



TOWN OF COLLINGWOOD

JUDICIAL INQUIRY

Before:

Associate Chief Justice Frank Marrocco

Held at:

Collingwood Town Hall

Council Chambers

97 Hurontario Street

Collingwood, Ontario

May 28th, 2019

1 APPEARANCES

2

3 Kate McGrann) Inquiry Counsel

4 John Mather) Associate Inquiry

5) Counsel

6

7 Michael Watson) Alectra Utilities

8 Belinda Bain) Corporation

9

10 (No Counsel)) For Paul Bonwick

11

12 George Marron) For Sandra Cooper

13

14 (No Counsel)) For Timothy Fryer

15

16 Frederick Chenoweth) For Edwin Houghton

17

18 William McDowell (np)) For Town of Collingwood

19 Ryan Breedon)

20

21 Patrick Gajos (np)) For Collus PowerStream

22) Corporation

23

24 Luisa Ritacca) Leo Longo

25

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1 --- Upon commencing at 10:01 a.m.

2

3 LEO LONGO, Previously Sworn

4

5 CONTINUED CROSS-EXAMINATION BY MR. FREDERICK

6 CHENOWETH:

7 MR. FREDERICK CHENOWETH: Mr. Longo, I

8 wish to simply take you back to a document which we

9 looked at a couple of times through the course of

10 today's -- yesterday's activities, and that's CJI6303.

11

12 (BRIEF PAUSE)

13

14 MR. FREDERICK CHENOWETH: Just to the

15 email below that. Thank you.

16 And, Mr. Longo, as I say, we saw this

17 yesterday. It's your January 16th email to Rick Lloyd

18 and Sandra Cooper, and you send it off to your

19 associate, John Mascarin, you send it off to Ed

20 Houghton, and it's an email in which you say:

21 "My earlier email addressed

22 something different, i.e., that the

23 lawyers preparing the agreements are

24 representing entities other than the

25 Town."

1 And you squarely raised your -- your
2 concern in that -- in that email, correct?

3 MR. LEO LONGO: Yes, sir.

4 MR. FREDERICK CHENOWETH: All right.
5 And I notice you copy John Mascarin. You didn't copy
6 Ron Clark.

7 MR. LEO LONGO: I copied John and Ed
8 because both of them were recipients of the email.

9 MR. FREDERICK CHENOWETH: Try and
10 answer my question, Mr. Longo.

11 MR. LEO LONGO: Sorry.

12 MR. FREDERICK CHENOWETH: And you
13 didn't copy Ron Clark.

14 MR. LEO LONGO: Not with this, no.

15 MR. FREDERICK CHENOWETH: And you
16 didn't copy Corrine Kennedy. And I think from what
17 you told me the other day, you didn't call him and
18 raise this issue with him.

19 MR. LEO LONGO: On that day, I did
20 not.

21 MR. FREDERICK CHENOWETH: All right.
22 And I think you indicated to me that you didn't raise
23 that issue with him on other occasions.

24 MR. LEO LONGO: The testimony
25 yesterday will stand.

1 MR. FREDERICK CHENOWETH: Thank you,
2 very good.

3 You were raising an issue that really
4 had to do with your partner's retainer and who it was
5 with, correct --

6 MR. LEO LONGO: Wh --

7 MR. FREDERICK CHENOWETH: -- because
8 you knew that Corrine Kennedy and -- and Mr. Clark
9 were working on this matter.

10 MR. LEO LONGO: Yes. And my
11 understanding at the time was that they were acting
12 for Collus.

13 MR. FREDERICK CHENOWETH: And you
14 understood that because of the -- the file opening
15 document, the client management document?

16 MR. LEO LONGO: Yes, that Collus was a
17 separate client of our firm and they had opened up the
18 LDC file under that --

19 MR. FREDERICK CHENOWETH: Is that a
20 "yes" to my question --

21 MR. LEO LONGO: Yes. And --

22 MR. FREDERICK CHENOWETH: -- that --

23 MR. LEO LONGO: And I'm just
24 elaborating.

25 MR. FREDERICK CHENOWETH: That's fine.

1 THE HONOURABLE FRANK MARROCCO: Please
2 let the witness finish his answer. If he's not -- if
3 you feel he's not responsive to your question, you
4 know -- I'm sure you'll follow up, but let the witness
5 finish his answer.

6 MR. FREDERICK CHENOWETH: Thank you.

7

8 CONTINUED BY MR. FREDERICK CHENOWETH:

9 MR. FREDERICK CHENOWETH: So just to
10 ask my question one more time, so -- so we can get
11 some clarity on it.

12 THE HONOURABLE FRANK MARROCCO: Well,
13 just a minute. What were you saying, Mr. Longo?

14 MR. LEO LONGO: I said yes, because
15 Collus was a separate client of the firm and they had
16 opened up the LDC file under the Collus client.

17

18 CONTINUED BY MR. FREDERICK CHENOWETH:

19 MR. FREDERICK CHENOWETH: So you'd
20 looked at that file management form obviously to come
21 to that conclusion, correct?

22 MR. LEO LONGO: I didn't look at that
23 form. I was aware that the file had been opened that
24 way.

25 MR. FREDERICK CHENOWETH: Thank you.

1 In any event, it -- it's clear that -- that your
2 correspondence relates to the nature of the retainer
3 of one of your partners, i.e., Mr. Clark --

4 MR. LEO LONGO: M-hm.

5 MR. FREDERICK CHENOWETH: -- with
6 respect to the matters that you knew he was dealing
7 with, correct?

8 MR. LEO LONGO: Yes.

9 MR. FREDERICK CHENOWETH: But in any
10 event of that, prior to raising this issue in this
11 series of correspondence and prior to writing your
12 email of January 16th, you didn't copy him on this
13 email or pick up the phone and -- and -- and explore
14 with him whether you had it right?

