

**THE CORNWALL
PUBLIC INQUIRY**



**L'ENQUÊTE PUBLIQUE
SUR CORNWALL**

Public Hearing

Audience publique

Commissioner

The Honourable Justice /
L'honorable juge
G. Normand Glaude

Commissaire

VOLUME 135

Held at :

Hearings Room
709 Cotton Mill Street
Cornwall, Ontario
K6H 7K7

Monday, September 10, 2007

Tenue à:

Salle des audiences
709, rue de la Fabrique
Cornwall, Ontario
K6H 7K7

Lundi, le 10 septembre 2007

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Christine Morris	Commission Counsel
Mr. Ian Stauffer	
Mr. Peter Manderville	Cornwall Police Service Board
Mr. Neil Kozloff	Ontario Provincial Police
Mr. Joe Neuberger	Ontario Ministry of Community and Correctional Services and Adult Community Corrections
M ^e Claude Rouleau	
Mr. Stephen Scharbach	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Allan Manson	Citizens for Community Renewal
Mr. Dallas Lee	Victims Group
Mr. David Bennett	The Men's Project
Mr. David Sherriff-Scott	Diocese of Alexandria-Cornwall and Bishop Eugene Larocque
M ^e Danielle Robitaille	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Mr. Pradeep Chand	Mr. Ron Leroux
Mr. Frank T. Horn	Mr. Carson Chisholm

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1 --- Upon commencing at 2:06 p.m./

2 L'audience débute à 14h06

3 **THE REGISTRAR:** Order; all rise. À l'ordre;
4 veuillez vous lever.

5 This hearing of the Cornwall Public Inquiry
6 is now in session. The Honourable Mr. Justice Normand
7 Glaude, Commissioner, presiding.

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Good morning -- good
10 afternoon, rather.

11 **MR. ENGELMANN:** Oh, good afternoon ---

12 **THE COMMISSIONER:** Mr. Rouleau, sit anywhere
13 but you don't have to come up here yet, all right? Thank
14 you.

15 **MR. ENGELMANN:** Good afternoon, Mr.
16 Commissioner.

17 **THE COMMISSIONER:** Good afternoon, sir.

18 **MR. ENGELMANN:** We have a number of motions
19 this afternoon.

20 **THE COMMISSIONER:** Yes.

21 **MR. ENGELMANN:** To my immediate right is
22 Pradeep Chand ---

23 **THE COMMISSIONER:** Good afternoon, sir.

24 **MR. ENGELMANN:** --- counsel for Mr. Leroux.

25 **THE COMMISSIONER:** Right.

1 **MR. ENGELMANN:** And to his right Mr. Frank
2 Horn, counsel for Mr. Carson Chisholm ---

3 **THE COMMISSIONER:** Yes.

4 **MR. ENGELMANN:** --- and the coalition.

5 **THE COMMISSIONER:** M'hm.

6 **MR. ENGELMANN:** I think the other faces are
7 all known to you.

8 **THE COMMISSIONER:** Right.

9 **MR. ENGELMANN:** So I don't have to introduce
10 anyone else.

11 **THE COMMISSIONER:** Good, thank you.

12 **MR. ENGELMANN:** Sir, we are going to do this
13 in order of when things came in. So I have told Mr. Chand
14 he will be up first. I have a couple of housekeeping
15 matters, though, before I introduce the motions.

16 **THE COMMISSIONER:** Yes, thank you.

17 **MR. ENGELMANN:** Sir, in keeping with our
18 normal practice of advising the parties as far in advance
19 as we can and the public about where we are going, we have
20 for this week, depending on the outcome of Mr. Chand's
21 motion with respect to excusing Mr. Leroux, if the motion
22 is granted we have a witness for tomorrow, a Mr. Marc
23 Carrière and we have a witness for Wednesday from the
24 Catholic School Board of Eastern Ontario. I have said that
25 incorrectly, but the Catholic District School Board for

1 Eastern Ontario.

2 **THE COMMISSIONER:** M'hm.

3 **MR. ENGELMANN:** Who are ready to go if Mr.
4 Leroux is not ready to go. If Mr. Leroux is continuing as
5 a witness then we would continue with his cross-
6 examination.

7 So that's how the week is shaping up. As
8 for today aside from the motion to excuse Mr. Leroux, we
9 have a motion from his counsel for standing and funding
10 before the Inquiry.

11 **THE COMMISSIONER:** M'hm.

12 **MR. ENGELMANN:** We similarly have a motion
13 that Mr. Horn will be speaking to with respect to Mr.
14 Chisholm and his coalition.

15 So I'm not going to introduce any documents
16 with respect to those motions yet.

17 For the week after, we had intended to
18 finish our victim, alleged victim evidence. However, we
19 have issued a summons for former constable Perry Dunlop and
20 his wife Helen Dunlop to attend at the Inquiry returnable
21 for the 17th of September. They have been served, sir.
22 They were served on September 1st and, sir, we did obtain
23 extra-provincial orders to do this both by going to the
24 Superior Court in this province and the Superior Court in
25 the Province of British Columbia. The Dunlops have been

1 served. They have indicated to us through correspondence
2 with our office that they will be attending for that week,
3 the week of September 17th.

4 Now, we had an all-counsel meeting this
5 morning with counsel and they were advised at that time
6 that the Dunlops would be in attendance and that we were
7 hopeful to try and finish their evidence within that week.

8 A number of counsel expressed concerns about
9 whether or not we'd actually be able to achieve that. I
10 indicated that in the past, at least, you've been willing
11 to sit late and have sat late to have witnesses finish,
12 particularly witnesses from out of the jurisdiction. So I
13 suggested that that might be your protocol for that week as
14 well. Counsel did ask in the event that we did not finish
15 if we'd consider picking up a couple of days the week of
16 September 24th, and I did say I'd mention that to you this
17 afternoon.

18 **THE COMMISSIONER:** M'hm.

19 **MR. ENGELMANN:** I just wanted to let you
20 know that that did come up at our all-counsel meeting this
21 morning.

22 **THE COMMISSIONER:** M'hm, okay.

23 **MR. ENGELMANN:** As I said, that is what we
24 will be doing the full week of September 17th and we will
25 then have to come back the first week in October, which is

1 the next hearing week, to finish the evidence from victims
2 and alleged victims.

3 So that's the plan, sir.

4 Just before we get going I believe, with
5 respect to Mr. Chand's motions, I just want to confirm with
6 the Registrar if the letter from Dr. Welburn was in fact
7 marked and if it was not, I believe the next exhibit is M8-
8 C-7. Okay. The curriculum vitae of Dr. Welburn, M8-C-8.

9 --- **EXHIBIT NO./PIÈCE NO. M8-C-7:**

10 Letter from Dr. Ken Welburn to Mr. Chand
11 dated 22 Aug 07

12 **MR. ENGELMANN:** And then I believe we have
13 all of the applications for standing and funding which have
14 been marked and filed for Mr. Leroux.

15 With respect to the -- well, I'll speak to
16 exhibits for the application for standing and funding that
17 Mr. Horn filed when it's his turn, if I can.

18 **THE COMMISSIONER:** All right.

19 Well, just to clear up a couple of other
20 matters.

21 First of all, we're not sitting on Thursday
22 and that is, of course, because of our friends of the
23 Jewish faith are celebrating Rosh Hashanah on Thursday.

24 **MR. ENGELMANN:** Yes.

25 **THE COMMISSIONER:** And so out of respect for

1 that, that's the reason we're not sitting on Thursday.

2 With respect to your announcement that the
3 Dunlops will be attending, we're going to deal with their
4 attendance on a day-by-day basis. Certainly, I will
5 attempt to accommodate as much as possible their request
6 that they be completed within a week. So along with the
7 time limits we're -- not time limits, but time constraints,
8 I'm certainly going to be asking counsel to focus their
9 cross-examination on matters that are pertinent to this
10 Inquiry and not to the historical issues that are
11 irrelevant to this Inquiry.

12 But I'll speak further about that as the
13 week progresses or early next week.

14 **MR. ENGELMANN:** Thank you, sir.

15 **THE COMMISSIONER:** Thank you.

16 **MR. ENGELMANN:** So I will turn things over
17 to Mr. Chand, if I may?

18 **THE COMMISSIONER:** Thank you.

19 Could I have the documents? Thank you.

20 **MR. CHAND:** Yes.

21 **THE COMMISSIONER:** Good afternoon, Mr.
22 Chand.

23 **MR. CHAND:** Good afternoon, Mr.
24 Commissioner.

25 --- **MOTION TO EXCUSE MR. RON LEROUX PRESENTED BY/REQUÊTE**

1 **POUR EXCUSER MR. RON LEROUX PRÉSENTÉE PAR MR. CHAND:**

2 Mr. Commissioner, do you have a copy of Dr.
3 Welburn's report with you?

4 **THE COMMISSIONER:** Let me see.

5 **(SHORT PAUSE/COURTE PAUSE)**

6 **THE COMMISSIONER:** No, I don't. I've got
7 his C.V. I've got his letter saying that he can see your
8 client. No, I don't.

9 **MR. CHAND:** Yes, Mr. Commissioner, it's
10 dated August 29th.

11 **THE COMMISSIONER:** What -- oh, hang on.

12 **(SHORT PAUSE/COURTE PAUSE)**

13 **THE COMMISSIONER:** What exhibit would it be?

14 **MR. CHAND:** Would be M8-C-7.

15 **THE COMMISSIONER:** No, M8-C-7 is a letter
16 saying how much he is charging and he's going to see your
17 client on August 27th. Do you have an extra copy, maybe?

18 **MR. CHAND:** Yes, I do.

19 **THE COMMISSIONER:** So you ---

20 **MR. ENGELMANN:** Sir, then, we should re-
21 number. I thought -- we'll need to re-number the letter
22 then, I believe, if what you've described is in fact a
23 brief letter saying he can see him and saying what that
24 would cost.

25 So let's make the -- we've got his C.V. as -

1 --

2 THE COMMISSIONER: C-8.

3 --- EXHIBIT NO./PIÈCE NO. M8-C-8:

4 Dr. Ken Welburn, Curriculum Vitae

5 MR. ENGELMANN: The Commissioner has just
6 indicated we have a letter that's already M8-C-7.

7 THE COMMISSIONER: Yes, we do, and that's
8 the first letter dated August 22nd addressed to Mr. Chand
9 saying that he will be able to see Mr. Leroux on August
10 27th, but I don't have his medical report.

11 All right.

12 So the medical report dated August 29th
13 should be M8-C9. It should be marked as a confidential
14 document.

15 MR. CHAND: Thank you.

16 --- EXHIBIT NO./PIÈCE NO. M8-C-9:

17 Letter from Dr. Ken Welburn to Mr. Chand
18 dated 29 Aug 07

19 THE COMMISSIONER: All right.

20 MR. CHAND: Yes, Mr. Commissioner, having
21 regard to Dr. Wellburn's report, it is our recommendation
22 to have Mr. Leroux excused from providing any further
23 testimony.

24 THE COMMISSIONER: M'hm.

25 MR. CHAND: We realize that this is

1 obviously a very unfortunate scenario and we can appreciate
2 the difficult position that this leaves both you, Mr.
3 Commissioner, as well as other counsel. However, Mr.
4 Leroux's health and well-being must be made a priority.

5 Having said that, we obviously must do
6 what's in the best interests of our client. Those are my
7 submissions on Mr. Leroux's ability to continue with us at
8 this point.

9 **THE COMMISSIONER:** So I take it it's Mr.
10 Leroux's position that he does not wish to testify any
11 more?

12 **MR. CHAND:** At this particular point it is -
13 - I can't say that it's Mr. Leroux's position that he can't
14 continue. It's the position of the two doctors that he
15 can't continue at this point. I've had countless
16 conversations with Mr. Leroux and at this point I can't
17 ascertain whether or not he's able to continue. I've asked
18 him countless times. I haven't really got a clear answer
19 as to whether or not he can continue, but it's the position
20 of both Dr. Nadler and Dr. Welburn that he's unable to
21 continue at this point.

22 **THE COMMISSIONER:** Well, that's one of the
23 reasons why I thought maybe a psychiatrist would have been
24 in a better position in a sense -- and no disrespect to the
25 psychologist -- it's just psychiatrists are used to the

1 notions of fitness to stand trial and fitness to give
2 instructions, and so the question -- the initial question
3 really was "is he fit to continue?" and --- **MR. CHAND:**
4 Yes.

5 **THE COMMISSIONER:** And while I know that the
6 good doctor has indicated -- he's said "no he's not fit"
7 but I don't know that he's addressed the principles that I
8 would have wished him to address had he been a
9 psychiatrist.

10 **MR. CHAND:** Right.

11 **THE COMMISSIONER:** So is it your
12 instructions from -- regardless of whether he's able to or
13 not ---

14 **MR. CHAND:** Yes.

15 **THE COMMISSIONER:** --- is it your
16 instructions from Mr. Leroux that he does not wish to
17 continue based on this evidence?

18 **MR. CHAND:** Yes, that is correct, Mr.
19 Commissioner.

20 **THE COMMISSIONER:** All right.

21 **MR. CHAND:** Okay.

22 **THE COMMISSIONER:** All right. Thank you.
23 So we'll go down the list.

24 Mr. Manson, do you have any comments with
25 respect to this matter?

1 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MANSON:

2 MR. MANSON: Yes, Mr. Commissioner.

3 When this was before you on August 15th, you
4 ruled that -- observed rather -- that a further assessment
5 would greatly assist you and at the time we were under the
6 impression that that would be obtained from a psychiatrist.

7 However, having said that, as I recall Ms.
8 Daley when she addressed this mater on behalf of our
9 clients, the CCR, she started off by saying certainly the
10 last thing we wanted to do was endanger anyone's health.

11 Looking at this material that came from Dr.
12 Welburn, he is certainly of the view that Mr. Leroux's
13 mental health would continue to deteriorate further and he
14 would be overwhelmed with anxiety and depression. He goes
15 on to say the risk for suicide would be extremely high.

16 MR. ENGELMANN: Excuse me, I'm just
17 concerned if we're going to get into and read from the
18 letter that we've made a "C" exhibit, whether this should
19 be done in camera or not or if counsel could paraphrase.
20 Otherwise, there's no point in making this a "C" exhibit.

21 THE COMMISSIONER: Mr. Manson?

22 MR. MANSON: I don't intend to read anything
23 else from the letter.

24 As you recall, I'm in the midst of cross-
25 examining Mr. Leroux. It's been a long break and our

1 clients -- my clients would certainly want me to continue,
2 but in these circumstances, with the two opinions in front
3 of you, I don't see, Mr. Commissioner, that there's any
4 other conclusion other than he ought to be excused. I say
5 it's regrettable that we don't have the opportunity to
6 finish this matter. I had some other areas that I wanted
7 to pursue, but we now have two opinions that speak of risk
8 and I'm not sure that there's any other conclusion that you
9 could reach.

10 **THE COMMISSIONER:** Thank you.

11 **MR. MANSON:** Thank you, Mr. Commissioner.

12 **THE COMMISSIONER:** Mr. Lee.

13 **MR. LEE:** Nothing to add.

14 **THE COMMISSIONER:** Thank you.

15 Mr. Bennett.

16 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. BENNETT:**

17 **MR. BENNETT:** Good afternoon, Mr.
18 Commissioner. As you know from our representations last
19 time with respect to a different witness, we consistently
20 take the position where there's any type of evidence that
21 there be a negative impact on someone's health, that they
22 should not be called as a witness. There are the two
23 letters. I would have read the same two lines as Mr.
24 Manson and there's one other line in this letter, the very
25 last question "Is there any accommodation?" and the answer

1 is none at present. I'd just like to refer you to that
2 also.

3 Those are my submissions.

4 **THE COMMISSIONER:** Mr. Chisholm?

5 **MR. CHISHOLM:** Good afternoon, sir. Nothing
6 to add. Thank you.

7 **THE COMMISSIONER:** Thank you.

8 Mr. Neuberger or Mr. Rouleau?

9 **MR. NEUBERGER:** No submissions. Thank you,
10 Mr. Commissioner.

