

26 September 2019

Jacob
C/o *FYI.org.nz*

By email: fyi-request-11144-e8ac0df2@requests.fyi.org.nz

Dear Jacob

Official Information Act request: costs incurred by IRD in relation to prosecution (and civil) matters

Our Ref: OIA353/1

1. Thank you for your email of 25 September 2019 in response to our letter of the same date requesting verifying information pursuant to s 12 of the Official Information Act 1982 (**OIA**). Crown Law is satisfied that you meet the eligibility requirements for requesting information under the OIA.
2. I refer to your email received by Crown Law on 5 September 2019, in which you sought the following information under the OIA:
 - a) Total costs incurred by IRD in relation to the prosecution in case numbers:
 - i) CRI-2013-485-0058, [2013] NZHC 3474;
 - ii) CIV-2015-485-208, [2015] NZHC 3095;
 - iii) CIV-2015-485-209; and
 - iv) CIV-2015-485-210.
 - b) Including a break-down of:
 - i) Legal fees;
 - ii) Travel costs; and
 - iii) Court costs.
3. As advised in our letter of 16 September 2019, part of your original request was transferred to the Inland Revenue Department (**Inland Revenue**). We also sought clarification of your request to which you advised related to “all costs incurred by IRD” in relation to the civil proceedings mentioned therein.

Response to remaining part of request

4. I can confirm that Crown Law does hold some information relevant to your request which is provided below.

Total costs incurred by IRD in relation to the prosecution in case numbers CIV-2015-485-208, CIV-2015-485-209 and CIV-2015-485-210; [2015] NZHC 3095

5. Crown Law was instructed on the three civil matters (as opposed to prosecution matters) mentioned in your request under proceeding numbers CIV-2015-485-208 (**Hillman proceeding**), CIV-2015-485-209 (**JDH proceeding**) and CIV-2015-485-210 (**GDZ proceeding**). These proceedings related to the Commissioner of Inland Revenue's (**Commissioner**) substantive claim seeking orders prohibiting a Mr Imran Mohammed Kamal from acting as a company liquidator for a period of up to five years. Mr Kamal had acted as the liquidator of Hillman Limited, JDH Holdings Limited and GDZ Limited.
6. The judgment citation [2015] NZHC 3095 referred to in your request relates specifically to the High Court decision of Associate Judge Smith in *Commissioner of Inland Revenue v Kamal*, dated 7 December 2015.¹ That decision concerned an interlocutory application brought by Mr Kamal seeking variation of discovery orders requiring the Commissioner of Inland Revenue to provide extensive discovery. Mr Kamal's application was dismissed. The decision applied to all three proceedings, having been heard together.
7. I set out below the relevant costs incurred by Inland Revenue relating to the legal services provided by Crown Law with respect to these three proceedings.

Hillman proceeding

8. During the period 11 December 2014 to 11 July 2016, Crown Law invoiced Inland Revenue for legal services relating to this proceeding totalling \$31,208.37 (GST inclusive). A break-down of these costs is provided in the table below:

<i>Legal advice</i>	\$29,442.48
<i>Filing fee for Statement of Claim</i>	\$1,173.91
<i>Couriers</i>	\$13.72
<i>Filing fee for Interlocutory application</i>	\$434.78
<i>Filing fee for Notice of opposition</i>	\$47.83
<i>Filing fee for Statement of defence</i>	\$95.65
<i>Travel</i>	\$0.00
<i>Court costs²</i>	\$0.00
TOTAL	\$31,208.37

9. No travel costs were incurred in this matter as the proceedings were filed in the High Court registry at Wellington, where counsel resided.
10. The Commissioner's substantive claim with respect to Hillman was struck out by Associate Judge Smith on 19 May 2016 and she was ordered to pay costs.³

¹ *Commissioner of Inland Revenue v Kamal* [2015] NZHC 3095 (HC).

² Costs were awarded against the Commissioner with respect to all steps taken in these proceedings. These costs were not paid by Crown Law or invoiced to Inland Revenue by Crown Law.

JDH proceeding

11. During the period 8 August 2014 to 11 July 2016, Crown Law invoiced Inland Revenue for legal services relating to this proceeding totalling \$38,139.07 (GST inclusive). A break-down of these costs is provided in the table below:

<i>Legal advice</i>	\$28,501.19
<i>Filing fee for Statement of Claim</i>	\$1,173.91
<i>Couriers</i>	\$20.50
<i>Filing fee for Notice of opposition</i>	\$95.65
<i>Filing fee: hearing scheduling fee</i>	\$1,391.30
<i>Filing Fee: hearing fee</i>	\$6,956.52
<i>Travel</i>	\$0.00
<i>Court Costs</i>	\$0.00
TOTAL	\$38,139.07

12. No travel costs were incurred in this matter as the proceedings were filed in the High Court registry at Wellington, where counsel resided.

GDZ proceeding

13. During the period 8 December 2014 to 16 June 2016, Crown Law invoiced Inland Revenue for legal services relating to this proceeding totalling \$6,829.50 (GST inclusive). A break-down of these costs is provided in the table below:

<i>Legal advice</i>	\$5,493.31
<i>Filing fee for Statement of Claim</i>	\$1,173.91
<i>Photocopying</i>	\$14.28
<i>Courier</i>	\$4.52
<i>Filing fee for Notice of opposition</i>	\$47.83
<i>Filing fee for Statement of defence</i>	\$95.65
<i>Travel</i>	\$0.00
<i>Court Costs⁴</i>	\$0.00
TOTAL	\$6,829.50

14. No travel costs were incurred in this matter as the proceedings were filed in the High Court registry at Wellington, where counsel resided.
15. The Commissioner's substantive claim with respect to GDZ was struck out by Associate Judge Smith on 19 May 2016 and she was ordered to pay costs.⁵

³ *The Commissioner of Inland Revenue v Imran Mohammed Kamal* [2016] NZHC 1053.

⁴ Costs were awarded against the Commissioner with respect to all steps taken in these proceedings. These costs were not paid by Crown Law or invoiced to Inland Revenue by Crown Law.

Summary

16. According to Crown Law records, Inland Revenue incurred legal costs relating to the Hillman, JDH and GDZ proceedings totalling \$76,176.94.
17. As mentioned above, information relating to any additional costs in relation to these proceedings is believed to be held by Inland Revenue. To this end, your request has been transferred to Inland Revenue to respond.

Conclusion

18. You have the right to seek an investigation and review by the Ombudsman of this decision in accordance with section 28(3) of the OIA. Information on how to make a complaint is available at www.ombudsman.parliament.nz or Freephone 0800 802 602.

Yours faithfully

Crown Law



Joseph Mara
Assistant Crown Counsel

Responsible Counsel: Maria Deligiannis, Revenue Manager/Crown Counsel.

⁵ *The Commissioner of Inland Revenue v Imran Mohammed Kamal* [2016] NZHC 1053.