an Agency veterinarian, Dr. Mona Gauthier (Dr. Gauthier).
- (iv) Following the *ante mortem* and *post mortem* inspections, Cow 1 was condemned for emaciation. Following the *ante mortem* inspection, Dr. Gauthier recorded the cow's health status as extreme thinness or emaciation. She also noted that Cow 1 had other health issues, specifically (a) injuries to the right hind leg and (b) a mass in the dewlap. As well, Dr. Gauthier noted that Cow 1 had a very long coat. Following the *post mortem* inspection, Dr. Gauthier noted other health issues in Cow 1: (a) muscle necrosis in the hindquarters and (b) swelling in the neck, with the presence of petechiae in the kidney. Dr. Gauthier also recorded details about Cow 1's physical condition, in order to support her finding of emaciation (to be discussed). Dr. Gauthier took and submitted several *ante mortem* and *post mortem* photos of Cow 1 to support her findings.
- (v) Following an *ante mortem* and *post mortem* inspection, Cow 2 was partially approved. One hindquarter was condemned for the presence of abscesses in the muscles and hock. Following the *ante mortem* inspection, Dr. Gauthier noted that Cow 2 had the following health issues: (a) noisy breathing, (b) a bulging eye, (c) injuries to the hind leg, (d) immobility despite the presence of the veterinarian close to its head and (e) a stressed and exhausted appearance. Dr. Gauthier also recorded details about Cow 2's physical condition, in order to support her finding of thinness.

Reasons Without Evidence

[5] As the Tribunal publicly stated in *Practice Note #11 – Determining Admissibility of Requests for Review and Practices Regarding the Exchange of Documents Amongst Applicants, Respondents and the Tribunal* (issued May 1, 2013), the request for review must include the reasons for the request (paragraph 3.3). The Tribunal may also request supplementary information before determining the admissibility of the request for review (paragraph 4). The obligation to indicate reasons appears in section 34 of the *Rules of the Review Tribunal (Agriculture and Agri-Food)* (SOR/99-451) (Rules), which states that “An

applicant who requests a review by the Tribunal must indicate the reasons for the request...”.

[6] In the present case, the Tribunal requested supplementary information from Guy D’Anjou inc. The reasons set out in the applicant’s initial request for review dated August 25, 2014, were as follows [translation]:

...First, the animals were sold at auction. (isn’t that where the inspectors should do the inspection?) If animals are sold at auction, it’s because they’re not in top form, because they are being bought to be slaughtered and the producers think that they’re not productive enough.

Second, the animals were fit to travel. Lastly, the animals were sent to the readiest possible abattoir so they wouldn’t suffer needlessly....

[7] In its letter dated September 16, 2014, the Tribunal asked for clarification from Guy D’Anjou inc., as follows [translation]:

...The Tribunal invites the applicant to provide more specific details about the circumstances surrounding its activities on August 31, 2012, in order to support and elaborate on the “reasons for the request”, as indicated in its letter dated August 25, 2014. If the applicant does not provide any such details by September 26, 2014, there is a risk that the applicant’s request for review will be inadmissible....

Notwithstanding that the determination of the admissibility of the request for review had not yet been made, the Tribunal chose to send to both parties its “invitation” to Guy D’Anjou inc. Because of a clerical error, the Tribunal indicated August 31, 2012, as the date instead of August 21, 2012. Although this request from the Tribunal was expressed as an “invitation”, Guy D’Anjou inc. was nevertheless advised that failure to provide a satisfactory response could lead to a determination of inadmissibility.

[8] On September 25, 2014, Guy D’Anjou inc. submitted supposedly revised reasons with “more specific details”, as requested by the Tribunal. Guy D’Anjou inc. largely retained the same reasons, and the “more specific details” were as follows: (a) comments alleging that the Agency was responsible, because the Agency allows auctions to sell the animals, (b) the cows were standing when they arrived for unloading, (c) the animals were transported to “the readiest possible abattoir” (presumed by the Tribunal to mean “the closest possible abattoir”) as requested by inspectors, “when the inspectors come to the auctions”, and (d) the penalty is unfair and the amount is abusive. Even though the applicant was given an opportunity to provide “more specific details” about the health status of the cows or the circumstances surrounding their transportation, the applicant’s additional reasons dated September 25, 2014, were as follows [translation]:

...