11 **THE COMMISSIONER:** Thank you.

12 Mr. Scharbach?

13 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. SCHARBACH:

14 **MR. SCHARBACH:** Good afternoon, Mr.
15 Commissioner.

16 When we were here last with Mr. Leroux, I
17 suggested that a second assessment be obtained and one has
18 been obtained, and I think the conclusions are
19 straightforward and clear.

20 In the end, in summary, I would agree with
21 what Mr. Manson said. Thank you.

22 **THE COMMISSIONER:** Thank you.

23 Ms. Robitaille?

24 **MS. ROBITAILLE:** No comments.

25 **THE COMMISSIONER:** Mr. Sherriff-Scott.

1 **MR. SHERRIFF-SCOTT:** No further comments.

2 Thank you, Commissioner.

3 **THE COMMISSIONER:** Thank you. Who's back
4 there? Mr. Manderville.

5 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MANDERVILLE:**

6 **MR. MANDERVILLE:** As I see it, we're in a
7 position where, as much as we all might like the benefit of
8 a psychiatric assessment and opinion, the only
9 psychological evidence we have before us says that Mr.
10 Leroux should not continue and that is all we have.

11 The issue then becomes -- and we'll all
12 address it in a moment -- but if we decide he cannot
13 continue, what can we do then?

14 **THE COMMISSIONER:** M'hm. Thank you.
15 Mr. Kozloff.

16 **MR. KOZLOFF:** Nothing to add, sir.

17 **THE COMMISSIONER:** Thank you. Mr. Carroll.

18 **MR. CARROLL:** Nothing to add, sir.

19 **THE COMMISSIONER:** Anyone from the School
20 Board here? No. All right. Okay. Thank you.

21 I'll -- Mr. Engleman, sorry, did you have
22 anything to add?

23 **MR. ENGELMANN:** I have no submissions, sir.

24 **THE COMMISSIONER:** All right. Thank you.

25 I'll reserve, but I just want to leave with

1 one comment that someone said that if there is any evidence
2 that would adversely -- testifying would adversely affect a
3 witness, I don't want to leave that just hanging like that.
4 I think that every witness who's called in any forum
5 experiences a higher level of stress, anger, emotional
6 upset and I don't want to lower the bar that it would be
7 any kind of emotional upset.

8 As well, I don't want to say something -- I
9 want to say something else in the sense that in situations
10 where someone may have perhaps not in this case as serious
11 as repercussions, it comes down sometimes to the decision
12 of the witness on whether or not that person wishes to
13 testify.

14 For example, in the case of D.S. or Mr.
15 Silmsler, I've made a decision that while he says he may
16 want to testify, that there's medical evidence to show that
17 it may not be an informed consent.

18 And in this situation, for example, if Mr.
19 Leroux -- and we'll leave it -- never mind Mr. Leroux, any
20 other witness always has the option if it's an informed
21 consent to say no, that "I want to continue knowing full
22 well that I risk these elements of my well-being" and we
23 all know that some people choose to do that and we call
24 that either courage; we call that wanting to participate in
25 something for the greater good, and so I don't want to

1 close the door on someone who might want to say
2 "Notwithstanding the medical evidence, I want to testify".

3 Now, this is not the case here but we've got
4 a long ways to go in the Inquiry, and so I don't want
5 people thinking that this is just a whitewash as to what
6 medical people have to say because we also have to
7 understand and accommodate folks who are willing to take
8 some risks with respect to their health when testifying.

9 All right. That having been said, I'll
10 reserve with respect to Mr. Leroux. Let's carry on with
11 the standing then.

12 **MR. ENGELMANN:** Yes, that would be next,
13 sir.

14 **THE COMMISSIONER:** Right.

15 **MR. ENGELMANN:** I'll give it back to Mr.
16 Chand.

17 **THE COMMISSIONER:** So, what material do we
18 have on that, sir?

19 **MR. CHAND:** It should be an application.

20 **THE COMMISSIONER:** There we go. Thank you.

21 **MR. CHAND:** Yes, Mr. Commissioner, I just
22 have some preliminary remarks before I get into the
23 application for standing and funding.

24 **THE COMMISSIONER:** M'hm.

25 **MR. CHAND:** It is our position, Mr.

1 Commissioner, that Mr. Leroux still has an important role
2 to play at this Inquiry and that is why we are proceeding
3 with our application for standing and funding.

4 Mr. Leroux's evidence has been critical at
5 the Inquiry. Although he will no longer be able to
6 actively participate, should he be granted standing through
7 his counsel he will be able to -- his counsel will be able
8 to protect his interests, provide insight and
9 recommendations to the Commissioner.

10 As you may be aware, Mr. Leroux has civil
11 and administrative remedies that may be impacted by the
12 remainder and outcome of this Inquiry.

13 These interests must be considered and
14 protected at the Inquiry. This will only be possible with
15 the presence and participation of counsel. As you aware,
16 Mr. Commissioner, the witnesses have mentioned Mr. Leroux
17 in their testimony or have indicated Mr. Leroux in certain
18 circumstances. It is critical in our respectful submission
19 that Mr. Leroux be able to verify and validate these
20 references.

21 **THE COMMISSIONER:** Sir, sir?

22 One thing that jumps to mind is, from what I
23 read of the documents ---

24 **Mr. CHAND:** Yes.

25 **THE COMMISSIONER:** --- of the medical

1 reports, what you're saying, that he would be integrally
2 associated with this Inquiry and he -- and I can't -- do
3 you have a medical report that says that this gentleman
4 could continue in that basis and still not feel all of the
5 adverse effects that he's got?

6 **MR. CHAND:** In answer to your question, I do
7 not have a medical report.

8 **THE COMMISSIONER:** So you're asking him to
9 not -- he can't testify, but you're saying that he's going
10 to continue to follow this Inquiry on a day-by-day basis,
11 and he's going to participate in giving you instructions
12 when he's not fit to testify?

13 **MR. CHAND:** Mr. Commissioner, with all due
14 respect, I think there's a fundamental difference between
15 giving evidence on the stand and being cross-examined on
16 the one hand and, on the other hand, giving instructions to
17 your counsel. I think they're two different things.

18 **THE COMMISSIONER:** You think?

19 **MR. CHAND:** It's my respectful submission
20 that that being the case.

21 **THE COMMISSIONER:** And what would the doctor
22 say?

23 **MR. CHAND:** I'm sorry?

24 **THE COMMISSIONER:** I wonder if the doctors
25 would say, "You know, Mr. Leroux, you're better off taking

1 a ticket to Florida someplace and enjoying the sun and
2 relax because otherwise your continued involvement in this
3 may well cause you some very, very adverse effects".

4 **MR. CHAND:** Having said that, Mr.
5 Commissioner, the purpose that we sought out a second
6 medical legal report was to establish whether or not Mr.
7 Leroux could continue as a witness. That opinion did not
8 touch upon whether or not ---

9 **THE COMMISSIONER:** Absolutely.

10 **MR. CHAND:** --- he was able to give
11 instructions to his counsel. So at this given point, I'm
12 not able to shed any light on whether or not he's able to
13 give instructions or not. But it's my respectful
14 submission that based on my conversations with Mr. Leroux,
15 that he is able to do that.

16 **THE COMMISSIONER:** So you're saying he's fit
17 to give instructions?

18 **MR. CHAND:** That's correct.

19 **THE COMMISSIONER:** Okay.
20 Anything else?

21 **MR. CHAND:** Yes, we just have to go through
22 a few other things that I'd like to ---

23 **THE COMMISSIONER:** Sure.

24 **MR. CHAND:** Before I get into the
25 application for standing.

1 Now, as you are aware, Mr. Commissioner, the
2 witnesses have mentioned Mr. Leroux in their testimony and
3 have included Mr. Leroux in certain circumstances.

4 It is our respectful submission that Mr.
5 Leroux be able to validate and verify these references.
6 Furthermore, Mr. Leroux has personal and reputational
7 interests at stake which also must be protected at the
8 Inquiry. This will only be possible by proper
9 representation. Because Mr. Leroux is unable to continue
10 or actively participate does not mean he cannot provide
11 unique perspective in this matter via his counsel.

12 Turning now on how Mr. Leroux should be
13 granted standing in this Inquiry, the details of our
14 position are summarized in our application. However, I do
15 feel it is important to reaffirm a few key items.

16 Number one, Mr. Leroux has a direct and
17 substantial interest in the subject matter of this Inquiry
18 because he is a victim of abuse in question, was affected
19 traumatically, and his contributions, involvement and
20 participation are critical to the success of the Inquiry.
21 His unique perspective must be considered independently and
22 separately from any coalition of any group of victims. He
23 has a legitimate concern and interest, personal and
24 collectively, in the outcome of the Inquiry.

25 It is our position that as a victim it is

1 essential for Mr. Leroux to be granted standing as a full
2 party in this Inquiry because he is one of the only
3 individuals to be able to assist the Inquiry in uncovering
4 the truth surrounding the abuse of victims in the Cornwall
5 area.

6 If you, Mr. Commissioner, are of the view
7 that because he is unable to continue he will not be able
8 to satisfy this requirement, it is our respectful
9 submission that he will undoubtedly be able to provide
10 pertinent suggestions for the creation and development of
11 policies and practices that would have assisted him during
12 his trying times and could assist today.

13 He can also provide his views on the way the
14 community could have facilitated his struggle and what the
15 community could do in similar circumstances. Mr. Leroux
16 can advise the Inquiry via his counsel on his interactions
17 with the various institutions in the Cornwall area and can
18 provide a personal perspective on the shortfalls. He has
19 witnessed what programs and procedures were in place to
20 assist these victims and he saw them fail.

21 It is my respectful submission that Mr.
22 Leroux should be granted in funding so that he can have
23 counsel in attendance to protect his vulnerabilities. The
24 fact that Mr. Leroux has been deemed mentally unable to
25 continue in a conventional fashion merely underscores the

1 need for the Cornwall Public Inquiry, and the courts for
2 that matter, to be progressive in the approach it takes
3 with dealing with victims of sexual abuse. The Cornwall
4 Public Inquiry has the opportunity in this particular case
5 to be creative.

6 Mr. Engelmann has asked me on a prior
7 occasion, why are we seeking standing and funding now
8 rather than a year ago?

9 The answer is obvious. Mr. Engelmann did
10 not believe, according to my conversations, that it was
11 necessary at that particular time and secondly, Mr. Leroux
12 was not our client until March 17th, 2007. Our direction
13 was signed by Mr. Leroux on that particular date. We did
14 not receive the file from the previous law firm until much
15 later.

16 Furthermore, the situation is different than
17 what we were initially led to believe. In retrospect,
18 based on the economic costs and the time expended by the
19 law firm of Harrison Pensa to assist the Cornwall Public
20 Inquiry with Mr. Leroux, we might have applied for standing
21 at the outset.

22 If we had applied at that time, we would
23 have had -- we would have set the terms and conditions for
24 Mr. Leroux to participate, or at least recommended them at
25 that particular time. The expectations that were placed on

1 the law firm of Harrison Pensa and John Swales were grossly
2 underestimated by the Commission counsel.

3 **THE COMMISSIONER:** I'm sorry, our Commission
4 council?

5 **MR. CHAND:** Yes.

6 **THE COMMISSIONER:** I don't understand. Say
7 that over again?

8 **MR. CHAND:** At the time that we were
9 initially retained by Ron Leroux ----

10 **THE COMMISSIONER:** Yes.

11 **MR. CHAND:** --- it was our understanding
12 that the resources that would be devoted to representing
13 Mr. Leroux -- it is our position that they were
14 underestimated by the Commission council.

15 **THE COMMISSIONER:** I don't understand what
16 you mean by ---

17 **MR. CHAND:** I guess the position that -- I
18 guess what my submission is, is that based on our
19 conversations with the Commission council ---

20 **THE COMMISSIONER:** M'hm.

21 **MR. CHAND:** --- okay? What we were
22 initially led to believe our role would be in representing
23 Mr. Leroux was very different than what it has become.

24 **THE COMMISSIONER:** Okay. When were you
25 retained?

1 **MR. CHAND:** Well, the law firm was initially
2 retained March 17th, 2007.

3 **THE COMMISSIONER:** Okay. March, 2007.

4 And you want funding going back retroactive
5 to the beginning of the Commission?

6 **MR. CHAND:** That's correct.

7 **THE COMMISSIONER:** In 2005?

8 **MR. CHAND:** Well, it would be at least to
9 the point that we were retained, March 2007, from us being
10 retained.

11 Mr. Commissioner, to not provide Mr. Leroux
12 funding and support it would be, in our respectful
13 position, be prejudicial and unfair. Mr. Leroux has been
14 exposed as a result of this testimony at the Inquiry.

15 Regardless of whether he continues or not,
16 the Cornwall Public Inquiry has achieved much of its
17 objective with Mr. Leroux's testimony.

18 I will now proceed with the ---

19 **THE COMMISSIONER:** How do you know that?
20 What was the objective of the Inquiry?

21 **MR. CHAND:** Well, the Inquiry has a number
22 of terms of references; right?

23 **THE COMMISSIONER:** Yes.

24 **MR. CHAND:** And with respect to him being
25 examined in-chief, much of his story has already come out.

1 **THE COMMISSIONER:** I'm sorry, but you think
2 that is the objective of the ---

3 **MR. CHAND:** Not necessarily that. I mean
4 there are a number of terms of references that the
5 Commission of Inquiry is looking into, but with respect to
6 Mr. Leroux's evidence ---

7 **THE COMMISSIONER:** But the other parties are
8 going to say the objective has not been met in the least
9 bit because they have a right to cross-examine and now they
10 can't.

11 **MR. CHAND:** Unfortunately, that's the case.

12 **THE COMMISSIONER:** They may ask that the
13 evidence be expunged.

14 **MR. CHAND:** That's something that they may
15 do. That's correct.

16 **THE COMMISSIONER:** M'hm. So, no, I'm just
17 going -- you have to be careful what you say to me because
18 I'm weird that way sometimes, but when you say that the
19 Commission's objectives have been met, you -- I'm saying,
20 well, so you know what the objectives are. Okay, what are
21 they? And you say, "Well, it's to get him to testify in-
22 chief". I'm saying, "Okay". And then, you are concluding
23 that they have been met, which kind of riles me a little
24 bit because I don't know if you really know what the
25 objectives are.

1 MR. CHAND: Well, I'll be getting into that.

2 THE COMMISSIONER: Okay, sorry.

3 MR. CHAND: Into the application for
4 standing and funding, Mr. Commissioner.

5 THE COMMISSIONER: Sorry, okay, go ahead.

6 --- APPLICATION FOR STANDING AND FUNDING FOR MR. RON LEROUX
7 PRESENTED BY/DEMANDE DE PARTICIPATION ET DE FINANCEMENT
8 POUR MR. RON LEROUX PRÉSENTÉE PAR MR. PRADEEP CHAND:

9 MR. CHAND: Okay. I will now turn to the
10 application. I am now proceeding with page number 5 of the
11 application for standing and funding.

12 THE COMMISSIONER: M'hm. Yes?

13 MR. CHAND: Yes, Mr. Leroux, Mr.
14 Commissioner, is a victim of sexual abuse and is seeking
15 standing for Part 1 and Part 2 of the Cornwall Public
16 Inquiry. Mr. Leroux's application is submitted to allow
17 him to fully participate at the Inquiry and to represent
18 his interests and the views with respect to the allegations
19 of sexual abuse of young people in the Cornwall area
20 between 1958 and 1993.

21 Mr. Leroux has a direct and substantial
22 interest in this subject matter of this Inquiry because he
23 is a victim of the abuse in question.

24 THE COMMISSIONER: Whoa. He is a victim.
25 He alleges he is a victim.

1 MR. CHAND: That's correct.

2 THE COMMISSIONER: Has anyone pleaded guilty
3 or been found guilty?

4 MR. CHAND: Well, you're right. He has
5 alleged that he is a victim. That's correct.

6 He is an alleged victim of the abuse in
7 question, was affected traumatically and his contributions,
8 his involvement and participation is critical to the
9 success of the Inquiry. His unique perspective must be
10 considered independently and separately from any coalition
11 of group of victims.

