

SUPREME COURT OF NOVA SCOTIA

Citation: Maritime Travel Inc. v. Boyle, 2012 NSSC 428

Date: 20121211

Docket: Hfx. No. 312635

Registry: Halifax

Between:

Maritime Travel Inc.

Plaintiff

v.

Hugh Boyle

Defendant

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Judge: The Honourable Justice A. David MacAdam

Heard: September 17, 18, 19, 20, 2012, in Halifax, Nova Scotia

**Final Written
Submissions:** September 7, 2012

Subject: contracts; agency; implied agency; agency by estoppel

Summary: In an earlier proceeding, the plaintiff obtained a judgement in damages against a company, G, of which the defendant was chairman and director. On a motion by G for a stay of execution of the judgment pending an appeal by G, the defendant agreed to personally pay into trust with the defendant's solicitor the sum of \$100,000, to be followed several months later by a second payment, sufficient to cover the remainder of the judgment, assuming the Court of Appeal had not yet decided. The parties agreed to a consent order staying execution of the judgment. The defendant paid the first instalment from his personal funds, but denied that he had agreed to pay the second instalment from his personal funds. He denied that the solicitor for his company, who had negotiated the stay agreement in consultation with the

defendant himself, had authority to also commit him to make the second payment.

Issue: Did the defendant agree to pay the second instalment from his personal funds?

Result: The evidence established that, in addition to acting as solicitor for the company, the solicitor was acting as agent for the defendant when the stay agreement was negotiated. The defendant did not deny that he had agreed to the first payment. The court held that the defendant had agreed to make the second payment from his personal funds, either on the basis of implied agency or agency by estoppel.

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