- * *The animals were sold at auction. We believe that it is at the entrance to the auction where inspectors should be, because if animals go into the sales ring, it's because they are fit to be sold and therefore to travel. If you want to fix these situations, you have to post inspectors at auctions, and we think that the Agency is therefore responsible for this situation, because it allows auctions to sell the animals.*
- * *These animals can't be in top form. If they've been sent to auction, it's precisely because they don't produce enough and they're being bought to be sent to slaughter.*
- * *We believe that the animals were fit to travel. They were standing when they arrived for unloading.*
- * *Please note that we send the animals to the readiest possible abattoir, so they don't suffer needlessly. When the inspectors come to the auctions, they ask that the less-healthy animals be slaughtered locally, which is what we did and we are being reprimanded.*
- * *We believe that the penalty is unfair. We would like the amount to be lowered. A number of players are involved in this matter, and in our opinion the amount is abusive.*

...

[9] Following the submission of revised reasons by Guy D'Anjou inc., the Tribunal determined that the request for review was admissible. Consequently, the Agency submitted its Report, dated October 14, 2014, in accordance with subsection 36(1) of the Rules. The Agency also made additional submissions, in its letter dated November 19, 2014, as permitted under section 37 of the Rules and as both parties were reminded by the Tribunal in its letter dated October 16, 2014. No additional submissions were made by Guy D'Anjou inc.

[10] Once the Tribunal determines that a request for review is admissible, the Agency is under the obligation to establish, on a balance of probabilities, the responsibility of the violator, in accordance with section 19 of the *Agriculture and Agri-Food Administrative Monetary Penalties Act* (S.C. 1995, c. 40), which provides as follows:

19. *In every case where the facts of a violation are reviewed by the Minister or by the Tribunal, the Minister must establish, on a balance of probabilities, that the person named in the notice of violation committed the violation identified in the notice.*

By convention, the Agency presents the case on behalf of the Minister.

[11] As the Tribunal discussed in *9153-7225 Québec Inc. (also doing business as “Ferme Dion” and “Dion Farm”) v. Canada (Canadian Food Inspection Agency)*, 2014 CART 26, at paragraph 48:

[48] After submitting the Report, it would appear that the Agency, from that moment on, remains with the obligation to support its evidence against the applicant’s criticisms, even though the reasons originally submitted by the applicant were weak or not recognized. Even if the applicant’s reasons are not recognized, the Agency must substantiate the notice of violation with evidence on a balance of probabilities, since there is a request for review that the Tribunal has treated as being admissible....

[12] Therefore, it is important for the Agency to take into consideration its right to raise procedural objections. If the Agency is of the opinion that applicant’s reasons are weak or poorly supported, the Agency can make a request for the Tribunal to act, at its discretion, to stop or to accelerate the review. In the present case, there is a lack of evidence and challenge, throughout, to support the reasons put forward by Guy D’Anjou inc. Therefore, the Agency could have complained that the “revised” reasons remained fundamentally the same as the original reasons, without substantiation in any way.

Conclusion and Discussion

[13] After reviewing the Agency Report and the evidence submitted with it, the Tribunal finds that the Agency has established, on a balance of probabilities, that Guy D’Anjou inc. committed the violation, as alleged, with particular note taken of the lack of challenge by Guy D’Anjou inc. of the evidence submitted by the Agency. The Tribunal reviewed the evidence submitted by the Agency and previously summarized the facts and the veterinary conclusions.

[14] In the Tribunal’s opinion, the violation was established, in the present case, by the evidence of the emaciation of Cow 1 and the link between the emaciation, transportation and degree of suffering. Guy D’Anjou inc. did not dispute that it had caused the cow in question to be transported.

