

OVERSIGHT COMMITTEE

November 21, 2008

DoubleTree Hilton Hotel

Montreal, Quebec

Chair: Mayo Moran

David Iverson	Church Representative
James Ward	Department of Justice
Luc Dumont	INAC
William Wuttunee	AFN Representative
Len Marchand	Claimant Counsel (Attendance by conference call)
David Paterson	Claimant Counsel
Jeffery Hutchinson	IRSAS
Dan Ish	Chief Adjudicator
Irene Fraser	Recorder

Regrets:

James Ehmann	Church Representative
Rosemarie Kuptana	Inuit Representative

1. Additions and Approval of the Agenda

1. Alternates for Committee Members – Jeff Hutchinson
2. Survival of claims – Len Marchand
3. Block hearings – Len Marchand
4. Extent of Review – Len Marchand
5. Actual Income Loss – Len Marchand
6. Roster of Experts – Len Marchand
7. Training Opportunities – James Ward
8. Communicable Diseases (active TB) – James Ward
9. Expedited Hearings – Len Marchand
10. OL3 – Len Marchand
11. Scheduling POI Hearings – Len Marchand
12. Student on Student Abuse – Len Marchand
13. Retainer Letter for Experts – Len Marchand
14. Efforts to Align Resources with Counsel – Len Marchand

2. Approval of Minutes

- a) July 29, 2008 In-Camera Minutes

Approved.

b) October 1, 2008 Minutes

i.) Page 3, under Discussion – Change the second sentence to read, “They want to be notified of discussions when negotiated settlements are proposed so they can respond.”

ii.) Page 4, under Communication – Remove the Decision section and replace it with, “This was an information item. A draft plan will be provided.”

Approved subject to the changes above.

c) October 1, 2008 In-Camera Minutes

Approved.

3. Alternates for Members

The Oversight Committee (OC) contracts are to be renewed in January.

Absenteeism is a concern. At least seven members must be present to decide an issue if consensus cannot be reached. An expectation of attendance has never been dealt with by the OC.

Decisions:

- a) Mayo Moran will contact James Ehmann and Rosemarie Kuptana regarding attendance.
- b) Members of OC can designate alternates. However, this may be a problem as the contracts are done for individuals. Jeff Hutchinson will check.
- c) Reports on both of the above items will be given at the next meeting.

4. Executive Director’s Report

- The committee discussed the issue of independence. Concerns were raised in areas other than decision making. There are ongoing discussions about the level of resources required for this year and year two.

Discussion: The notion of insubordination to a defendant (Canada) continues to be problematic. There is a bifurcation on independence matters which is affecting the work of the IAP. Independence was thought to mean more than non-interference with decisions of the Chief Adjudicator or adjudicators. The Chief Adjudicator expects to discuss this in a meeting with the Deputy Minister. Appreciation was expressed for the efforts of the Executive Director in working through the required layers.

- The criteria that the screening panel was using for adjudicator applications are being questioned and may result in a small number of interviews.

- The packages coming back from counsel in response to the *next steps letter* are frequently coming back incomplete, with no explanation, thereby creating the very work intended to be dispensed with. The checklist will be made clearer.
- An effort is being made to align resources by counsel through block hearings.

Jeffery Hutchinson distributed an “Information Note for the Oversight Committee” on Communication and Outreach Activities. Comments are to be given to Jeff by Dec 19, 2008.

There was discussion about the possibility of scheduling a hearing date as soon as the application comes in for eight to nine months away. There is support for long range planning.

Decision: The weekly “dashboard” of stats is to be distributed once per month to OC members through the Executive Director’s office.

Decision: David Iverson will be invited to attend future Network meetings, formerly PCAN.

5. Shared Documents at the Hearings

Documents concerning claimants and alleged perpetrators which have on occasion been introduced by Canada’s representatives at the hearings will be available to all parties. The Department of Justice addressed this internally.

The churches have waived the implied undertakings which usually pertain to discovery materials.

6. Chief Adjudicator’s Report

- The French training was successful.
- There are only two French speaking DR adjudicators who can do hearings. This causes delays in setting hearings. The Chief Adjudicator would like to provide one day of DR training to four of the new French speaking adjudicators so they can assist with clearing up the remaining DR cases.

Decision: Approved.

- We need a Deputy Chief Adjudicator who is fluent in French and English. The pool is not very large. Currently one of the French speaking adjudicators is assisting Deputy Chief Delia Opekokew with the quality control review of the French decisions.

Decision: An RFP will be prepared. Wide circulation of the RFP is unlikely to be helpful as the pool of potential candidates is limited. More success may be achieved through circulation by email to all possible contacts.

- Security clearance for the new adjudicators is slowly coming to a conclusion.
- Regional meetings of the adjudicators are being held on in Montreal on February 6th, in Winnipeg on March 9th and in Vancouver on March 6th.
- Appeals (DR where Canada asks for a review of a decision, IAP admission application appeals, legal issues, legal fee appeals) are demanding more of the Chief Adjudicator's time.
- Two speaking engagements in the past month went well. Another is coming up shortly.
- There are four types of communications that flow from the Chief Adjudicator: Practice Directions; Chief Adjudicator Directives which come through the Oversight Committee; Guidance Papers such as the ones on income loss and legal fees; and, Chief Adjudicator Updates. The first three are translated and available to Canada, to claimant's counsel and to adjudicators. The Chief Adjudicator's updates will not be published as they are specific to adjudicators.

Luc Dumont suggested that the first three types of communication come out in PDF with the signature of the Chief Adjudicator so they can not be altered.

- Concerns were raised regarding the timelines of decisions. The Chief Adjudicator interprets adjudicator decisions as having to be in to the Secretariat within the respective 30 and 45 days. Late decisions are to be tracked through a BF system although this is not in place yet. The quality control review by the Deputy Chiefs takes a few extra days but saves time and effort later on.

Discussion: Steps are being taken in the Chief Adjudicator's Office to ameliorate late decisions, including appointing a supervisor of decision clerks.

Discussion: Canada is responsible for contact with alleged perpetrators. The OC discussed whether contacts should be made through counsel who represent, or represented, alleged perpetrators through litigation, ADR & IAP

7. Transcript Policy

Take out word reject in number five.

Approved.

8. List of Financial Experts

The Technical Sub-Committee Working Group put forward the list. The initial letter of instruction will have a fee between \$2000 and \$4000.

Approved.

9. Claimant Preference Form

A new draft of the previous form was distributed for information. It was suggested that the top line of the claimant preference form be removed.

10. Training Opportunities

Claimant counsel need to be made aware of the importance of accepting observers at hearings.

Decision: OC counsel reps will relay this to their constituents.

11. Communicable Diseases

Tuberculosis is active in some communities. The risk is low.

Decision: The Department of Justice will share the information they are providing to their staff with the Secretariat.

12. Hearing Notices

David Iverson reported that the churches are getting many hearing notices before they receive the applications.

Decision: To be shared with the Secretariat staff.

13. Items to be Considered for the Next Agenda

1. Alternates for Committee Members – Jeff Hutchinson
2. Survival of claims – Len Marchand
3. Block hearings – Len Marchand
4. Extent of Review – Len Marchand
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Note: The next meeting is on January 6th in Vancouver.

Chairperson Mayo Moran

Date