

**IN THE MATTER** of the *Public Inquires Act*, 2009, S.O. 2009, c.33 Sched. 6

**AND IN THE MATTER** of the Elliot Lake Commission of Inquiry

**AND IN THE MATTER** of a Motion for Standing and Funding  
on behalf of **Greg Saunders, P.Eng.**

HONOURABLE PAUL BELANGER,

Commissioner

- and

GREG SAUNDERS, P.Eng

Applicant

**SUBMISSIONS OF GREG SAUNDERS P. Eng.  
IN SUPPORT OF MOTION FOR STANDING AND FUNDING  
BEFORE THE ELLIOT LAKE COMMISSION OF INQUIRY**

**Overview**

1,                   The within submissions have been written to provide assistance to the Commissioner in furtherance of the Motion for Standing and Funding of Greg Saunders, P.Eng. (hereinafter referred to as “Mr. Saunders”) to permit him to respond to a Summons to appear and participate at the Elliot Lake Commission of Inquiry.

2.                   The submissions are written to highlight why Funding should be provided to Mr. Saunders.

### **Financial Circumstances of Mr. Saunders**

3. Mr. Saunders, in his Affidavit sworn October 9, 2012, outlines his financial position. He is an employee with a company earning what can best be described as a lower level of income based upon his engineering background and experience. He is unable to fund the cost associated with providing information to the Commission of Inquiry as requested pursuant to a Summons and, in addition, retain legal counsel and support that he requires in order to adequately answer the requirements and needs of the Commission and, at the same time, to be represented.

4. Mr. Saunders has no outside sources of funding to facilitate his participation in the Commission of Inquiry.

### **Financial Position of Mr. Saunders**

5. In his Affidavit sworn October 9, 2012, Mr. Saunders sets out his income, his wife's income and the financial position that he has by way of assets and liabilities. Given the anticipated length of this Inquiry and his role and function, in all probability he will be required to absent himself from his employment and will be unable to generate or earn income. On the other hand, if

he can permit counsel to appear he can continue to be employed and maintain his family and look after their financial affairs.

6. It is submitted that Mr. Saunders would not otherwise be able to participate in the Commission of Inquiry without funding.

### **Test to be Applied When Considering Funding**

7. The Commissioner at the Walkerton Inquiry recognized the expression that “the party would not otherwise be able to participate in the Inquiry without such funding” did not mean that an individual would have to show or demonstrate impecuniosity before funding could or should be recommended. Justice O’Connor, the Commissioner at the Walkerton Inquiry, when considering the applications of organizations determined that even if such organizations had financial reserves that were dedicated to financing their objects, purposes or activities it was appropriate to conclude that without funding such organizations would not otherwise be able to participate in the Inquiry.

8. Likewise, it is submitted, on behalf of Mr. Saunders, that his income is needed by him and his family to maintain themselves and there is insufficient funds available to him to retain the services of a lawyer and law firm or to appear before the Commission of Inquiry, unrepresented.

9. Attached to these Submissions at Tab 1 are supplementary submissions made by Mr. David Sheriff-Scott before the Cornwall Commission of Inquiry on the issue of Funding and in so doing Mr. Sheriff-Scott reviewed the various inquiries of commissions that had been established in the Province of Ontario and their approach on the issue of Funding. That may be of assistance to the Commissioner in considering Mr. Saunders' Motion.

### **Participation of Mr. Saunders**

10. In the Motion for Standing and Funding Mr. Saunders outlines why Standing and Funding should be granted to him. The facts are that:

- (a) He has already been summoned to produced documents;
- (b) Is highly likely that he will be required to testify;
- (c) The firm which he was associated with, namely M. R. Wright & Associates Co. Ltd., played a role with respect to inspections of certain facets of the Algo Centre Mall at various times;
- (d) Inspection reports produced by M. R. Wright & Associates Co. Ltd. will have to be considered by the Commission;
- (e) The major issue will be the structural integrity of various aspects of the Algo Centre Mall and engineering information in that regard will be necessary;

- (f) Mr. Saunders would be testifying as to matters as set out in paragraphs 4(a),(b), (c) and (d) of the Motion filed in support of Standing and Funding.

**Information with Respect to Legal Counsel  
Joseph A. Bisceglia**

11. In determining the level of Funding if Standing and Funding is granted to Mr. Saunders, the background and information relative to the experience of counsel, Joseph A. Bisceglia, may be relevant.

12. Joseph Antony Bisceglia was called to the Ontario Bar on March 23, 1973 after graduating from Osgoode Hall Law School. He is a certified specialist in civil litigation.

13. Mr. Bisceglia's area of practice includes civil litigation, personal injury torts and criminal law.

14. Mr. Bisceglia has appeared in the Supreme Court of Canada, Ontario Court of Appeal and all levels of courts in Ontario and before various arbitrators, administrators, tribunals and administrative boards.

15. Mr. Bisceglia is a member of the Advocate Society, the Canadian Bar Association and has held a director's position for the Ontario Section of

Canadian Bar Association. He has held positions with the Algoma District Law Association including President.

16. Mr. Bisceglia was on the Board of the Association of Professional Engineers for the Province of Ontario. He was its first Complaints Review Councillor. For his efforts and contribution he was awarded the Order of Sons of Martha by the Association of Professional Engineers in 1986.

### **Level of Funding**

17. On behalf of Mr. Saunders, the request is made for Funding to the maximum allowed and permitted for retaining the law firm of Bisceglia Dumanski Romano and Johnson, LLP and to defray his costs and expenses at such times as he may be required to attend before the Commission of Inquiry.

### **Additional Information/Submissions**

18. The submissions on behalf of Mr. Saunders were made to assist the Commissioner in coming to a determination on the issue Funding as well as Standing. In the circumstances, in the event that the Commissioner may have questions or concerns that should be addressed by Mr. Saunders so as to assist in the determination of the issues raised by the Motion for Standing and Funding Mr. Saunders and counsel on his behalf are prepared to respond to any such

requests and/or appear before the Commissioner to deal with any matters or issues so raised.

All of which is respectfully submitted.

DATED: October 2012



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Submitted by:

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