[15] Even though the Agency described the physical condition of Cow 1 as [translation] “extreme thinness/emaciation”, the Tribunal is of the opinion that the two terms act as descriptions of the same physical condition: emaciation. The details of the emaciation are as follows (Agency Report, page 10, with supporting evidence as exhibits) [translation]:

...

- *The ends of the short ribs are sharp and together give a prominent shelf-like appearance to the loin*

- *The individual vertebrae (spinous processes) of the backbone are prominent*
- *The hook and pin bones (posterior and anterior parts of the pelvic girdle) are sharply defined*
- *The thurl regions and thighs are sunken and in-curving*
- *When the cow turns its head, a wave caused by the movement of the neck vertebrae is visible through the skin*

...

[16] Dr. Gauthier supported her observations with several photos of Cow 1. The Tribunal agrees with Dr. Gauthier's description of the photos as showing severe emaciation.

[17] The link between the emaciation and suffering, in the presence of other pathological conditions in the present case, is established by Dr. Gauthier's professional opinion. In the Inspector's Non-Compliance Report (Agency Report, tab 5), Dr. Gauthier expressed her professional opinion of Cow 1 as follows [translation]:

...An emaciated or very thin animal is unfit for transport because transportation causes undue suffering. Poor coat condition often reflects chronic pathological conditions; the presence of injury to the hind leg added to the state of thinness amplifying the undue suffering experienced by the animal during transportation.

In addition, in an email dated October 2, 2014, from Dr. Gauthier to Christina Parent-Blais, Area investigator (Agency Report, tab 23), Dr. Gauthier expanded on her professional opinion of Cow 1, as follows [translation]:

...Extreme thinness decreases the cow's stress resistance during transportation. The cow's posture at the abattoir—lowered head, drooping ear—shows the cow's fragile state. In the presence of an unfamiliar person and in an unfamiliar place, the cow does not exhibit the posture of an animal that is alert and watchful about its surroundings. Instead, the cow shows signs of discomfort and weakness. That behaviour combined with its physical condition shows that the animal experienced undue suffering during transportation....

[18] The Tribunal is of the opinion that Dr. Gauthier has established the link between the emaciation, transportation and suffering. Nevertheless, it remains the Tribunal's responsibility to make a finding of "undue suffering", after weighing the arguments of the parties. As the Agency acknowledged in its file, it is not sufficient to establish emaciation without establishing a link between the emaciation, suffering and transportation. As Mr. Justice Létourneau directed the Tribunal (and the parties) in *Doyon v. Canada (Attorney General)*, 2009 FCA 152, at paragraph 28, the Tribunal's reasons for decision "...must rely

on evidence based on facts and not mere conjecture, let alone speculation, hunches, impressions or hearsay”. Avoiding mere conjecture, speculation, hunches, impressions or hearsay depends on the quality of the parties’ evidence. In the present case, the evidence presented by the Agency is comprehensive and convincing. In contrast, by way of example, the Agency did not establish a link between the physical condition of an animal, suffering and transportation in *Ferme Dion*, previously cited, or in *Les Élevages Nyco Inc. v. Canada (Canadian Food Inspection Agency)*, 2014 CART 27. More recently, in *Edgebrook Farm Ltd. v. Canada (Canadian Food Inspection Agency)*, 2015 CART 1, the Agency did not establish a link between a fatal disease incurred by animals, suffering and transportation.

[19] The Agency referred to its published policy regarding the transportation of compromised animals and pointed out that the policy had been published before the incidents in question occurred (Agency Report, tab 6). One of the descriptions of a “compromised animal” is as follows [translation]:

Others—such as...animals with a body condition score indicating emaciation or weakness...—would endure additional suffering during the transportation process and must not be transported, except for veterinary treatment or diagnosis.