12 Now, pursuant to the *Public Inquiries Act*, a
13 commissioner must give standing to any person who
14 establishes that they have a substantial and direct
15 interest in the subject matter of this Inquiry. Section
16 5(1) of the *Public Inquiries Act* provides as follows:

17 "A commissioner shall accord to any
18 person who satisfies it that the person
19 has a substantial and direct interest
20 in the subject matter of its inquiry an
21 opportunity during the inquiry to give
22 evidence and to call and examine or to
23 cross-examine witnesses personally or
24 by counsel on evidence relevant to the
25 person's interests."

1 In the Royal Commission on Conduct of Waste
2 Management, Justice Lerner interpreted Section 1 of the
3 *Provincial Inquiries Act* as follows:

4 "Subject one requires the commission to
5 report any person who satisfies it that
6 he has a substantial and direct
7 interest in the subject matter of the
8 inquiry an opportunity to give evidence
9 and to call and examine witnesses or
10 cross-examine other witnesses who
11 testify. A person having a substantial
12 and direct interest in the subject
13 matter of the inquiry therefore is by
14 the mandatory provision of subsection
15 (1) to be accorded standing before the
16 commission and, in effect, to
17 participate as an independent party.
18 As explained in Justice O'Connor's
19 ruling on standing dated March 4, 2004
20 in relation to the Maher Arar Inquiry,
21 when determining eligibility for
22 standing, a commissioner must consider
23 a variety of factors, including his or
24 her mandate, the nature of that aspect
25 of the public inquiry for which

1 standing is sought, the type of
2 interest asserted by the applicant and
3 the connection of the particular
4 applicant to the inquiries. Justice
5 O'Connor also ruled that clearly
6 individuals or groups whose interests
7 may be adversely affected by the report
8 of an Inquiry as set out in section 13
9 of the *Inquiries Act*, have a
10 substantial and direct interest."

11 Now, Mr. Commissioner, section 13 reads as follows:

12 "No report shall be made against any
13 person until reasonable notice has been
14 given to the person of the charge of
15 misconduct alleged against him and the
16 person has been allowed full
17 opportunity to be heard in person or by
18 counsel."

19 In *v. Ontario Royal Commission on the*
20 *Northern Environment*, the Divisional Court elaborated on
21 the substantial and direct interest test pursuant to
22 section 5(1) of the *Public Inquiries Act*. In essence, the
23 court held that a party will have a substantial and direct
24 interest in the subject matter of a Public Inquiry where it
25 is greatly affected by potential recommendations and

1 findings flowing from the Inquiry or where the party has a
2 vital information to give concerning the Inquiry.

3 In light of these interpretations, it is our
4 respectful submission that Mr. Leroux has a substantial and
5 direct interest in the Inquiry, which warrants being
6 granted full standing.

7 Now, I turn to Part 1 of the Inquiry:

8 "Part 1 of the Inquiry will focus on
9 the institutional response of the
10 justice system and other public
11 institutions, including (a) and (b),
12 which:

13 (a) is allegations of historical abuse
14 of young people in the Cornwall area,
15 including the policies and practices
16 then in place to respond to such
17 allegations; and

18 (b) the creation and development of
19 policies and practices that were
20 designed to improve the response to
21 allegations of abuse in order to make
22 recommendations directed to the further
23 improvement of the response in similar
24 circumstances."

25 Pursuant to Part II, paragraph 8 of the

1 Rules of Civil Procedure provides that an individual may be
2 granted standing by the Commissioner if the Commissioner is
3 satisfied that they are:

4 "(a) directly and substantially
5 affected by Part 1 of the Inquiry, in
6 which event the party may participate
7 with section 5(1) of the *Public*
8 *Inquiries Immigration and Refugee*
9 *Protection Act*; or

10 (b) will represent distinct
11 ascertainable interests and
12 perspectives that are essential to his
13 mandate in Part 1, which the
14 Commissioner considers ought to be
15 separately represented for the Inquiry,
16 in which event the party may
17 participate in a manner to be
18 determined by the Commissioner."

19 The Commissioner's mandate undoubtedly seeks
20 to consider the interests of victims of abuse at the
21 Cornwall Inquiry. As an alleged victim, it is essential
22 that Mr. Leroux be granted standing as a full party in this
23 Inquiry because he is one of the only individuals to be
24 able to assist the Inquiry in uncovering the truth
25 surrounding the abuse of victims in the Cornwall area.

1 Mr. Leroux can provide pertinent suggestions
2 for the creation and development of policies and practices
3 that would have assisted him during his trying times and
4 that could assist today. He can also provide his views on
5 ways the community could have facilitated his struggle and
6 what the community could do in similar circumstances. Mr.
7 Leroux can also speak directly on his interactions with the
8 various institutions in the Cornwall area and provide a
9 personal perspective on their shortfalls.

10 **THE COMMISSIONER:** How is he going to do
11 that?

12 **MR. CHAND:** Through his counsel.

13 **THE COMMISSIONER:** All right. So okay --
14 and what about, "Mr. Leroux's accounts and recollections of
15 the events relating to this Inquiry are vital to its
16 success and mandatory for the satisfaction of its mandate"?

17 **MR. CHAND:** Well, I'm sure, Mr.
18 Commissioner, you can appreciate the situation this leaves
19 us in. I mean there's no doubt that we, as his counsel,
20 would like him to proceed with giving his evidence,
21 however, in light of the two doctors' reports, I think that
22 we must do what is in the best interests of our client and
23 can't have him in any way jeopardized by giving further
24 evidence.

25 **THE COMMISSIONER:** No, well, we'll deal with

1 that at ---

2 MR. CHAND: Yes.

3 THE COMMISSIONER: --- but what you are
4 saying in number 19 ---

5 MR. CHAND: Yes.

6 THE COMMISSIONER: --- is that his accounts
7 and recollection of the events are vital?

8 MR. CHAND: Absolutely.

9 THE COMMISSIONER: Okay, so let's assume I
10 rule that he cannot participate as a witness anymore.

11 MR. CHAND: Yes?

12 THE COMMISSIONER: How is he going to
13 transmit what he wants to say if it's not as a witness? I
14 mean, we are not going to start -- you understand the legal
15 problem with that?

16 MR. CHAND: Absolutely. I can appreciate
17 where you are coming from in that respect, but as I've
18 indicated earlier that there's obviously civil and
19 administrative remedies that might be impacted by this
20 Inquiry.

21 In addition to that, Mr. Leroux still has
22 his reputational interests at stake. So when there is a
23 potential witness that comes forward and casts Mr. Leroux
24 in a very negative light, his counsel then have the
25 opportunity to cross-examination that particular witness to

1 protect Mr. Leroux's interests at that time.

2 When the time comes, both in Part 1 and
3 Part 2 of the Inquiry, the ability for counsel to come
4 forward and present Mr. Leroux's viewpoints on how the
5 system can be better handled in the future. I mean, his
6 counsel will be in a position to do so.

7 Now, Mr. Commissioner, Mr. Leroux has a real
8 and substantial interest at the Inquiry and its findings.
9 He has an exclusive viewpoint on the events in question
10 before the Inquiry and can provide exceptional assistance
11 at Part 1 of the Inquiry. It is our respectful submission
12 that Mr. Leroux submits that he fulfils the requirement for
13 Part 1 of the Inquiry.

14 Now, I turn to Part 2 of the Inquiry, Mr.
15 Commissioner.

16 Part 2 of the Inquiry will inquire into the
17 report on the processes, services or programs that will
18 encourage community healing and reconciliation in Cornwall.
19 Pursuant to Part II, paragraph 54 of the Rules of Practice
20 and Procedures provides that:

21 "Persons or groups may be granted
22 standing by the Commissioner for Part 2
23 of the Inquiry if the Commissioner is
24 satisfied:

25 (a) that they are submissionally

1 affected by Part 2 of the Inquiry or;
2 (b) they represent distinct
3 ascertainable interests and
4 perspectives that are essential to his
5 mandate in Part 2 and which the
6 Commissioner considers ought to be
7 separately represented before the
8 Inquiry and in order to avoid
9 duplication, groups of similar
10 interests encouraged to seek joint
11 standing."

12 It is our respectful submission that Mr.
13 Leroux represents a distinct ascertainable interest
14 essential to Part 2 of the Inquiry because he is an alleged
15 victim, and he wishes to see the development of programs,
16 services and processes that will allow other victims and
17 community to come to a reconciliation of this matter.

18 In order for the Inquiry to meet its mandate
19 in Part 2, it must consult with victims individually,
20 listen to their struggles and listen to their
21 recommendations. Victims can provide enlightening
22 solutions to help others in similar circumstances.

23 It is not possible, in our respectful
24 submission, to make recommendations based on the
25 perspective of a group. Each individual victim has a

1 distinct perspective and the Commissioner, in our
2 respectful submission, must be open to consider them all.

3 As a result, it is our respectful submission
4 that Mr. Leroux can assist the Commission in fulfilling its
5 mandate and therefore meets the requirement for standing as
6 outlined in the Rules of Practices and Procedures for Part
7 2.

8 Alternatively, should the Commission not
9 grant Mr. Leroux standing, the Applicant submits that he
10 should be granted intervenor status pursuant to Rule 13.1
11 of the Rules of Civil Procedure, and which reads as
12 follows:

13 "A person who is not a party to a
14 proceeding may move for leave to
15 intervene as an added party if the
16 person claims:

17 (a) an interest in the subject matter
18 of the proceeding;

19 (b) that the person may be adversely
20 affected by a judgment in a proceeding;

21 or

22 (c) that there exists between the
23 person and one or more of the parties
24 to the proceeding a question of law or
25 facts in common with one or more of the

1 questions in issue of the proceeding.”

2 In the case of *Halpern v. Toronto*, Justice
3 Lang refers to the criteria in Rule 13.1 to determine
4 whether or not a moving party should be granted leave to
5 intervene as an added party. The test was cited by Master
6 Robert Beaudoin in *Canadian Blood Services v. Freeman* and
7 *Canadian Aids Society*. The test is as follows:

8 “(1) Does the proposed intervenor have
9 sufficient direct interest in this
10 Charter challenge judicial review?

11 (2) What useful contribution could the
12 proposed intervenor make to the
13 proceeding?

14 (3) If such an interest and useful
15 contribution are established, will the
16 intervenor’s involvement either
17 prejudice or delay the determination of
18 the rights of the parties in the
19 proceeding?

20 (4) Is any such prejudice or delay
21 counterbalanced by the useful
22 contribution of the proposed
23 intervenor?

24 (5) What terms or conditions might be
25 imposed on the intervention to ensure

1 that the goals are met of useful
2 contribution without undue delay or
3 prejudice?"

4 In determining whether or not a moving party
5 should be granted leave to intervene as an added party, the
6 moving party must only meet one of the criteria set out in
7 Rule 13.1, 1(a), (b) or (c).

8 Mr. Leroux submits that he meets the
9 requirement in Rule 13.1(1) as he has a direct interest in
10 the subject matter of the Inquiry and he can make a useful
11 contribution without causing delay or prejudice to any of
12 the parties.

13 In considering the useful contribution
14 criterion, a court must be satisfied that the intervention
15 is not a duplication of another party's evidence and that
16 the intervention is not requested to fulfill the lack of
17 resources of another party. Mr. Leroux's contributions
18 cannot be a duplication because they are actual, personal
19 and beyond public interest.

20 With his contribution, the Commission would
21 be able to make educated and informed recommendations. Mr.
22 Leroux does not wish to utilize the Inquiry as a public
23 arena or to share his torment with the public, but rather
24 share his tragic story to assist the Commissioner in
25 fulfilling his goal.

1 Now, with regards to particulars of standing
2 on page 13, Mr. Leroux submits that standing and funding
3 should include the following -- my apologies -- standing
4 should include the following:

5 a) Access to documents collected by the
6 Commission;

7 b) Advance notice of documents;

8 c) Advance provision of statements of
9 anticipated evidence; a seat at the counsel table, the
10 opportunity to suggest witnesses to be called by the
11 Commission counsel, the opportunity to cross-examine
12 witnesses on matters relevant to the basis upon which
13 standing was granted; an opportunity to review transcripts;
14 and lastly, the opportunity to make closing submissions.

15 The above particulars of standings are
16 consistent with those granted to parties with standing in
17 at least Part I of the Ipperwash Inquiry, as well as those
18 granted to those at standing at the Walkerton Inquiry.

19 Mr. Commissioner, I now turn to the issue of
20 consolidation.

21 Mr. Leroux understands that the Commission
22 wishes to avoid duplication and has encouraged joint
23 submissions for standing. Mr. Leroux was represented by
24 the Victims Group, as organized by the Ledroit law firm,
25 which was successfully granted standing and funding by this

1 honourable Commission.

2 In that particular case, the solicitor-
3 client relationship between Mr. Leroux and the Ledroit law
4 firm broke down such that it would be inappropriate for the
5 relationship to continue. As a result, Mr. Leroux
6 requested to be represented by other counsel.

7 It is respectfully submitted that Mr.
8 Leroux's right to representation and right to be heard be
9 respected in this forum. It is further submitted that Mr.
10 Leroux's interests, reputation and rights to be independent
11 from that group.

12 Mr. Leroux has an important contribution to
13 make to the Inquiry's investigation into the horrific
14 situation in Cornwall. He also has a unique perspective
15 that would be jeopardized if he was forced to work as part
16 of a coalition with the Victims Group.

17 Furthermore, Mr. Leroux was granted standing
18 and funding as part of the Victims Group. The mere fact
19 that Mr. Leroux requested to be represented by other
20 counsel does not alter his status. In my respectful
21 submission, to now revoke Mr. Leroux's status of having
22 funding and standing would be punitive and prejudicial for
23 one simple reason. There has been no other victim to date
24 that has had their funding and standing revoked.

25 I now turn to the issue of funding. The

1 Rules of Practice and Procedure provide that the
2 Commissioner may make recommendations to the Attorney
3 General regarding funding to the parties who have been
4 granted standing, to the extent of the party's interests
5 where, in the Commissioner's view, the party would not be
6 otherwise able to participate in the Inquiry without
7 funding. The Notice of Hearing provides:

8 "An application for funding should
9 provide: A statement of how the
10 applicant satisfies the criteria for
11 funding set out in the Rules of
12 Practice and Procedure; a description
13 of the purposes for which this..."

14 **THE COMMISSIONER:**

15 "...and demonstrating why an
16 applicant would not otherwise be able
17 to participate without such funding."

18 **MR. CHAND:** Yes.

19 **THE COMMISSIONER:** Okay, so do we have a
20 financial statement?

21 **MR. CHAND:** In this particular case we do
22 not have financial information, Mr. Commissioner.

23 **THE COMMISSIONER:** So how am I going to be
24 able to decide that then?

25 **MR. CHAND:** That's something we can

1 definitely provide to the Commission in a few days from
2 now, but at this particular time we do not have an
3 affidavit.

4 **THE COMMISSIONER:** Today is the day.

5 **MR. CHAND:** Well, in this particular case,
6 Mr. Commissioner, I do not have an affidavit outlining Mr.
7 Leroux's financial circumstances.

8 **THE COMMISSIONER:** M'hm.

9 **MR. CHAND:** Secondly:

10 "A description of the purposes for
11 which the funds are required; a
12 statement of the extent to which the
13 application will [continue] contribute
14 its own funds and personnel to
15 participate in the Inquiry; and the
16 name, address and telephone number and
17 the position of the individual who will
18 be responsible for administrating the
19 funds."

20 Mr. Leroux would be precluded from
21 participating in the Inquiry without funding. Mr. Leroux
22 does not have any financial resources of his own and cannot
23 participate effectively in the Inquiry without funding.
24 Without the requisite funding, Mr. Leroux would not be able
25 to otherwise participate in the Cornwall Inquiry.

1 Mr. Leroux recognizes that the Inquiry will
2 be a lengthy and expensive process and respectfully submits
3 that his participation is mandatory and funding is
4 essential.

