

Supreme Court refuses to hear G.R.E. tax case appeal

By Lynda Powless
Editor

A Supreme Court decision not to hear an appeal from Grand River Enterprises, (G.R.E.) Six Nations Ltd., on whether or not they should pay excise taxes on tobacco product sold between 2005-2007 on reserves will amount to millions.

G.R.E. president Steve Williams said the company had prepared for a decision to go either way in the case by setting aside 50 % of the amount expected to hit the company, but "if we had to

come up with it all at once, it could have forced us to shut down," he said.

But whether or not the fourth largest tobacco product manufacturer in the world will even have to pay the tax bill is the subject of another separate lawsuit under a fiduciary breach of fiduciary obligations claim.

In other words, G.R.E. lawyer Chantelle Montour said, if it is payable, G.R.E. should not be the only one paying it. "Basically the question is why are we (GRE) the only ones made

to pay it. Everyone in the reserves manufactures so it must not be owed. It must not be payable, if no one else is paying it."

She said a date for that lawsuit has yet to be set.

The S.C.C. announced last Thursday it would not review a lower court's judgement that excise taxes were applicable against the company and includes not only millions in excise taxes but interest and court costs.

The company argued before the lower court that tobacco products manufactured on a reserve for sale

to natives should be exempt from excise taxes.

Montour said the case hinged on the issue of whether or not First nations people were members of the general public.

"G.R.E. is restricted from selling to the general public so how can that apply. G.R.E. have always been denied the provincial yellow band license required to sell to the general public."

But that tax court judge held that the company was responsible for 23 assessments for "excise duty and

related interest" on tobacco products manufactured by the company from September 2005 to July 2007 and sold to retailers located on reserves in Ontario.

The Federal Court of Appeal (FCA) dismissed an appeal and Thursday the Supreme Court of Canada said it would not hear the case, dismissing it with costs.

G.R.E. lawyer John F.C. Hammond told a Hamilton newspaper whether or not the taxes should be paid is part of a separate legal ac-

tion. He did not know how much money was involved but said it was "in the millions."

Hammond said the case centred around native to native sales of tobacco product that should be exempt from excise taxes because natives are not "members of the general public" for which excise taxable products are intended.

But the court took the view that drafters of the legislation could not have possibly meant to exclude (natives) from taxes."