[20] In the present case, there is no evidence of veterinary treatment or diagnosis for Cow 1. In the Tribunal’s opinion, the circumstances under which an emaciated cow would be fit for transport without undue suffering are extremely rare if not almost non-existent. In the present case, the Tribunal finds that Cow 1 could not under any circumstances have been transported without undue suffering. Having reached that conclusion regarding Cow 1, the Tribunal considers that it is not necessary to discuss Cow 2 further.

Undue Suffering and the Veterinarian’s Finding

[21] The Tribunal notes that the Agency asked Dr. Gauthier whether the cows’ circumstances could have represented undue suffering. Dr. Gauthier’s response, in the affirmative, is a legal conclusion. The arguments regarding undue suffering should be presented by the Agency’s counsel, Mr. Claude Imbeau. Only the Tribunal is able to render a judicial determination as to undue suffering.

[22] Citing the Tribunal’s decision (by former Tribunal Member Mr. Justice Annis, currently a judge of the Federal Court) in *Jérôme Fournier v. Canada (CFIA)*, RTA# 60202 (2005), at page 5, Mr. Imbeau presented the following arguments on this issue (Agency’s additional submissions, page 2) [translation]:

The Tribunal has already noted that the matter of undue suffering is to be determined based primarily upon common sense experiences of what would constitute suffering in an animal in relation to clinical observations of the animal’s infirmities and its related manifestation of distress as described by

professional veterinarians and other persons experienced in the field of animal agri-food production.

In addition, Member Annis (as he was then known) expressed the following sentiments, at page 5 of his decision:

In deciding this matter, the Tribunal does not agree with the Applicant's submission that the determination as to whether an animal may be transported without undue suffering should be based upon usage or custom in the industry. ...Besides, any usage in the industry that would condone a situation of cruelty to animals would reflect poorly on the industry and not be in its best interest.

[23] The Tribunal wishes to emphasize that evidence of suffering in an animal differs from a conclusion about undue suffering. The Tribunal must weigh the evidence, particularly evidence that comes, as noted by former Member Annis, from “clinical observations of the animal’s infirmities and its related manifestation of distress as described by professional veterinarians and other persons experienced in the field of animal agri-food production”.

[24] “Undue suffering” is a legal term, in interpretive evolution. As the Tribunal discussed in *E. Grof Livestock v. Canada (Canadian Food Inspection Agency)*, 2014 CART 11, at paragraphs 82 and 86:

[82] More precisely, from a reading of paragraph 26 of Porcherie des Cèdres [2005 FCA 59],...there are actually four categorizations of “undue”, rather than three, with some issue as to the translation into English of the decision originally rendered in French:

[26] ...“undeserved”, “unwarranted”, “unjustified”, “unmerited” or “inapproprié”, “inopportun”, “injustifié”, “déraisonnable”.

While all such categorizations would appear to involve difficulties in application, being associated with varying degrees of subjective review, the Court in Doyon appears to have adopted “inopportun” (inappropriate), “injustifié” (unjustified) and “déraisonnable” (unreasonable), to the exclusion of “inapproprié” (translated as “undeserved”, but also commonly understood to mean “incongruous” or “wrong”). What will therefore be inappropriate, unjustified or unreasonable suffering, and therefore undue suffering, will depend on the facts of the case.

...

[86] Based on the foregoing, it is the responsibility of the Tribunal to determine, on the basis of reasonableness and as referenced to a balance of probabilities burden of proof (a) whether the suffering is “inappropriate”, “unjustified” or “unreasonable”, according to the statutory interpretation of “undue” suffering in Doyon and (b) whether such

inappropriate, unjustified or unreasonable suffering may be associated with the transport of the animal.

[25] In the present case, the Tribunal considers that it is not necessary to determine which definition of “undue suffering” applies. The transportation of an emaciated cow, in the present case, caused “inappropriate”, “unjustified” or “unreasonable” suffering, without the need to precisely define those words. Even though defining those words remains the Tribunal’s responsibility, as circumstances require, the Tribunal welcomes more direction from the Federal Court of Appeal, with respect to the definitions, and in general.