5 Furthermore, Mr. Leroux has the potential
6 for civil and administrative remedies and is concerned that
7 these remedies may be impacted by his participation at the
8 Inquiry.

9 Therefore, it is our respectful submission
10 that fair participation at the Inquiry requires access to
11 legal counsel.

12 I now turn to the purposes for funds and
13 disbursement of funds. Legal Fees and Disbursements. Mr.
14 Leroux will be represented by Harrison Pensa and Lang
15 Michener. Due to the length of and complexities expected
16 from the inquiry, there will be three counsel working on
17 this file. These include Dave Williams, Lou Crowley from
18 Harrison Pensa and myself from Lang Michener.

19 However, counsel fees for only one counsel
20 are being requested and it's unlikely that more than one
21 lawyer will be present during the hearing on a day-to-day
22 basis.

23 The participation of these counsel would be
24 as follows: Senior Counsel, Dave Williams and Lou Crowley
25 in a supervisory and advisory capacity for approximately

1 100 hours; junior counsel, myself, as a primary legal
2 counsel in attendance for approximately 1,500 hours.

3 Therefore, funding for participation in the
4 Cornwall Inquiry would be based on the approximation of
5 1,600 hours required by counsel to represent the applicant
6 at the Inquiry.

7 It is respectfully submitted that Mr. Leroux
8 be afforded, as a party to the Cornwall Public Inquiry, the
9 funding resources including all reasonable expenses
10 incurred and fees and expenses for its legal counsel and
11 assistant to ensure its full effective participation during
12 the duration of the Inquiry including the necessary
13 research, preparation, documentary review, expert
14 retention, attendance and participation in all hearing and
15 other activities at the Inquiry commencing the date the
16 Inquiry was effectively commissioned.

17 However, that should be amended to reflect
18 March 17, 2007, the date that Harrison Pensa was retained.

19 Now, Mr. Leroux's disbursements. Mr.
20 Leroux will require disbursements for routine
21 administrative needs such as photocopying, meeting costs,
22 printing, et cetera. It is not expected that these
23 disbursements will be significant.

24 With respect to travel, accommodation ---

25 **THE COMMISSIONER:** What do you mean by

1 meeting costs?

2 **MR. CHAND:** Well, there may be the time that
3 Mr. Leroux might have to meet with his counsel in either
4 London or in Ottawa.

5 **THE COMMISSIONER:** Do you think that we fund
6 that?

7 **MR. CHAND:** This is our proposal, Mr.
8 Commissioner. This is just something that we are
9 mentioning at this point. This might be something that Mr.
10 Leroux might have to consult with his counsel either in
11 Ottawa or in London. So we're just mentioning that at this
12 point.

13 **THE COMMISSIONER:** I know, but this isn't --
14 you know, we're going to hear from Mr. Chisholm and he was
15 under the impression or his lawyer was under the impression
16 that parties got paid.

17 We're not in the business of paying parties
18 to come here to attend. We pay their lawyers, but we don't
19 pay the parties and I don't know that we pay
20 transportation fees for clients to go see their lawyers.

21 **MR. CHAND:** Well, I think that in this
22 particular case Mr. Leroux is in a somewhat unique
23 situation. I mean, our law firm was retained as agent for
24 the law firm of Harrison Pensa.

25 **THE COMMISSIONER:** M'hm.

1 **MR. CHAND:** So his counsel live in the City
2 of London, so it does create some difficulties on the part
3 of Mr. Leroux from getting proper legal advice.

4 It is our submission that there may be some
5 travel on the part of Mr. Leroux. I do understand the
6 funding issue is for lawyers to attend on Mr. Leroux's
7 behalf, but I'm mentioning at this point that there are
8 some difficulties because his counsel do live in other
9 areas.

10 **THE COMMISSIONER:** M'hm.

11 **MR. CHAND:** Okay.

12 **THE COMMISSIONER:** Okay. I wouldn't hold
13 your breath on that one but ---

14 **MR. CHAND:** With respect to expenses such as
15 travel, accommodation, attendance and administration at the
16 hearings, Mr. Leroux submits that consideration be given to
17 the fact that his counsel of choice is located in London.
18 Mr. Leroux seeks retroactive funding for payment of the
19 legal and related expenses associated with coordinating and
20 organizing ---

21 **THE COMMISSIONER:** The victims, now what
22 does that mean? Organizing and coordinating the victims.

23 **MR. CHAND:** It should be the victim.

24 **THE COMMISSIONER:** Well, what have you done
25 to coordinate and organize the victim? It doesn't make

1 sense to me.

2 MR. CHAND: Well, I mean, it -- we've -- in
3 the sense that we've now prepared Mr. Leroux for his
4 evidence here at the Inquiry, we've consulted with him. So
5 that's what I mean by the organization of the victim.

6 THE COMMISSIONER: Ah, okay.

7 MR. CHAND: Now turning to the next issue of
8 Mr. Leroux not in a position to contribute substantial
9 funds for the purpose of the Inquiry.

10 MR. COMMISSIONER: M'hm.

11 MR. CHAND: It is our respectful submission
12 that Mr. Leroux is not in a position to contribute
13 substantial funds for the purposes of this Inquiry.

14 THE COMMISSIONER: M'hm.

15 MR. CHAND: Lastly, I just want to turn to
16 the administration of funds.

17 THE COMMISSIONER: I don't need to hear from
18 you on that matter.

19 MR. CHAND: All right. Fair enough.

20 Mr. Commissioner, that concludes my
21 submissions on the issue of funding and standing for Mr.
22 Leroux.

23 THE COMMISSIONER: Thank you.

24 MR. CHAND: Thank you.

25 THE COMMISSIONER: Now we'll hear from the

1 parties, see if they have any comments with respect to the
2 application.

3 Mr. Manson.

4 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MANSON:

5 MR. MANSON: Mr. Commissioner, we're a bit
6 surprised that this application is still alive given the
7 earlier application, but since you haven't ruled on that
8 yet I'll make my comments.

9 First, I would echo the suggestion that you
10 made, Mr. Commissioner, that I have some difficulty
11 understanding how further participation as a party is going
12 to be possible given the circumstances of Mr. Leroux as
13 explained in the two psychologists' reports that are in
14 front of you.

15 Having said that, I think it's important to
16 go back to Associate Chief Justice O'Connor's ruling in
17 Arar where at page 7 he says:

18 "Merely being a witness does not
19 itself constitute a substantial and
20 direct interest."

21 I think it's clear that Mr. Leroux had
22 information that was important to your mandate. We've
23 pursued that. That's not the same thing as standing.
24 That's not the same thing as being a participant in the
25 rest of the Inquiry, both Phase I and Phase II.

1 Reputation, I suppose every witness who
2 takes an oath or affirms is putting their credibility in
3 issue and, again, I go back to Associate Chief Justice
4 O'Connor saying being a witness is not the same thing as
5 making out a claim of substantial and direct interest.

6 I was particularly concerned about Mr.
7 Chand's remark that to deny the application would be to be
8 revoking a ruling that you had already made. I take it he
9 was referring to the grant of standing to the Victim's
10 Group and I quickly, while I was sitting, went back to that
11 ruling. It was an application brought on behalf of a group
12 that consisted at the time of 48 individuals. In your
13 ruling, Mr. Commissioner, you were quite clear to point out
14 that of course this was not the whole universe of victims
15 but this was a group that represented an interest that you
16 recognized as being substantial and direct.

17 It seems to me that in that ruling you
18 weren't giving 48 people standing as represented by Mr.
19 Lee. You were giving a group with a common interest
20 standing. If someone who drops out of that group seeks to
21 come forward and say "Ah-ha, I'm back" they have to make
22 their claim afresh. The fact that the victims, that they
23 were actually part of the Victim's Group, it seems to me,
24 is totally irrelevant and it was a auspicious argument to
25 make.

1 With respect to the duplication issue, Mr.
2 Chand said that Mr. Leroux has "actual and personal
3 interest beyond the public interest". He asserted that.
4 I've looked through the material. I don't see it. It's
5 our position that notwithstanding the substantial effort on
6 the part of Mr. Chand that there has been a failure to make
7 out a substantial and direct interest at this point, if,
8 Mr. Commissioner, there is some concern about confrontation
9 between Mr. Leroux's testimony as it has already -- to the
10 extent it's been given and testimony that may come in the
11 future, my sense is that controversy will be with respect
12 to the next few witnesses and limited only to that and
13 perhaps, Mr. Chand would put his mind to whether he's
14 actually seeking limited standing, similar to what was
15 granted to Mr. van Diepen. I'm not sure if I've got that
16 name correct, but ---

17 **THE COMMISSIONER:** M'hm.

18 **MR. MANSON:** --- but beyond -- we certainly
19 don't see the two being in a similar position, because Mr.
20 van Diepen is part of a public institution. But aside from
21 that, there may be some merit to that kind of application
22 which would cover the next few weeks. But if this
23 continues to be an application for full standing, it's our
24 position that it hasn't been made out, Mr. Commissioner.

25 **THE COMMISSIONER:** Thank you.

1 Mr. Lee? I guess you're not -- where is Mr.
2 Lee? There you go.

3 **MR. LEE:** Your Honour, the Victims Group
4 takes no position on this application.

5 **THE COMMISSIONER:** Thank you.

6 Mr. Bennett?

7 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. BENNETT:

8

9 **MR. BENNETT:** Mr. Commissioner, we don't
10 take a position on the application per se, but I would like
11 to say we share your concerns. I was up here previously
12 this morning supporting the application not to continue as
13 a witness based on some letters we had from some medical
14 people, but we would have no evidence on what the effects
15 might be to participate another and not -- as you addressed
16 and would we share that concern. And that should maybe be
17 addressed, before -- if you're looking at granting
18 standing.

19 **THE COMMISSIONER:** Thank you.

20 Mr. Chisholm?

21 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. CHISHOLM:

22 **MR. CHISHOLM:** Good afternoon, sir.

23 My client takes no position with respect to
24 the application for standing and funding.

25 Two points though. In listening to Mr.

1 Chand's submissions, one would be whether the rules of
2 civil procedure have application at this Public Inquiry.
3 It would be my view that they do not.

4 With respect to the second point that Mr. --
5 the second point I'd want to address, Mr. Chand spoke of
6 the fact that Mr. Leroux has already been granted standing
7 and funding. I would submit that was as part of a group
8 and the fact that he is here again as an individual, as a
9 different ball game. If that group had 50 people in it and
10 they were to leave that group and each of them come back
11 with 50 separate applications for standing and funding,
12 that would, I submit, present a logistical problem for the
13 Commission.

14 So I don't think that it's fair to be said
15 that he's already been granted standing and funding once.
16 That was as part of a group and not as an individual.

17 Thank you, sir, those are my submissions.

18 **THE COMMISSIONER:** Thank you.

19 Mr. Neuberger?

20 **MR. NEUBERGER:** Good afternoon, Mr.
21 Commissioner.

22 **THE COMMISSIONER:** Good afternoon, sir.

23 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. NEUBERGER:**

24 **MR. NEUBERGER:** I'm very brief, a little
25 repetitive, I apologize.

1 We're opposing the application and much of
2 what I have to say has been already mentioned by yourself
3 in your comments but if I can just say this.

4 Evidence thus far of alleged victims, their
5 personal experiences, views and recommendations have played
6 a very important and integral role in this Inquiry. That's
7 why many have come forward, bravely, to give evidence under
8 oath at this Inquiry.

9 We have no doubt that Mr. Leroux's
10 experience and evidence has been valuable. The difficulty
11 though in transitioning Mr. Leroux from a witness to a
12 party with standing has been identified by yourself, Mr.
13 Commissioner, particularly when we look at the medical
14 evidence which has been filed, and I'm not going to quote
15 from it, but one of the documents -- I believe it's M8-C-6,
16 page 5, at the top there's a paragraph which if you want to
17 peruse it at some point it talks about certain aspects.

18 When we look at that along with the factors
19 which are set out at page 9 of my friend's application,
20 particularly paragraphs 16, 17, 18 and 19 -- 19 you had
21 already mentioned ---

22 **THE COMMISSIONER:** Yes.

23 **MR. NEUBERGER:** --- in my respectful opinion
24 believe that the actual role is undermined by some of the
25 medical evidence. And I do believe there are concerns with

1 respect to actually -- not only instructions, but really
2 where -- is the true value coming from the individual
3 himself. It's the incongruency I think which stands out in
4 my mind the most.

5 With respect to the issue of trauma and
6 further harm which again you had mentioned, again, the
7 medical evidence seems to suggest a considerable amount of
8 difficulty which has been caused by recounting events. Not
9 just simply the actual facing cross-examination but by
10 recounting it, in and of itself, and having access to
11 material and having to be intimately involved with
12 providing instructions, which means you have to know what
13 you're dealing with. I can only -- I can draw no
14 distinction through one type of exposure versus another.

15 **THE COMMISSIONER:** M'hm.

16 **MR. NEUBERGER:** Lastly, just comments about
17 reputational interest. I agree with Mr. Manson that when
18 there are particular comments, a witness can be provided
19 limited standing to deal with those although overall we're
20 dealing with not the merits of these allegations as has
21 been mentioned many times, we're dealing with the
22 institutional response. So our focus is really is on what,
23 was the evidence and then how has the institution responded
24 to it. So reputational evidence of certain witnesses,
25 unless it somehow forms a particular link in that factual

1 scenario that we need to weigh the institutional evidence,
2 I don't see how that's relevant.

3 Those are my only comments. Thank you very
4 much.

5 **THE COMMISSIONER:** Thank you, sir.

6 Mr. Scharbach?

7 **MR. SCHARBACH:** Mr. Commissioner, any
8 recommendation that you may decide to make concerning
9 standing would go to the Attorney General.

10 The Attorney General is obviously also a
11 party to this proceeding, so in the circumstances we'll
12 declaim to take a position on this.

13 Thank you.

14 **THE COMMISSIONER:** Thank you.

15 Ms. Robitaille?

16 **MS. ROBITAILLE:** No comments.

17 **THE COMMISSIONER:** Thank you.

18 Mr. Sherriff-Scott?

19 **MR. SHERRIFF-SCOTT:** Good afternoon, sir.

20 **THE COMMISSIONER:** Yes, sir.

21 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. SHERRIFF-SCOTT:

22 **MR. SHERRIFF-SCOTT:** I have four points and
23 they are very short.

24 First, I adopt my friend Mr. Manson's
25 submissions in the whole in opposing the application.

1 Second, should you choose to grant any
2 standing, I submit you should not grant full standing. And
3 here I distinguish between personal interests and
4 institutional interests.

5 How does Mr. Leroux have an interest in the
6 community or institutional structural response, distinctive
7 from the Victims Group, say, of 50 people?

8 I submit there is no evidence before you to
9 justify such a distinctive point of view or distinctive
10 information. The answer, I submit, is there isn't one and
11 absent an explanation as to how that would be distinctive
12 and valuable apart from two interest groups that already
13 exist. One representing the community at large and global
14 interests, others representing an amalgam of various points
15 of view of 50 people. Absent evidence on that, I would
16 submit there's no basis for a full standing application
17 touching on the institutional structures and responses.

18 Third, I would say this. Should you choose
19 to grant any standing, for two reasons I would make this
20 submission with respect to the nuts and bolts of access to
21 materials.

22 The witness has demonstrated what I would
23 consider to be an extraordinary licence with the truth and
24 that, together with the medical evidence that we have,
25 demonstrates in my submission that the witness should not

1 have access to the database or transcripts et cetera. And
2 that should you grant any standing, such standing should be
3 restricted to a type of what we call in the civil procedure
4 world, or used to call, a *Reichmann* order, where counsel
5 only gets access and if a demonstrated need for the witness
6 to see it is present, then such access can be given.

7 And fourth and finally, should you choose to
8 give any standing whatsoever, I would submit that you limit
9 it to very specific and direct interests and that all
10 levels of participation be so limited, such as cross-
11 examination, submissions, right to be heard, et cetera.
12 Anything only, and only, touching on the individual
13 personal interests, which is all that is contended for
14 here, as being at stake.

15 Thank you, sir.

16 **THE COMMISSIONER:** Thank you.

