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Mich. Woman Must Face Penalties For Unreported Foreign Accounts

By [Dylan Moroses](#)

Law360 (August 8, 2019, 3:16 PM EDT) -- A woman cannot avoid more than \$70,000 in tax penalties for unknowingly failing to report two foreign bank accounts, which at one point contained more than \$1 million, a Michigan federal court judge has ruled.

Tracey Ott failed to show a valid reason for not filing reports of Foreign Bank and Financial Accounts for two Canada-based bank accounts in tax years 2007 through 2009, Judge Gershwin A. Drain said in his Wednesday opinion for the [U.S. District Court for the Eastern District of Michigan](#).

"Ms. Ott has not met her burden of establishing a material question of fact as to whether she had reasonable cause for the failure to disclose her foreign financial accounts," Judge Drain said.

FBARs must be filed by June 30 for any foreign financial accounts that exceed \$10,000 during the previous calendar year. Ott's Canadian financial accounts in question held no less than \$400,000 between 2007 and 2009, and at one point, the accounts held more than \$1 million, according to the opinion.

Ott took no steps to determine whether she had to disclose those foreign bank accounts and failed "to even suggest that she informed the advisor of these accounts," the opinion said.

The lack of effort to learn about the law and disclose her finances undermines Ott's claims that she had a reasonable cause to not report the foreign bank accounts, Judge Drain said.

Attorneys for Ott had argued in a July response that both she and her tax preparer were unaware that those Canadian accounts were required to be disclosed on FBARs prior to 2011 and preferred the case went to trial.

Ott's representative, Graciella A. Ferriera, said that Ott only has a high school education and relies on her accountant Bob Weide to properly prepare her tax returns.

"All the facts surrounding Ms. Ott's ordinary business care and prudence, and her reliance on Mr. Weide to prepare her tax returns need to be presented at trial," Ferriera said.

Judge Drain, however, disagreed with that notion and said that she and Weide not knowing the law is insufficient for Ott to claim she had a reasonable cause to fail to disclose those accounts.

“This certainly does not constitute ordinary business care and procedure,” Judge Drain said. “Ms. Ott’s limited education and experience does not excuse this misstep.”

The [U.S. Department of Justice](#) declined to comment.

Ott’s counsel declined to comment.

The U.S. government is represented by Angela R. Foster, Arie M. Rubenstein and Carl L. Moore of the U.S. Department of Justice, Tax Division.

Tracey Ott is represented by Courtney A. Hopley and Graciela M. Ferreira of [Greenberg Traurig LLP](#) and Jordan S. Bolton of [Clark Hill PLC](#).

The case is U.S. v. Dennis R. Ott et al., case number 2:18-cv-12174, in the U.S. District Court for the Eastern District of Michigan.

--Editing by Neil Cohen.

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