Calculation of the Gravity Value

[26] The Tribunal reviewed the Agency’s calculation of the gravity value and did not find any areas of disagreement. The penalty of \$6,000 was increased by 30%, to \$7,800, because of the two previous violations by Guy D’Anjou inc., the negligence of Guy D’Anjou inc. and the harm. The Tribunal notes that the previous violations are not linked to circumstances similar to those in the case before the Tribunal (Agency Report, tab 22). Otherwise, the acts could have been assessed as intentional acts, by virtue of their being repetitive, with knowledge of the past circumstances.

Miscellaneous Points

(a) Alleged Approval of the Veterinarian at the Auction

[27] Guy D’Anjou inc. argues that it has the right to rely on veterinarian approval at the auction. Among the reasons provided on September 25, 2014, the applicant’s arguments are as follows [translation]:

- *The animals were sold at auction. We think that the entrance to the auction is where inspectors should be, because if animals go into the sales ring, it’s because they are fit to be sold and therefore to travel. If you want to fix these situations, you have to post inspectors at auctions, and we think that the Agency is therefore responsible for this situation, because it allows auctions to sell the animals.*

Guy D’Anjou inc. contends that if an error occurs in the assessment of the health of cows, the responsibility for that error lies with the federal or provincial government. In the Agency’s additional submissions dated November 19, 2014, on page 4, Mr. Imbeau, on behalf of the Agency, argues that the violation is related to transportation and not to the auction.

[28] Although case law exists on officially induced error, such as reliance on officials (*Lévis (City) v. Tétrault*, 2006 SCC 12), there is a lack of evidence from Guy D’Anjou inc. in the present case to support such a defence. The role of the veterinarian at the auction, and

whether he or she is a provincial or federal official, is not explained by the applicant. In addition, if there is a procedure for examining and approving cows as fit for sale, there is a lack of documentation. If there is evidence that Guy D’Anjou inc. relied on a certificate or advice from an official, it seems that this reliance could be examined as a potential common law defence, in accordance with subsection 18(2) of the *Agriculture and Agri-Food Administrative Monetary Penalties Act* (S.C. 1995, c. 40), which states as follows:

18. (2) Every rule and principle of the common law that renders any circumstance a justification or excuse in relation to a charge for an offence under an agri-food Act applies in respect of a violation to the extent that it is not inconsistent with this Act.

[29] In addition, an approval from a veterinarian that a cow is fit for sale does not lead to a conclusion that there is approval that the cow is fit for transport. Assessing the fitness of an animal to be transported without undue suffering during the expected journey is the responsibility of the transporter and others with the right to control the transportation process—such as an abattoir, if the abattoir controls or shares control of the circumstances of unloading, or a producer, if the producer controls or shares control of the circumstances of loading.

[30] In its arguments dated September 25, 2014, Guy D’Anjou inc. stated as follows [translation]:

- *...When the inspectors come to the auctions, they ask that the less-healthy animals be slaughtered locally, which is what we did and we are being reprimanded.*

There is no evidence that the inspectors acted as alleged. In addition, there is no evidence that a veterinarian was present and, in any event, that a veterinarian would know the duration of the journey, the circumstances of the transportation and the other transportation factors.

(b) Judgment by Guy D’Anjou inc. Regarding the Health of the Cows and Their Fitness for Transport

[31] Among its arguments dated September 25, 2014, Guy D’Anjou inc. argues that it thought that the cows [translation] “were fit to travel. They were standing when they arrived for unloading”. In addition, the applicant argues as follows [translation]:

- *These animals can’t be in top form. If they’ve been sent to auction, it’s precisely because they don’t produce enough and they’re being bought to be sent to slaughter....*

- *Please note that we send the animals to the readiest possible abattoir so they don't suffer needlessly...*