17 Mr. Manderville?

18 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. MANDERVILLE:**

19 **MR. MANDERVILLE:** Mr. Commissioner, I would
20 echo Mr. Manson's comments and those of Mr. Sherriff-Scott,
21 and we would oppose the application, certainly in its
22 present form.

23 **THE COMMISSIONER:** Thank you.

24 Mr. Kozloff?

25 **MR. KOZLOFF:** I have nothing to add.

1 **THE COMMISSIONER:** Thank you.

2 Mr. Carroll?

3 **MR. CARROLL:** Nothing, thank you, sir.

4 **THE COMMISSIONER:** Thank you.

5 Mr. Engelmann?

6 **(A SHORT PAUSE/CAUSE PAUSE)**

7 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. ENGELMANN:**

8 **MR. ENGELMANN:** I just have a couple of
9 comments, sir, for clarification.

10 I'm not taking a formal position on the
11 motion.

12 **THE COMMISSIONER:** No.

13 **MR. ENGELMANN:** But I'm going to express
14 some concerns about a couple of points that were made.

15 There was a concern about civil remedies
16 being impacted, I believe, or administrative and civil
17 remedies. I think that's fully addressed by paragraph
18 seven of the Order in Council. Section 9 of the *Public*
19 *Inquiries Act* also deals with this ---

20 **THE COMMISSIONER:** M'hm.

21 **MR. ENGELMANN:** --- the fact that the
22 evidence from this forum cannot be used somewhere else.

23 So I just wanted to point those two out and
24 of course Mr. Chisholm is correct. It's not the Rules of
25 Civil Procedure that govern, it's the *Public Inquiries Act*;

1 it's the Order in Council and our own rules which will
2 govern your decision here and, of course, the guiding
3 principles that were set out in your initial decision back
4 in November of 2005.

5 There were some other comments I wished to
6 make but I think they've been made about whether or not Mr.
7 Leroux has been granted standing before.

8 I just want to clarify one point, and I'm
9 not sure I understood it, so just so we're clear. It's the
10 role of Commission counsel, and there was some
11 representation about Commission counsel dictating the role
12 of counsel for Mr. Leroux, or words to that effect.

13 As you can imagine, Commission counsel have
14 a lot to do in this case and one of the things that we have
15 to do is try and represent the public interest. We do not
16 now, nor ever have, nor ever will, dictate to any counsel
17 how they represent their client before this Inquiry. We
18 certainly can make suggestions from time-to-time but that
19 relationship is between counsel and their witnesses. So if
20 there is a suggestion that we're dictating the role that
21 counsel have with their clients, I would take issue with
22 that. That is certainly not our role and never has been,
23 never will be.

24 So other than that those are my very brief
25 submissions.

1 **THE COMMISSIONER:** Thank you.

2 Last comments, Mr. Chand?

3 **--- REPLY BY/RÉPLIQUE PAR MR. PRADEEP CHAND:**

4 **MR. CHAND:** Mr. Commissioner, the only
5 remark that I will make in respect of -- is in respect of
6 consolidation and whether or not our application for
7 standing and funding will sort of open the floodgates and
8 basically set a set of precedents.

9 The only thing I will say to that is that
10 each victim represents a very unique and personal
11 perspective and if any other victim were to come forward
12 and seek an application for standing and funding, that
13 would have to be obviously made on a case-by-case basis,
14 and it must be evaluated on the criteria that I spoke of;
15 that is, the test -- the relevant test that must be adhered
16 to.

17 That's the only remark that I'd like to
18 make. Thank you.

19 **THE COMMISSIONER:** Thank you.

20 All right. So we'll take the afternoon
21 break and we'll come back and hear the other application.

22 Thank you.

23 **THE REGISTRAR:** Order; all rise. À l'ordre;
24 veuillez vous lever.

25 The hearing will resume at 3:35.

1 --- Upon recessing at 3:17 p.m. /

2 L'audience est suspendue à 15h17

3 --- Upon resuming at 3:44 p.m. /

4 L'audience est reprise à 15h44

5 **THE REGISTRAR:** Order; all rise. À l'ordre;
6 veuillez vous lever.

7 --- **RULING BY THE COMMISSIONER/DÉCISION PAR LE COMMISSAIRE:**

8 **THE COMMISSIONER:** Thank you.

9 Before we go any further on the next motion,
10 I want to -- given that depending on how I ruled on Mr.
11 Leroux's motions he would have to take the stand. So I
12 think it's important that I at least advise you where I'm
13 going with this.

14 So for reasons that will be given later, Mr.
15 Leroux will be excused from giving further testimony.

16 With respect to his application for standing
17 that, for reasons to be given, will be declined.

18 For reasons to be given, his application to
19 have legal representation continue on this Inquiry will be
20 declined.

21 What I will be doing, though, will be
22 giving, for obvious reasons which I will declare as
23 extraordinary, I will be making recommendations to the
24 Attorney General so that fees incurred as a result of my
25 asking for a second medical opinion and his representation

1 in that regard, together with the motion up to and
2 including the motion here, there will be recommendations
3 made with respect to payment of attendance fees and
4 disbursements, that will go. So that will be coming
5 shortly.

6 Thank you.

7 Mr. Engelmann.

8 **MR. ENGELMANN:** Sir, that leaves us with Mr.
9 Horn's motion for standing and funding.

10 **THE COMMISSIONER:** Yes.

11 **MR. ENGELMANN:** And I just wanted to make
12 sure I've got all of the materials.

13 **THE COMMISSIONER:** Okay, can ---

14 **MR. ENGELMANN:** I'll just be a minute, sir.

15 **THE COMMISSIONER:** I'm just trying to ---

16 **MR. ENGELMANN:** Mr. Horn, I'll just be a
17 minute.

18 **THE COMMISSIONER:** Yes, and what do you
19 have?

20 All right. Okay.

21 **MR. ENGELMANN:** I think we ---

22 **THE COMMISSIONER:** Okay. Well, let's go
23 through -- 631a is the first notice of application for
24 standing and funding.

25 **MR. ENGELMANN:** Yes, that's the one dated

1 the 24th of August, 2007. So if that could be 631a?

2 **THE COMMISSIONER:** Yes.

3 --- **EXHIBIT NO./PIÈCE NO. P-631a:**

4 Application for Standing and Funding by
5 Carson Chisholm dated 24 Aug 07

6 **THE COMMISSIONER:** P-631b would be another
7 notice of application for standing and funding and that
8 looks like -- let's see now. Do we have a date on that?

9 September 10, '07 is what's written at the
10 back of that.

11 --- **EXHIBIT NO./PIÈCE NO. P-631b:**

12 Application for Standing and Funding by
13 Carson Chisholm dated 10 Sep 07

14 **THE COMMISSIONER:** And then there is an
15 affidavit of Carson Chisholm, 631c, all right?

16 **MR. ENGELMANN:** Yes, and that particular
17 affidavit I know Mr. Horn wants to speak to.

18 **THE COMMISSIONER:** M'hm.

19 **MR. ENGELMANN:** It should be marked as a "C"
20 exhibit.

21 **THE COMMISSIONER:** It pertains to financial
22 matters.

23 **MR. ENGELMANN:** Yes, confidential financial
24 matters.

25 **THE COMMISSIONER:** Right.

1 **MR. ENGELMANN:** So I think it meets the
2 test, sir. Mr. Horn wants to speak to its distribution to
3 counsel for parties with standing.

4 **THE COMMISSIONER:** All right. M'hm.

5 **MR. ENGELMANN:** So I'm going to let him
6 speak to that. I have indicated to him that how these
7 things normally work with confidential exhibits is that
8 those exhibits are given to parties with standing.

9 **THE COMMISSIONER:** M'hm.

10 **MR. ENGELMANN:** But he wants to speak to
11 that issue and make a submission to you that it should not
12 be given to counsel for parties with standing.

13 I believe as well, sir, there was an
14 affidavit of John Clearly.

15 **THE COMMISSIONER:** Yes.

16 **MR. ENGELMANN:** I'm not sure if Mr. Horn
17 still wishes to rely upon it, but it's an affidavit, I
18 believe that's dated ---

19 **THE COMMISSIONER:** Hold it.

20 **MR. ENGELMANN:** --- August 29th and ---

21 **THE COMMISSIONER:** Okay, Madam Clerk, you've
22 got two of these.

23 **MR. ENGELMANN:** Yes. So perhaps that could
24 be ---

25 **THE COMMISSIONER:** Hang on a sec. I'm

1 sorry, just a sec. Can we just take a minute?

2 **(A SHORT PAUSE/COURTE PAUSE)**

3 **THE COMMISSIONER:** Okay, I've got it.

4 All right. So we've got Mr. Cleary's
5 affidavit is 631c. We've got 631d is the affidavit with
6 the financial information in it.

7 All right.

8 **MR. ENGELMANN:** All right.

9 So "c" is affidavit of John Cleary?

10 **THE COMMISSIONER:** Yes.

11 **--- EXHIBIT NO./PIÈCE NO. P-631c:**

12 Affidavit of John Cleary and list of
13 Coalition members dated 29 Aug 07

14 **MR. ENGELMANN:** So "d" would be the
15 affidavit of Carson Chisholm?

16 **THE COMMISSIONER:** That's right.

17 **MR. ENGELMANN:** But will be marked with a
18 "C" so it's C-631d; if I can call it that?

19 **THE COMMISSIONER:** Yes.

20 **--- EXHIBIT NO./PIÈCE NO. C-631d:**

21 Affidavit of Carson Chisholm with financial
22 statements

23 **MR. ENGELMANN:** And, sir, with respect to
24 631b, there are a number of affidavits attached and they
25 all have the same caption "Affidavit of Member of the

1 Coalition for Action".

2 THE COMMISSIONER: M'hm.

3 MR. ENGELMANN: Do you see that, sir?

4 THE COMMISSIONER: Yes.

5 MR. ENGELMANN: And there is one of them
6 which is signed by a Mr. Steven Parisien.

7 THE COMMISSIONER: M'hm.

8 MR. ENGELMANN: Which I've spoken to both
9 Mr. Horn and Mr. Lee and that one should be removed from
10 the package.

11 THE COMMISSIONER: Why is that?

12 MR. ENGELMANN: He is a member of the
13 Victims Group, sir.

14 THE COMMISSIONER: Can you not be a member
15 of the Victims Group and of the Coalition?

16 MR. ENGELMANN: Well, I think counsel are
17 fine in pulling it out. I suppose one could be.

18 THE COMMISSIONER: No, but what I'm saying -
19 - you're right, not for this Inquiry in the sense that
20 you're with one or the other, but there is nothing that
21 prevents anyone from being a member of the CCR and the
22 Victims Group for purposes of meetings and that kind of
23 stuff?

24 MR. ENGELMANN: Yes.

25 THE COMMISSIONER: Okay.

1 **MR. ENGELMANN:** I think for the purposes of
2 an application for standing and funding they are of the
3 view that that one should be taken out.

4 **THE COMMISSIONER:** So Mr. Parisien's?

5 **MR. ENGELMANN:** Yes.

6 **THE COMMISSIONER:** It's on consent.

7 **MR. ENGELMANN:** Parisien, yes.

8 **THE COMMISSIONER:** That's what I said,
9 Parisien.

10 **MR. ENGELMANN:** Yes.

11 **HE COMMISSIONER:** Okay.

12 **MR. ENGELMANN:** Okay?

13 **THE COMMISSIONER:** Yes.

14 **MR. ENGELMANN:** So I'll turn it over to Mr.
15 Horn.

16 **Mr. HORN:** I have also, just since I came
17 here, have -- one, two, three, four, five, six new
18 affidavits of people that couldn't be there on Friday. So
19 they came here and signed it.

20 **THE COMMISSIONER:** Sure.

21 **MR. HORN:** So I've got a number of other
22 affidavits that were signed by individuals ---

23 **THE COMMISSIONER:** Mr. Engelmann, you might
24 want to look at those and see if those individuals are
25 controversial or ---

1 **MR. ENGELMANN:** I'll have a look. I'm just
2 wondering if Mr. Horn has any copies for the Inquiry.

3 **MR. HORN:** No, I just got those. They just
4 signed them just now. And as I was here ---

5 **THE COMMISSIONER:** Mr. Horn -- yes, I know.
6 Mr. Horn ---

7 **MR. HORN:** Yes. The unique nature of Mr.
8 Carson Chisholm's application is -- should be noted. First
9 of all, in these kinds of movements or rousing the
10 grassroots to do something, it usually centres around some
11 forceful individual who ---

12 **THE COMMISSIONER:** No -- sorry to interrupt
13 you, Mr. Horn. We're talking about, now, just the
14 affidavit, as to whether or not it should be distributed to
15 the other parties.

16 **MR. HORN:** Okay, that issue?

17 **THE COMMISSIONER:** Yes.

18 **MR. HORN:** All right. The problem is that
19 Mr. Chisholm has given his affidavit and it was always
20 understood that it would not become public ---

21 **THE COMMISSIONER:** Who said that?

22 **MR. HORN:** Pardon?

23 No, I understand, but knowing the feelings
24 that Mr. Chisholm has, once it goes into let's say 15 or 20
25 people's hands ---

1 **THE COMMISSIONER:** Yes.

2 **MR. HORN:** --- he is afraid that it will
3 somehow get into the hands of someone else who is not --
4 hasn't got the same regulations and rules of
5 confidentiality and it could wind up getting out there
6 somehow. That's what he's afraid of.

7 **THE COMMISSIONER:** Yes, I know, but Mr.
8 Horn, let's get a couple of things straight here. All
9 right?

10 This is an Inquiry.

11 **MR. HORN:** Yes.

12 **THE COMMISSIONER:** We have gone to great
13 lengths to put things together. The lawyers have signed
14 some very stringent confidentiality agreements. Their
15 clients have signed -- and they've limited the number of
16 people from their groups that can see the documents so --
17 and to date, I have yet to hear -- and, I can tell you
18 there have been some very, very confidential documents
19 given to lawyers. So I don't know that there's much more
20 that I can do and so your client is asking for funding.

21 **MR. HORN:** Yes.

22 **THE COMMISSIONER:** All right.

23 I guess it's something like going on a
24 plane. They say, "You don't have to be searched but if you
25 don't want to be searched, you can't get on the plane".

1 And so all I'm saying to you, it's the same thing of
2 saying, well, if you don't want any money, but if you want
3 public funds, do you not think that the public -- not the
4 public, I mean, the parties have a right to make
5 submissions on that issue?

6 **MR. HORN:** Well, he's not concerned about
7 your seeing his financial statement ---

8 **THE COMMISSIONER:** M'hm.

9 **MR. HORN:** --- it's just that he has been in
10 an adversarial position with a lot of the parties for many,
11 many years, particularly the police departments and the
12 other agencies that he has been involved with for so many
13 years, and he just is very distrustful.

14 **MR. CHISHOLM:** (Off mic).

15 **THE COMMISSIONER:** All right.

16 **MR. HORN:** Okay.

17 **Mr. CHISHOLM:** (off mic).

18 **MR. HORN:** So long as it doesn't get out to
19 the public.

20 **THE COMMISSIONER:** All right, so then from
21 what I understand Mr. Chisholm saying, given the fact that
22 we have the strict undertakings, given the fact that we
23 have two years of experience with these undertakings and I
24 don't see, really, why anybody would want to leak this out
25 from the parties, all right, he's prepared to have the

1 parties see it?

2 **MR. HORN:** That's right, okay. Yes.

3 **THE COMMISSIONER:** All right. So can we
4 distribute it to the parties, please?

5 **MR. HORN:** Okay.

6 **THE COMMISSIONER:** Hold on, hold on a
7 second. Do we have copies here today?

8 **MR. HORN:** Yes.

9 **THE COMMISSIONER:** Can we get that done?

10 **MR. ENGELMANN:** Sir, I've also explained to
11 Mr. Horn that if he needs to get into this, there is an
12 application he could make to have part of this done in
13 camera if it was necessary.

14 **THE COMMISSIONER:** M'hm.

15 **MR. ENGELMANN:** But, in any event, I'll just
16 pass these out.