[32] If the animals are not “in top form”, it would seem that the possibility of undue suffering during transportation could be high, or that the possibility is increased that some of the animals are not fit for transportation under any circumstances. The beliefs of Guy D’Anjou inc. concerning the health of the cows and their fitness for transport are not relevant. In an absolute liability regime, it is the outcome that is relevant, not the judgment of or degree of care taken by Guy D’Anjou inc. For example, the fact that Guy D’Anjou inc. sent the cows to [translation] “the readiest possible abattoir” (which the Tribunal considers to mean “the closest”) to prevent “needless” suffering is relevant only for determining whether the penalty should be adjusted, due to intent or negligence. In addition, the Tribunal notes that Cow 1 was transported, as part of a group of seven cows, from St-Isidore to a receiving station in St-Agapit, Quebec, on August 20, 2012. The next day, the cows were transported to an abattoir in Terrebonne, where they were slaughtered. There are no details about their care at the receiving station on the night before slaughter.

[33] The fact that the cows were standing when they arrived for unloading is not determinative of whether the cows could have been transported without undue suffering. Conversely, if cows cannot get up, it cannot be concluded, on the basis of that fact alone, and even with the Agency’s policy taken into consideration, that the animals were subjected to undue suffering.

[34] Reference is made to *Codes of Practice* (provincial and federal) for the transportation of cows. As the Tribunal discussed in *Finley Transport v. Canada (Canadian Food Inspection Agency)*, 2013 CART 42 and *E. Grof Livestock*, previously cited, the determination of whether an animal is fit for transport remains the judgment of the transporter and others with the right to control the transportation. Adherence to the articles of a Code cannot be used a defence if the facts demonstrate, to the contrary, the elements of the violation.

(c) Evidence Provided by Christian D’Anjou

[35] The Agency submitted the notes taken by Ms. Mélanie Carbonneau about a telephone interview that she held with Mr. Christian D’Anjou, the son of Mr. Guy d’Anjou, who was away in Florida for several months. According to Christian D’Anjou, it was his father who went to the auction most often. Christian D’Anjou discussed the other points of the case, in responding to Mélanie Carbonneau’s questions.

[36] The Tribunal remains concerned about the evidence obtained by the Agency from the alleged violator, or on behalf of the alleged violator, particularly before the notice of violation is issued. In the Tribunal’s opinion, it is better and more fair if the Agency, as in the present case, could establish the violation by other means. In *Doré v. Barreau du Québec*, 2012 SCC 12, the Supreme Court directed administrative tribunals to incorporate “*Charter* values” into their deliberations, even though “*Charter* rights” are not applicable to administrative offences. The Tribunal discussed *Doré* in *Ferme Dion*, previously cited, at

paragraphs 57 to 59, by referring to the Tribunal's decision in *Tao v. Canada (Canada Border Services Agency)*, 2014 CART 6. At paragraph 59 in *Ferme Dion*, the Tribunal asked several questions:

[59] Several questions remain. How can the Tribunal follow the directions of the Supreme Court in Doré? Does a right against self-incrimination still have “no basis in law” in cases of administrative violations? How can the Tribunal incorporate, or at least consider, “Charter values” in reviewing statutory provisions in administrative law that require self-incriminating admissions? Should an admission be given a different weight if it is in a request for review or other written form, as opposed to oral admissions made during questioning by the Agency? The answers will come from other cases.

The Tribunal's questions and concerns still remain.

Agency's File

[37] With the exception of the reservations expressed concerning the use of Christian D'Anjou's "testimony", the Tribunal wishes to acknowledge the quality of the Agency's evidence and legal submissions.

Order

[38] Following a review of all written submissions of the parties, the Canada Agricultural Review Tribunal, by order, determines that the applicant, Guy D'Anjou inc., committed the violation and orders Guy D'Anjou inc. to pay the Canadian Food Inspection Agency a monetary penalty in the amount of \$7,800, within thirty (30) days after the day on which this decision is served.

Dated at Ottawa, Ontario, this 3rd day of February 2015.

Member Bruce La Rochelle