17 **THE COMMISSIONER:** Okay.

18 Yes, sir?

19 **MR. HORN:** Yes, that would be our
20 application that it be done in camera. That it be done --
21 because of the -- it could be misinterpreted. The figures
22 could be ---

23 **THE COMMISSIONER:** Well, first of all -- no-
24 no, no-no. First of all, no, no, no, no, no.

25 First of all, the issue of funding is near

1 the end of the application anyway.

2 MR. HORN: Okay.

3 THE COMMISSIONER: So what we try to do is
4 keep everything in camera -- not in camera, in the public
5 so that we know.

6 Mr. Chisholm, just relax.

7 MR. CHISHOLM: Okay.

8 THE COMMISSIONER: Relax.

9 MR. CHISHOLM: I have no problem with it,
10 that's all.

11 THE COMMISSIONER: Pardon me?

12 Mr. CHISHOLM: It was a misunderstanding.

13 THE COMMISSIONER: Yes.

14 MR. CHISHOLM: (Off mic) ...I have no problem
15 (off mic).

16 THE COMMISSIONER: No, no. Right.

17 Trust me, we're going to get through all of
18 this just fine. Right now, the funding issue is at the end
19 of the argument, and so let's talk about standing to start
20 off with, and then we'll see where we go.

21 MR. HORN: Okay ---

22 THE COMMISSIONER: And I can tell you that
23 in my -- unless somebody says anything otherwise, I think
24 the issue of funding can also be dealt with in a public
25 forum without mentioning any figures.

1 MR. HORN: Okay.

2 THE COMMISSIONER: All right? Thank you.

3 --- APPLICATION FOR STANDING AND FUNDING FOR MR. CARSON
4 CHISHOLM PRESENTED BY/DEMANDE DE PARTICIPATION ET DE
5 FINANCEMENT POUR MR. CARSON CHISHOLM PRÉSENTÉE PAR MR.
6 FRANK T. HORN:

7 MR. HORN: Yes.

8 Okay, first of all, as I was beginning, the
9 unique nature of what occurred 15 years ago and during that
10 period of time since then in which one individual, a
11 forceful individual like Mr. Chisholm, seemed to be the
12 focus of a lot of the pressure of the institutions to
13 prevent divulging of information and cooperation in order
14 to have this -- the investigation to be done and, as a
15 result, it's very difficult for this individual during this
16 period of time in which he was going forth and he was
17 basically rousing the troops, going out into the community,
18 getting people who agreed with his position and then going
19 out and basically forcing the institutions to do something
20 that they didn't want to do because the public became
21 aroused. And he was the one that really did it more than
22 anybody because he was the one that held the meetings. He
23 was the one that just kept the troops going and making sure
24 that they never gave up and they never lost heart.

25 So as a result of that, he garnered a lot of

1 insight, a lot of -- he had a lot of encounters with the
2 institutions that are involved in this Inquiry. He had
3 countless meetings with them and also he was in essence
4 going out and doing their job.

5 Since they weren't going to do their job of
6 investigating these allegations that were there, he went
7 out and did some of his own investigations and in
8 particular the one that really stands out is when he made
9 the trip down to Florida and saw the motel where,
10 allegedly, there was some things going on that were
11 inappropriate and he went out there. He did it himself, on
12 his own and he felt that he had to gather evidence. He had
13 to gather information so that this information could be
14 used in order to force the institutions to do something
15 that they didn't want to do. So he was really doing what
16 he felt had to be done.

17 Now, the Public Inquiry has been set up to
18 deal with the problem where this kind of allegation comes
19 in to the -- to two the institutions and they don't do
20 anything about it. Well, he's somebody who did something
21 about it. He went out and got evidence, he rallied the
22 troops, he got the public interested.

23 He supported bills before the legislature.
24 He did all of the things that were instrumental in getting
25 this Inquiry started.

1 He was the main person who did it and he had
2 some loyal people that were with him during this whole
3 time. And that's what we are talking about now is the
4 coalition are -- these are the people that have been with
5 him through thick and thin forcing the institutions to have
6 to face this Public Inquiry and answer a lot of questions
7 as to why something was not done in the past about the
8 sexual abuse that was going on in the Cornwall area.

9 And it was only because of what he did, but
10 in doing so Mr. Carson Chisholm became kind of an expert on
11 how to deal with institutions that don't want to cooperate
12 and do what should be done in investigating these things
13 and laying criminal charges. And so he was basically in
14 some ways doing the job of the police departments. He was
15 doing the job of the investigation and these institutions
16 should have done it, but he did it out of his own pocket,
17 out of his own effort because he believed in what he was
18 doing.

19 So Mr. Chisholm is a very, very important
20 component of this Inquiry.

21 **THE COMMISSIONER:** What you're ---

22 **MR. HORN:** He is a very important component.

23 **THE COMMISSIONER:** He is an important
24 witness.

25 **MR. HORN:** He is not only a witness.

1 Besides that, he has become an expert. He has been the one
2 -- nobody else did this. There wasn't 10 other people that
3 did this, what he did. He became a leader in facing the
4 institutions and forcing them to have to come to terms with
5 the issues that were before -- the ones before this
6 Commission.

7 He is the one that did it more than anybody
8 else because he's that type of an individual. He has the
9 strength and the personality to be able to do it and that's
10 why he was able to do it.

11 It wasn't anybody else. He has become the
12 expert on how to deal with institutions that do not want to
13 do their job and he did it and he forced them to do it; one
14 individual with a group of people behind him.

15 That is his role in this entire process and
16 he was the one that was able to do it, and to exclude him
17 from this process is really removing a person who not only
18 was the one that instigated this but he became the expert
19 on how to deal with institutions that do not want to do
20 their job.

21 He is the one that knows better than anyone
22 else that when you come face-to-face with bureaucrats and
23 people that work in the institutions and they tell you,
24 "No, we're not going to do it" or "You're in trouble", and
25 they try to put the pressure on him and the other

1 individuals, he's the one that faced it, overcame it, and
2 forced this Inquiry. Nobody else did it.

3 **THE COMMISSIONER:** Okay, okay. Now can we
4 get back to the test?

5 **MR. HORN:** Yes. Yes, he has a substantial
6 interest in what is going on.

7 **THE COMMISSIONER:** Well, "he". You are
8 applying for the coalition now.

9 **MR. HORN:** Well, both the coalition and him
10 because they were the ones that backed him up. When he was
11 doing all of these things, he had a core of people that
12 worked with him during this time.

13 **THE COMMISSIONER:** Okay. Are you applying
14 for the coalition?

15 **MR. HORN:** The coalition is asking for --
16 what it is, is we believe that he has definitely a
17 substantial interest. They have an interest because they
18 were the ones backing him up, and they were the ones that
19 were there when he needed people to support him and back
20 him up. They were there doing the legwork. They were out
21 there in the community.

22 **THE COMMISSIONER:** Okay. Okay. Just answer
23 the question, and we can get on with it.

24 **MR. HORN:** Okay.

25 **THE COMMISSIONER:** Okay. So again, this is

1 an application for the coalition, of which Mr. Chisholm is
2 a leader and a party of that, both.

3 **MR. HORN:** That's right. I believe that he
4 definitely has a -- he definitely has a position.

5 **THE COMMISSIONER:** Okay.

6 **MR. HORN:** Yes, he has an interest himself.
7 Not only the fact that he was the one that was the leader
8 but he also -- because of the fact that he was a leader,
9 has gotten a lot of the heat aimed at him and, as a result,
10 what happens in this Inquiry, there's going to be a lot of
11 people here that are going to try to twist things around
12 and have everything turned around so that he is the person
13 who is the perpetrator of something wrong, and he's faced
14 that; he's seen it already. This is the sort of thing.
15 They've turned things around and made him go on the
16 defensive.

17 **THE COMMISSIONER:** Whoa, whoa.

18 **MR. HORN:** And that's why he had to be on --

19 -

20 **THE COMMISSIONER:** Mr. Horn? Mr. Horn?

21 **MR. HORN:** Yes?

22 **THE COMMISSIONER:** Stop.

23 **MR. HORN:** Okay.

24 **THE COMMISSIONER:** No one is twisting
25 anything around. People have come and testified and said

1 things about him. He has been subpoenaed to come here and
2 to tell his side of the story; right? So easy now on the
3 rhetoric.

4 **MR. HORN:** No. I understand what you are
5 saying, but here is the situation. The individuals who
6 have changed their story made one story that he obtained
7 and they've changed their story afterwards.

8 **THE COMMISSIONER:** M'hm.

9 **MR. HORN:** And he believes that the reason
10 why was because pressure was put on them by the
11 institutions to change their story because these are
12 vulnerable people that could not defend themselves. That's
13 why they can be turned around against him and he has to be
14 here to defend himself.

15 **THE COMMISSIONER:** Okay. Yes, I understand
16 that he wants to be here. I understand that it is
17 important for him to be here, but you can't just -- you, as
18 an advocate, you can't come in here and make those kinds of
19 accusations until -- that has nothing to do with the
20 application for standing.

21 **MR. HORN:** Up until now, he has seen that
22 there were people, individuals, that have come before this
23 Commission who have altered their stories and, as a result,
24 they put him in the bad light. This was -- he has seen it.
25 It has happened.

1 He wants to be able to sit in this Inquiry,
2 have a lawyer here so that they can cross-examine and they
3 can find out what the truth is. If he is not sitting here
4 and he's not here with a lawyer, then he really -- he's
5 basically -- you're tying him up and saying you have no
6 rights here. We can say anything about you we want. You
7 can't even defend yourself.

8 That's the problem. He's not going to be
9 able to defend himself when these allegations and the
10 changing of stories come about and he's not even going to
11 be here to deal with those allegations that are going to go
12 against him. He's just going to be sitting outside in the
13 public and he can't do anything about it.

14 **THE COMMISSIONER:** Okay, I hear you. Okay.
15 Next submission?

16 **MR. HORN:** Yes. So the other matter is the
17 ---

18 **THE COMMISSIONER:** Can I ask you a question,
19 Mr. Horn?

20 **MR. HORN:** Yes.

21 **THE COMMISSIONER:** You now have heard that
22 Mr. and Mrs. Dunlop will be here to testify in the week of
23 September 17th. Will you be representing their interests in
24 that regard?

25 **MR. HORN:** I have not been asked to.

1 **THE COMMISSIONER:** Okay.

2 **MR. HORN:** And so the situation is, there
3 were institutions that are now -- they're being represented
4 by lawyers. They're here continuously defending the
5 interests of the public institutions who Mr. Carson
6 Chisholm was dealing with and they're getting funding.
7 They can have lawyers sitting here continuously and yet
8 they can be here and they get the public to pay for them to
9 have a lawyer, and yet he has -- he's the one that is going
10 to be accused. He's the one that is going to be put on the
11 spot and he can't even be here to defend himself. That's
12 why he has to have standing.

13 He has to in order to make sure that his
14 interests are protected. He has a real interest. He is an
15 individual who lives in the community. He is a
16 businessman. He is out there to do business. He is a real
17 estate agent. He's an auctioneer. He has a farm. He's
18 raising horses.

19 He is someone that is in the community and
20 if his reputation in the community is being attacked then
21 he should be entitled to defend himself at the public
22 expense, not -- he should be put in the same boat as the
23 police department and the other institutions.

24 **THE COMMISSIONER:** The police department
25 isn't being funded.

1 **MR. HORN:** I understand. They get funded by
2 the Ontario government, though.

3 **THE COMMISSIONER:** No, that's not my
4 mandate.

5 **MR. HORN:** I understand, but that's public
6 funds. They're getting paid and they get their funding and
7 the Government of Ontario makes sure that they have enough
8 money to be able to hire lawyers to be here.

9 **THE COMMISSIONER:** How many horses does he
10 have?

11 **MR. HORN:** Pardon?

12 **THE COMMISSIONER:** How many horses does he
13 have?

14 **MR. HORN:** Oh, I don't know. I think he's
15 got about -- how many horses? He's got a number. He's
16 raising horses.

17 **THE COMMISSIONER:** I don't see that in his
18 income.

19 Okay, go ahead.

20 **MR. HORN:** Yes.

21 So we are then suggesting that in order for
22 him to be able to protect himself and to protect his
23 interests and his reputation, he has to be here to be able
24 to cross-examine to be part of this whole process.

25 If not then, really, then the -- then

1 whatever comes out of here and becomes public and is
2 derogatory towards Mr. Chisholm, it's just going to go
3 unanswered. It's going to go unanswered, unquestioned, and
4 that's the problem with having a public inquiry where there
5 is -- information can go out and it can be -- they could
6 say all kinds of things about somebody and it can't be
7 answered. It's just ---

8 **THE COMMISSIONER:** He is going to testify.

9 **MR. HORN:** Well, I understand that, but he's
10 going to be questioned. But then once he's finished
11 testifying there is going to be ongoing evidence for at
12 least a year that's going to come out.

13 What's he going to do when new revelations
14 or new documents are found or something else happens? Is
15 he going to -- what's going to happen then? I mean, he
16 wants to be able to be here continuously so that when that
17 evidence comes out and it's directed at him or his family
18 he should be entitled to be able to question that. That is
19 only right and proper.

20 Now, we have to understand something. Mr.
21 Chisholm asked me to say this and I think that it's only
22 proper that I say the things that Mr. Chisholm asked me.

23 He said that the reason why he believes that
24 this Inquiry is here is because it's God ordained. God saw
25 something that was wrong, and he is a religious person, and

1 he believes that the reason why this Inquiry was set up was
2 because it had to be corrected. There were things that
3 were not right and he is a -- goes to mass on almost every
4 morning in St. Andrew's. He goes there in the morning
5 mass. He is a very, very devout Christian, Catholic, and
6 he believes that what he did was not his own -- it's not
7 his own undertaking. He just felt that it was God wanted
8 him to do, and that's why he did what he did. And he's
9 inspired in that way. He is a very, very devout Catholic,
10 Christian, and he believes that what's he done is important
11 for this -- for the moral wellbeing of this community and
12 that's why he did what he did.

13 And the group that backed him up also
14 believe in the same thing.

15 **THE COMMISSIONER:** M'hm.

16 **MR. HORN:** And this is a component that has
17 to be in this Inquiry. This is an aspect that has to be
18 there. There has to be the spiritual aspect and this is
19 one of the things that Mr. Chisholm is a very, very strong
20 believer in that, that he was doing this because it was
21 what God wanted to be done.

22 And that's why he had the -- he had the
23 ability to be able to carry it out for 15 years and never
24 give up, because he knew that he was doing it for the right
25 purpose. And that's because he knew that it was because of

1 who his Maker was and what his Maker thought that he should
2 do, and also the group that he was with.

3 This is something that maybe -- it may not
4 be something that a lot of people want to talk about, but
5 Mr. Chisholm believes that it's an important thing.

6 **THE COMMISSIONER:** M'hm.

7 **MR. HORN:** It's an important thing.

8 And I think that if he is not given standing
9 and if he's not funded, then I think that what will happen,
10 and this is what he believes and we discussed this to some
11 extent -- then all the things he has said over the years is
12 that this is just a cover-up, an attempted cover-up -- is
13 true. That's what gave rise to this ---

14 **THE COMMISSIONER:** So, okay, just a minute.

15 **MR. HORN:** --- Inquiry. That's all he
16 feels.

17 **THE COMMISSIONER:** Well, I know that's what
18 he might feel.

19 So what you're telling me, it's almost like
20 a blackmail thing, that if I don't let him in then this is
21 all a cover-up?

22 **MR. HORN:** No, I'm saying that he -- that's
23 how the -- that's how the public will perceive it.

24 **THE COMMISSIONER:** Mr. Horn.

25 **MR. HORN:** Not only ---

1 **THE COMMISSIONER:** N, no, stop. Let's make
2 it very clear here the public, all right, is on the
3 webcasts, on T.V., are welcome here to see.

4 **MR. HORN:** M'hm.

5 **THE COMMISSIONER:** I don't want to hear
6 about what "the public" generally thinks because the public
7 can see for themselves and they can make their own
8 decisions. So if you're going to tell me that the public
9 is going to -- I don't cater to the public. The public is
10 smart enough to look at what's going on here and come up
11 with their own decisions.

12 **MR. HORN:** I know. I understand that, but
13 the public knows that it was Carson Chisholm, Perry Dunlop
14 and Helen Dunlop who are the ones that ---

15 **THE COMMISSIONER:** No.

16 **MR. HORN:** --- that did this, and if they
17 are being told that they are not part of this process then
18 it tells everybody don't do anything about sexual ---

19 **THE COMMISSIONER:** No, no.

20 **MR. HORN:** --- abuse. Don't try to do
21 anything about it ---

22 **THE COMMISSIONER:** Mister ---

23 **MR. HORN:** --- because you're just going to
24 be ---

25 **THE COMMISSIONER:** --- Mr. Horn.

1 MR. HORN: --- not allowed to participate.

2 THE COMMISSIONER: Mr. Horn.

3 I will be very patient with you. I can tell
4 you that you have some very good arguments to make. Make
5 the good arguments and leave the ones that fall flat and
6 behind.

7 It is clear that Mr. Chisholm and the
8 Coalition, right, were very much instrumental -- or not
9 instrumental -- important in getting the Inquiry formed,
10 that he has held a position for -- he and his group have
11 owned a position in this thing for a long, long time,
12 right? But do not come back and tell me that I'm going to
13 lose -- the public is going to lose faith in the Inquiry if
14 he is not funded. Please don't do that. That's an insult
15 to the public who are more intelligent than that.

16 All right? If he has a place here ---

17 MR. HORN: He has a place here.

18 THE COMMISSIONER: Bon, okay. That's --
19 now, get onto your next point.

20 MR. HORN: Okay. He has a place here. He's
21 the one that knows more about the -- what happened in 1992
22 until today because he was the one that went out and got
23 the -- and did the investigation himself.

24 THE COMMISSIONER: Point taken. Point made.
25 Next point?

1 **MR. HORN:** Okay. But I think what you're
2 doing is you're saying that's not an important point.

3 **THE COMMISSIONER:** No, no, no. No, no, no,
4 you have to understand when a judge said you've made your
5 point, I may not agree with it or I might. But what I'm
6 saying is you've made it and I've made a note of it and
7 I'll address it.

8 **MR. HORN:** Okay.

9 **THE COMMISSIONER:** Okay.

10 **MR. HORN:** The Inquiry will be helped
11 because he is someone who can talk with the most knowledge
12 about what it is that it takes in order to get something
13 done. He's the one that can do it and he can help the
14 Inquiry because he's the one that knows it. That's why he
15 should be here.

16 **THE COMMISSIONER:** Okay.

17 **MR. HORN:** That's why he should be here. He
18 should be here because he's the guy that knows what it
19 takes to get something done like this, to get this done.
20 If there is anybody who is an expert, it's him.

21 **THE COMMISSIONER:** Okay you've said that
22 now.

23 **MR. HORN:** That's right.

24 **THE COMMISSIONER:** Point made.

25 **MR. HORN:** That's why he should be here.

1 **THE COMMISSIONER:** Point made.

2 **MR. HORN:** Okay.

3 **THE COMMISSIONER:** Next point.

4 Why is he different from the coalition?

5 **MR. HORN:** Pardon?

6 **THE COMMISSIONER:** Why is he different from
7 the coalition? The CCR?

8 **MR. HORN:** Well, the CCR -- the CCR are --
9 they're not the ones that were involved with Perry Dunlop
10 and Helen and Carson. They were never -- they did not
11 become involved with them and they didn't work together.
12 That's -- the main reason is because there was the main
13 parties getting -- to get this Inquiry going did not work
14 with the CCR.

15 They worked -- CCR worked totally
16 independent of the main people who got this Inquiry going.
17 There was no cooperation there between the CCR and the
18 three main parties that got the Inquiry going.

19 There was -- they are another group that is
20 advocating a very similar position, but the problem is that
21 they weren't the ones that went out and got the
22 information. They don't have the knowledge. They don't
23 have the inside knowledge. That's -- they just don't have
24 it.

25 **THE COMMISSIONER:** Right.

1 **MR. HORN:** It's Carson that has it. It's
2 Perry Dunlop that was involved. It was Perry, Helen and
3 Carson and their group that did it. They're the ones that
4 were -- did all of this. It was not the CCR. CCR is
5 basically trying to take over the position of what -- and
6 take the credit for what the other group did. That's
7 right. They're just saying look, they're accepted by the
8 Commission.

9 **THE COMMISSIONER:** Mr. Horn, I find that
10 submission difficult.

11 **MR. HORN:** Pardon?

12 **THE COMMISSIONER:** I find it difficult. I
13 find it almost -- I don't know what word to use but
14 childish. Like I don't know that the CCR is trying to take
15 credit for anything. Like you -- Mr. Horn, can we get back
16 to the central ---

17 **MR. HORN:** They were not there when things
18 had to be done. It was the other group that was there and
19 it was Mr. Chisholm and his group that were there.

20 **THE COMMISSIONER:** M'hm.

21 **MR. HORN:** They were the ones that carried
22 the ball. It was not the CCR. And they're the ones that
23 have more to give to this Inquiry than anyone.

24 **THE COMMISSIONER:** M'hm. Okay, thank you.

25 **MR. HORN:** But if you're going to be

1 thinking that somehow there is a -- there is -- they have
2 the same interests, that is not true.

3 **THE COMMISSIONER:** No-no. Mr. Horn, Mr.
4 Horn, my duty all right is to do this. There's a lot of
5 people come forward and ask for standing and funding and my
6 duty is to see if we can bunch them together so have people
7 of similar interests.

8 So when I granted funding for the CCR, I had
9 to look at who they were and what they were doing in the
10 same way that I looked at the Victims group. So one of the
11 questions I have to ask you is why are they different? And
12 to tell me that, "Well they're just trying to claim the
13 glory" is not proper.

14 So what you're saying is this, is that the
15 reason why they're different is because the coalition
16 existed long before the CCR and they have certain
17 information and they went through all of the investigation
18 with Perry Dunlop and their reason for being is different
19 from that of the CCR. Is that fair?

20 **MR. HORN:** Yes it is. Yes.

21 **THE COMMISSIONER:** Okay, good.

22 **MR. HORN:** And they can't work together.

23 **THE COMMISSIONER:** And why is that?

24 **MR. HORN:** They can't.

25 **THE COMMISSIONER:** How do you know?

1 **MR. HORN:** I've spoken to my client. They
2 can't work together with the CCR at all.

3 **THE COMMISSIONER:** And why is that?
4 Difference of opinions?

5 **MR. HORN:** No. Just that they can't work
6 together. They're totally at odds with each other. They
7 can't work with each other in any way. They are not --
8 there's no way that they ---

9 **THE COMMISSIONER:** They're at odds. They're
10 at odds.

11 **MR. HORN:** At odds completely.

12 **THE COMMISSIONER:** Thank you, next point.
13 In fact, Mr. Horn?

14 **MR. HORN:** Yes?

15 **THE COMMISSIONER:** How about if I tell you
16 I've heard enough and you can have a seat and I'll ask the
17 others for their comments on the issue of standing ---

18 **MR. HORN:** Yes.

19 **THE COMMISSIONER:** All right? And then
20 we'll deal with funding in a little bit. How's that?

21 **MR. HORN:** Sure.

22 **THE COMMISSIONER:** Okay, thank you.

23 Mr. Manson?

24 **MR. MANSON:** The CCR takes no position on
25 this application, Mr. Commissioner.

1 **THE COMMISSIONER:** Thank you.

2 Mr. Lee?

3 **MR. LEE:** No position.

4 **THE COMMISSIONER:** Thank you.

5 Mr. Bennett?

6 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. DAVID BENNETT:**

7 **MR. BENNETT:** Good afternoon, Mr.
8 Commissioner.

9 As you know, The Men's Project from very --
10 Day One has said we've always been committed to the success
11 of this Inquiry.

12 **THE COMMISSIONER:** M'hm.

13 **MR. BENNETT:** And that the integrity of
14 this Inquiry is very important.

15 **THE COMMISSIONER:** M'hm.

16 **MR. BENNETT:** And though we do not take a
17 position on this application, there are some general
18 principles that I'd like to go back to as you're
19 contemplating your decision and I'd like you to think
20 about.

21 And you've address some of them in your
22 questioning and obviously the first one is, do they meet
23 the legal test of whether there is a substantial and
24 distinct interest, and I'll leave that to you to determine
25 whether there is any -- enough material before you to make

1 that determination.

2 One of the things -- this group came before
3 you back two years ago and was asked for more information
4 and I think they were asked a month ago for more
5 information, and there's a difficulty even getting
6 instructions from my client given how much information is
7 presented. So I'll -- but there's also the test of whether
8 there is a distinct and ascertainable difference between
9 them and the other groups that we have -- the Victims group
10 and the Citizens -- CCR.

11 **THE COMMISSIONER:** For Community Renewal.

12 **Mr. BENNETT:** Yes, Citizens for Community
13 Renewal.

14 And one of the concerns that I think you
15 have to think about as you're dealing with this, we're
16 hearing about two groups that are incompatible; we've had
17 two years of hearings. My client's concern is something
18 that's going to delay -- cause further delay and whether
19 there is actually a difference -- I understand sometimes
20 people don't get along, but is there a different point of
21 view being put forward? And quite frankly from my client's
22 perspective, who got this going doesn't matter. The fact
23 that we're here is what we're concerned about and where we
24 are going. How we got in the room is not a distinct
25 difference, it's whether there is a different perspective

1 to put forward. So those are the only observations I
2 wanted to make as you're making your decision.

3 Thank you.

4 **THE COMMISSIONER:** Thank you, Mr. Bennett.
5 Mr. Chisholm?

6 **MR. CHISHOLM:** My client takes no position.
7 Thank you, sir.

8 **THE COMMISSIONER:** Thank you.
9 Mr. Neuberger or ---

10 **MR. NEUBERGER:** No position, thank you, sir.

11 **THE COMMISSIONER:** Thank you.
12 Mr. Scharbach?

13 **MR. SCHARBACH:** No position, Mr.
14 Commissioner.

15 **THE COMMISSIONER:** Thank you.
16 Ms. Robitaille? Oh, did I miss somebody --
17 no?

18 Miss Robitaille? Is she gone?

19 **UNIDENTIFIED SPEAKER:** She's gone, sir.

20 **THE COMMISSIONER:** Mr. Sherriff-Scott?

21 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. SHERRIFF-SCOTT:**

22 **MR. SHERRIFF-SCOTT:** I'd oppose the
23 application and say the following five things.

24 First, the first three of which are
25 questions which now presently remain unanswered. What

1 specific interest does this group seek to advance on which
2 it has a unique perspective or can give input to advance
3 the interest of the Inquiry? Unanswered.

4 Two, how are such views if any to be
5 distinguished from those already granted standing such as
6 the CCR and-or the Victims group which represent, in the
7 case of the CCR if I can use the economic nomenclature, the
8 macro picture, and in the Victims group, the micro picture
9 in many individual shades.

10 And, three, I would say has this coalition,
11 which it's not clear has been active or even met since the
12 Inquiry was called -- and if so what have its activities
13 been, or has it simply revived itself in response to recent
14 evidence?

15 **THE COMMISSIONER:** Let's assume it revived
16 itself because of recent evidence, I mean ---

17 **MR. SHERRIFF-SCOTT:** Well, then I come to my
18 next two points which are -- no interest, I would submit,
19 has been identified which is distinctive from the personal
20 interests of Mr. Chisholm as a witness and thus you're not
21 in a position to identify what activities if any this group
22 is advancing other than the fact that it was instrumental
23 in ultimately leading to the calling of the Inquiry.

24 And in this regard, I would adopt and apply
25 Mr. Manson's comments as he made them in connection with

1 Mr. Leroux's application with respect to the role of a
2 witness not being sufficient to lead to standing.

3 There is also the last point which is, the
4 application has part of its flavour very distinctive
5 criticism in undermining of the role of another party as a
6 means of elevating its own contention for standing and this
7 should be a concern particularly since no criticism in
8 undermining of the role of another party as a means of
9 elevating its own contention for standing.

10 And this should be a concern, particularly
11 since no differentiation has been identified with respect
12 to what interests are sought to be advanced. And in
13 response to questions that you put to counsel, none were
14 identified and only an unwillingness or inability to work
15 together was identified as the reason for separateness.

16 I think those are sufficient and, no doubt,
17 you have all you need otherwise.

18 Thank you, sir.

19 **THE COMMISSIONER:** Thank you.

20 Mr. Manderville.

21 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. PETER**

22 **MANDERVILLE:**

23 **MR. MANDERVILLE:** Thank you, Mr.

24 Commissioner.

25 I would echo most of Mr. Sherriff-Scott's

1 points, though not nearly as eloquently I expect.

2 There may be occasions where Mr. Chisholm's
3 personal interests might prove to be affected in some
4 fashion. I suggest such occasions have not arisen to date.
5 I suggest you not close your mind to the possibility that
6 he may ultimately be able to persuade you that he has a
7 limited interest in standing along the lines of that
8 granted to Mr. van Diepen previously.

9 Any such standing, I submit, should be
10 limited only to Mr. Chisholm. The coalition, I submit,
11 should not be given standing for a couple of reasons.

12 One, nothing has changed, I submit, since
13 November, 2005 when they applied for standing before you
14 and you correctly, I suggest, did not grant that
15 application but rather held that they could return at a
16 later date with additional information if some came to
17 light. Nothing has.

18 Secondly, the coalition's involvement is, I
19 submit, redundant. The Citizens for Community Renewal
20 represents the community interests here and I suggest they
21 have consistently done so with skill and objectivity and
22 have been thorough.

23 Secondly, the Victims Group represents the
24 interests of a number of victims and again have presented
25 their case with skill and have been thorough. Indeed, the

1 coalition's members would appear to include six of Mr.
2 Lee's clients, at least one member of the CCR, and Mr.
3 Leroux who has just sought his own standing.

4 For the foregoing reasons, I would suggest
5 the coalition not be granted standing at the Inquiry, sir.

6 **THE COMMISSIONER:** Thank you.

7 Mr. Kozloff?

8 **MR. KOZLOFF:** Nothing to add, sir.

9 **THE COMMISSIONER:** Thank you.

10 Mr. Carroll?

11 **MR. CARROLL:** Nothing to add, Your Honour.

12 **THE COMMISSIONER:** Thank you. School board
13 is gone. Mr. Engelmann?

14 --- **SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. PETER ENGELMANN:**

15 **MR. ENGELMANN:** Just a couple of quick
16 points. I think Mr. Manderville may have been referring to
17 a previous list. I don't -- I think he may be mistaken
18 about the current list.

19 **THE COMMISSIONER:** M'hm.

20 **MR. ENGELMANN:** The current list includes 21
21 affidavits.

22 **THE COMMISSIONER:** Right.

23 **MR. ENGELMANN:** When you originally asked
24 the coalition for more information, you recall it was one
25 of the first decisions that was made in this Inquiry.

1 THE COMMISSIONER: M'hm, I have it here,
2 yes.

3 MR. ENGELMANN: You've got it. Sir, page 19
4 ---

5 THE COMMISSIONER: Yes.

6 MR. ENGELMANN: --- sets out what you were
7 looking for, and I'm referring to the paragraph that says
8 and I will read:

9 "It is clear that there is a historical
10 presence in Cornwall that has advocated
11 for change and I very much would like
12 to see that presence represented at the
13 Inquiry. The CCR group certainly fills
14 part of that picture, however, I do
15 feel that there may well be a place for
16 the coalition should they wish to
17 submit to me further details outlining
18 the following:..."

19 Then there are four points I think that you
20 make, sir, and I just want to touch upon them briefly. The
21 first is:

22 "A more detailed list of its members."
23 And you have been provided that.

24 THE COMMISSIONER: M'hm.

25 MR. ENGELMANN: I even provided you today

1 with 21 affidavits and I believe Mr. Horn handed up 5 or 6
2 others. So there's 26 or 27 very short affidavits. So on
3 that point, you have some further evidence.

4 The second concern was a more detailed
5 summary of the group's history and mandate. You have a
6 little bit more information there, sir, about what they did
7 back then, but what appears to be lacking, or at least we
8 have no information on, is what this group has done since
9 the year 2000.

10 There is an involvement in an initial
11 petition I believe in 1993. There is an involvement in a
12 petition in the year 2000, but we don't seem to have any
13 information about an ongoing role that the coalition has
14 played since the year 2000, if any, as it relates to this
15 Inquiry. I make the point as whether or not that
16 particular concern may have been addressed.

17 The third issue is how their participation
18 is different from the perspective offered by the Victims
19 group and the CCR and you have already heard from a couple
20 of counsel on that. It's difficult to know that on the
21 basis of the information before us. There seems to be some
22 evidence of a different perspective back in 1993 and in the
23 year 2000. The question remains, what about since then?

24 There are a number of references, of course,
25 to the interaction with these three important individuals,

1 and I agree they are important. Carson Chisholm and Helen
2 and Perry Dunlop. We know that Helen and Perry Dunlop
3 aren't part of this group. So then the question is -- it
4 begs the question, what does the group do outside of Mr.
5 Carson Chisholm?

6 The fourth point is the role they intend to
7 play in the Inquiry. Again, that is something that we've
8 tried to seek information on, and I'm not really sure that
9 has been answered. I understand some material that
10 references a role for counsel and a role for Mr. Chisholm
11 as a witness, and as an active witness in this Inquiry, and
12 the need to protect his reputation and concerns about other
13 people criticizing him. The question is, what role if any
14 has been identified by the coalition that they will play
15 here at the Inquiry and is that role distinct and
16 ascertainable from the roles of others? You have heard
17 that.

18 So there are still some outstanding issues.
19 I know Mr. Horn has an opportunity to address you again and
20 perhaps he can address some of those concerns.

21 **THE COMMISSIONER:** M'hm. Thank you.

22 Mr. Horn?

23 **MR. HORN:** I would like to speak to my
24 client for one minute, Mr. Chisholm.

25 **THE COMMISSIONER:** Certainly. Do you want a

1 break?

2 **MR. HORN:** Yes, please.

3 **THE COMMISSIONER:** Let's take 10 minutes.

4 Thank you.

5 **THE REGISTRAR:** Order. All rise.

6 À l'ordre. Veuillez vous lever.

7 The hearing will resume at 4:50 p.m.

8 --- Upon recessing at 4:38 p.m./

9 L'audience est suspendue à 16h38

10 --- Upon resuming at 4:52 p.m./

11 L'audience est reprise à 16h52

12 **THE REGISTRAR:** This hearing is now resumed.

13 Please be seated. Veuillez vous asseoir.

14 **THE COMMISSIONER:** Mr. Horn?

15 --- **REPLY BY/RÉPLIQUE PAR MR. FRANK T. HORN:**

16 **MR. HORN:** Yes. I have spoken to my client
17 and I believe that Mr. Chisholm meets the test according to
18 section 5(1).

19 He is a person who satisfies that he has a
20 substantial and direct interest in the subject matter of
21 the Inquiry and that he should have an opportunity to give
22 evidence and to call and examine or cross-examine witnesses
23 personally or by counsel on evidence relevant to the
24 person's interest.

25 **THE COMMISSIONER:** Cross-examine persons

1 personally?

2 **MR. HORN:** No. I think it says, "personally
3 or by" ---

4 **THE COMMISSIONER:** Oh! I'm sorry. You were
5 reading?

6 **MR. ENGELMANN:** --- "or by counsel on
7 evidence relevant to the person's interest."

8 **THE COMMISSIONER:** Are you reading from the
9 Act?

10 **MR. HORN:** The Act, yes.

11 **THE COMMISSIONER:** Okay.

12 **MR. HORN:** So he has the interest in this
13 subject matter, has been for many, many years and has no
14 reason why he should not be given personally a standing in
15 the -- and also funding so that he can retain counsel to
16 come before the -- not only come before the Commission, but
17 also to maintain his presence at the Public Inquiry through
18 counsel and also through him being able to obtain funding
19 so that he could get ---

20 **THE COMMISSIONER:** We are not at funding
21 yet, sir.

22 **MR. HORN:** Pardon?

23 **THE COMMISSIONER:** We haven't argued funding
24 yet.

25 **MR. HORN:** Okay, I understand that, but I'm

1 ---

2 **THE COMMISSIONER:** Just hold on.

3 **MR. HORN:** All right.

4 So he should get standing anyways and ---

5 **THE COMMISSIONER:** Well, okay. Tell me
6 this.

7 You have given me a more detailed list of
8 its members; a more detailed summary of the group's
9 history. Well, we know what the history is. What is its
10 mandate? What is the coalition's mandate?

11 **MR. HORN:** I spoke to some of the members
12 during the break, and what they are saying is that when
13 Perry Dunlop and Carson became involved in this
14 controversy. They came forth to support what they were
15 doing and Perry was going to the Children's Aid Society and
16 he was the main person doing it with Carson backing him up
17 and Helen being involved because she was the wife of Perry
18 Dunlop. And so the coalition were there to support them
19 and when they needed the 10,000 --they got 10,000
20 signatures and it was the coalition -- it was another name
21 at that time but it was the same group of people -- got
22 behind Perry and what he was doing and they went and got
23 those signatures. So they were there to support him.

24 And later on when Perry basically had moved
25 out, gone out west, they still maintained their interest in

1 pressuring for the Inquiry. So they were still supporting
2 Carson and his endeavours to get the Inquiry started.

3 **THE COMMISSIONER:** Okay. Mr. Horn, if their
4 goal was to get the Inquiry, the Inquiry is started. So
5 that goal is gone. What is their -- what is their -- what
6 are they going to do here? What role do they intend to
7 play in the Inquiry?

8 **MR. HORN:** As a result of being involved in
9 this process, they have other organizations that are out
10 there that deal with abused people who have come to them
11 and they have these kinds of connections. They're part of
12 one organization in which the individuals in that
13 organization are dealing with trying to do something about
14 people who've been abused. So they're part of the -- I
15 forget the name of the organization but they're part of --
16 there's one organization that they belong to; it's called
17 The Healing Circle.

18 **THE COMMISSIONER:** M'hm.

19 **MR. HORN:** That deals with individuals who
20 had been sexually abused.

21 **THE COMMISSIONER:** Okay but what role are
22 they going to play -- what role is the coalition going to
23 play in this Inquiry?

24 **MR. HORN:** The coalition, because there is a
25 number of people they can call upon, also there's -- you

1 know, they have to have people to do the work of
2 maintaining contact with these different organizations,
3 contacting them so that they can come forth with experts
4 and people in this field. These people would have
5 confidence in coming here because of the role the coalition
6 and Carson Chisholm played. They have confidence in these
7 people. They feel that it is a legitimate inquiry, so they
8 will come because Carson and the coalition were involved.
9 That's how they would feel. They would come forth. And
10 they have these kinds of contacts out there.

11 **THE COMMISSIONER:** So they would be able to
12 bring more people, like the Healing Circle. They would be
13 able to bring them to Phase II on the reconciliation part.
14 What about Phase I?

15 **MR. HORN:** Phase I? This is where -- well,
16 Carson is -- it's necessary for Carson to be there in Phase
17 I because he's certainly -- he was involved in
18 institutional response. I mean, he was the guy that was
19 there ---

20 **THE COMMISSIONER:** He's a witness. He's
21 going to be a witness.

22 **MR. HORN:** I understand that, but he was
23 more than that. He's more than just a witness. He's going
24 to be a witness and also, he's the expert on how to make
25 institutions do what they don't want to do.

1 **THE COMMISSIONER:** Okay.

2 **MR. HORN:** He's the guy that knows how to do
3 it. He did it and it's not an easy thing. He basically
4 twisted their arm and he got them to do it. They didn't
5 want to do it.

6 **THE COMMISSIONER:** Got them to do what?

7 **MR. HORN:** To have to do something about the
8 Inquiry. I mean, the OPP had to do an investigation and
9 they had to -- and that was only because of the work that
10 Carson did. I mean, the investigation by the OPP was only
11 because of what he and his brother-in-law had done. Nobody
12 else did that. That was what they did.

13 **THE COMMISSIONER:** Okay.

14 **MR. HORN:** So, I mean, they know how
15 difficult it is to get a job done like this and they're the
16 ones that have that expertise. Nobody else has that.

17 **THE COMMISSIONER:** Okay. Now, assuming I
18 give some form of standing to the coalition ---

19 **MR. HORN:** Yes.

20 **THE COMMISSIONER:** So now we have the
21 affidavit of Carson Chisholm about his personal finances.

22 **MR. HORN:** Yes.

23 **THE COMMISSIONER:** Okay. So what about the
24 coalition? Does it maintain any funds?

25 **MR. HORN:** There is something that was there.

1 I gave it in a previous application document. It shows
2 they have \$100 in their account.

3 **THE COMMISSIONER:** Okay.

4 **MR. HORN:** That's all they have right now.
5 It's part of the previous application documents.

6 **THE COMMISSIONER:** Okay.

7 **MR. HORN:** So they don't have a lot of
8 money. That's all they have. That's their bank account
9 right now, \$100.

10 **THE COMMISSIONER:** Okay. And Mr. Chisholm,
11 how many horses does he have?

12 **MR. HORN:** How many horses?

13 **THE COMMISSIONER:** Yes.

14 **MR. HORN:** I don't know.

15 **MR. CARSON CHISHOLM:** Probably 15 and a dog
16 and a cat.

17 **THE COMMISSIONER:** Easy.

18 I don't see any horses listed in the assets.

19 **MR. HORN:** Pardon?

20 **THE COMMISSIONER:** I don't see horses listed
21 in the assets.

22 **MR. HORN:** Well, I don't know. Maybe it's
23 part of the -- I don't know. He has horses. I know that.

24 **THE COMMISSIONER:** Right. And, you know,
25 some horses are worth \$1,000 and others are worth \$300,000.

1 **MR. HORN:** Yeah, well he doesn't have horses
2 that expensive.

3 **THE COMMISSIONER:** Well, how do you know?

4 **MR. HORN:** They're nice looking horses. I
5 know that.

6 **THE COMMISSIONER:** Are you giving me
7 evidence?

8 **MR. HORN:** No, I just ---

9 **THE COMMISSIONER:** No, but seriously, How am
10 I going to decide if I don't have all the facts in front of
11 me? You, as a taxpayer, would probably be devastated if
12 people started giving money to people without doing their
13 homework. Would you not?

14 **MR. HORN:** Yes, if I was a taxpayer, but I'm
15 a Mohawk.

16 **THE COMMISSIONER:** As I said, if you were a
17 taxpayer.

18 **MR. HORN:** Yeah, if I was, yes. The ---

19 **THE COMMISSIONER:** Mr. Chisholm, can you
20 give me an average price or how much your horses are worth
21 all in?

22 **MR. CHISHOLM:** Fifteen hundred \$1,500 to two
23 \$2,000 maybe a piece.

24 **THE COMMISSIONER:** Okay. Thank you.

25 **MR. CHISHOLM:** (Off microphone)

1 **THE COMMISSIONER:** I can't hear you, sir.

2 **MR. HORN:** I think that the main thrust of
3 his financial application to get funding is that he doesn't
4 know why he would have to liquidate assets to get part of -
5 - he doesn't want to do that.

6 **THE COMMISSIONER:** Well ---

7 **MR. HORN:** He has assets that are tied up in
8 mortgages and real estate. I mean, do they want him to
9 liquidate that in order to hire a lawyer or go deeper in
10 debt because then most of his liabilities are debt.

11 **THE COMMISSIONER:** Most of his liabilities
12 are debt.

13 **MR. HORN:** Yeah, they're overdrafts, over
14 \$100,000.

15 **THE COMMISSIONER:** Okay. All right. Thank
16 you.

17 **MR. HORN:** Okay?

18 **THE COMMISSIONER:** Yes. So I don't need to
19 hear from you any further on the funding.

20 **MR. HORN:** Pardon?

21 **THE COMMISSIONER:** I need not hear from you
22 any further on the funding issue.

23 **MR. HORN:** Okay.

24 **THE COMMISSIONER:** Thank you.

25 Anybody want to comment on the funding

1 issue?

2 Just a minute. Are you talking to me or to
3 your lawyer?

4 **MR. CHISHOLM:** No, I'm talking to Frank.

5 **THE COMMISSIONER:** Okay. I'm sorry. Is
6 there anything you wanted to say?

7 **MR. CHISHOLM:** I just wanted to talk to him.
8 Me?

9 **THE COMMISSIONER:** No, no. Okay. Is there
10 anything that you want to say to me subsequent to your
11 conversation with your client? You need not, but if you
12 wish you can.

13 **MR. HORN:** The notice of application for
14 standing for funding, the newest document that is
15 submitted, Mr. Carson Chisholm has indicated to me that he
16 wants the entire document to be made sure it is part of the
17 record and that it will be part of the record because he
18 feels that he put his heart and soul into that document and
19 he wants to make sure that the Inquiry is aware of that and
20 that the public will be aware of that. That's his position
21 and if -- is that document going to become part of the
22 public document?

23 **THE COMMISSIONER:** Yes, it is.

24 But, sir, from now on in you should know
25 that. If you're going to be part of the Inquiry, sir, you

1 and your client, you have to understand that you're two
2 years late coming in. That is not anyone's responsibility
3 but your client's, and so I don't want to hear, if you're
4 granted some kind of standing, that "We don't know the
5 rules." You had better learn the rules real quick because
6 so far, you haven't learned the rules.

7 MR. HORN: I understand that.

8 THE COMMISSIONER: Thank you.

9 MR. HORN: Thank you.

10 THE COMMISSIONER: Mr. Engelmann.

11 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. PETER ENGELMANN:

12 MR. ENGELMANN: Just so the record is clear,
13 can we just go through the documents, and maybe this will
14 ease any concern Mr. Horn or his client have.

15 What I have is 631(A) is the Notice of
16 Application for Standing and Funding that was filed with
17 the Commission on August 24th, 2007.

18 631(B) Notice of Application for Standing
19 and Funding with a number of affidavits attached, filed
20 September 10th, 2007, again with the Commission.

21 631(C) is an affidavit of John Cleary dated
22 August 29th, 2007.

23 And 631(D) which is marked with a "C" for
24 confidential is the affidavit of Carson Chisholm and it's
25 dated September 10th, 2007. Those are the documents, sir,

1 all of which are public with the exception of the
2 confidential exhibit.

3 **THE COMMISSIONER:** Thank you.

4 Any other submissions? Nothing? Thank you.

5 So, Mr. Engelmann, we'll retire until
6 tomorrow. Now, with respect to the coalitions, I don't
7 think there's anything going on this week that's going to
8 affect them, right? Tomorrow we're dealing with Mr.
9 Carrière.

10 **MR. ENGELMANN:** Yes.

11 **THE COMMISSIONER:** And then with the School
12 Board.

13 **MR. ENGELMANN:** Yes.

14 **THE COMMISSIONER:** So I'm just trying to
15 figure out when it would be an opportune time to give my
16 reasons, and I suppose if they are to have any standing,
17 they would want to participate in the testimony of Mr.
18 Dunlop. So I should be giving some decision by Wednesday.

19 **MR. ENGELMANN:** Okay.

20 **THE COMMISSIONER:** Sir, if you could come
21 back at two o'clock on Wednesday? Well, in any event,
22 whether you come back or not, I'm going to give my decision
23 Wednesday at two o'clock.

24 **MR. HORN:** Two o'clock?

25 **THE COMMISSIONER:** Yes, sir. Thank you.

1 **THE REGISTRAR:** Order; all rise. À l'ordre;
2 veuillez vous lever.

3 This hearing is adjourned until tomorrow
4 morning at 9:30 a.m.

5 --- Upon adjourning at 5:07 p.m./

6 L'audience est ajournée à 17h07

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C E R T I F I C A T I O N

I, Marc Demers a certified court reporter inthe Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Marc Demers, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hautes sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Marc Demers, CVR-CM