15 MR. LEO LONGO: That's correct.

16 MR. FREDERICK CHENOWETH: Thank you.

17 MR. LEO LONGO: I wanted to understand
18 from my client, the Town, what they understood.

19 MR. FREDERICK CHENOWETH: And you
20 learned that, and we went through this yesterday, I
21 don't think we need to go again -- through it again,
22 but you learned that the Town people were quite
23 content with the arrangements that were taking place
24 and felt that there was a consistency between the
25 position of Collus and the position of the Town.

1 MR. LEO LONGO: I had their responses,
2 yes.

3 MR. FREDERICK CHENOWETH: Thank you
4 very much. Another document which I wish to turn to
5 at this time, and it's ALE2196. Just a clarification
6 here, I don't quite understand the facts and maybe you
7 can edify me with respect to them on. I'm looking at
8 really two (2) emails, and this doesn't appear to be--

9 Maybe if we go down further, let's see
10 if turns out to be the document I'm looking for.

11 Yeah, that's -- here we are. Okay, very good.

12 So the lower email is an email from an
13 associate of the firm, Mr. Ventresca, and he is
14 sending to Corrine what would appear to be the
15 documents in signable shape.

16 Is that fair?

17 MR. LEO LONGO: I've not seen this
18 before.

19 MR. FREDERICK CHENOWETH: Take your
20 time with it.

21

22 (BRIEF PAUSE)

23

24 MR. FREDERICK CHENOWETH: You might
25 read the email just above it too when you're finished

1 with that one and tell me when you're finished and
2 we'll move it up.

3 MR. LEO LONGO: I see that email, yes,
4 thanks.

5 MR. FREDERICK CHENOWETH: Very good.
6 Go up to the email above that.

7

8 (BRIEF PAUSE)

9

10 MR. FREDERICK CHENOWETH: And it may
11 be that there's something above that that will allow
12 us to see who it was sent by and to. Appears to be an
13 email from Corrine Kennedy and she's sending it to
14 Robert Hull, which is the lawyer acting on behalf of
15 PowerStream, and she is sending it to Ed Houghton and
16 Ron Clark and Leo Longo, and she sending it in PDF
17 form so that all those people, including Leo Longo,
18 would have had an opportunity to have copies of all of
19 the signable documents.

20 MR. LEO LONGO: I don't -- I see that
21 my name is there. I don't recall this email at all.

22 MR. FREDERICK CHENOWETH: All right.
23 Do you recall whether you got copies of the signable
24 documents as suggested by this correspondence --

25 MR. LEO LONGO: No, I don't recollect

1 it.

2 MR. FREDERICK CHENOWETH: -- suggested
3 by this correspondence on or about the 5th of March,
4 2012?

5 MR. LEO LONGO: I don't recall this
6 email at all.

7 MR. FREDERICK CHENOWETH: Thank you.
8 My question was different than that.

9 Do you recall that you got copies of
10 the signable documents on or about March 5th, 2012?

11 MR. LEO LONGO: I don't believe I did.

12 MR. FREDERICK CHENOWETH: The evidence
13 suggests that there is a signing of the documents on
14 or about March 6th --

15 MR. LEO LONGO: Yes.

16 MR. FREDERICK CHENOWETH: -- 2012.
17 Did you play any part in the signing of those
18 documents on March 6th, 2012?

19 MR. LEO LONGO: I did not.

20 MR. FREDERICK CHENOWETH: You did not.
21 So you didn't attend on the Town or attend on Sara
22 Almas or -- or the Mayor or any of the people who were
23 signing the documents?

24 MR. LEO LONGO: That's correct.

25 MR. FREDERICK CHENOWETH: Thank you

1 very much. If we could turn to document ALE2209.

2

3 (BRIEF PAUSE)

4

5 MR. FREDERICK CHENOWETH: This appears
6 to be the closing agenda, or draft of the closing
7 agenda. Let's just scroll through that document, if
8 we could, and maybe you can tell me, Mr. Longo,
9 whether you had seen this document before.

10 MR. LEO LONGO: No, I don't believe
11 so.

12 MR. FREDERICK CHENOWETH: All right.
13 I notice on page 2 of the document, above
14 "Defined Terms," it describes counsel for the
15 Corporation, the Vendor, Collus, and Solutions.

16 I -- I take it the Town is either the
17 Corporation or the Vendor, from what I would
18 understand from reading the document. Is that
19 satisfactory?

20 MR. LEO LONGO: I never saw the
21 document, so I don't know how they're defined, but
22 I'll assume the Town is either the Vendor or the
23 Corporation.

24 MR. FREDERICK CHENOWETH: You -- you
25 assume what I'm assuming, fair?

1 MR. LEO LONGO: Fair.

2 MR. FREDERICK CHENOWETH: Thank you.

3 And I see that it describes the -- the lawyers for
4 those entities, including the Town, and the lawyers
5 for those entities are -- include a gentleman named
6 Leo Longo.

7 Do I take it that whoever prepared this
8 document understood you to be one of the solicitors
9 for the parties described above?

10 MR. LEO LONGO: That's what it appears
11 to be. No one brought this to my attention or asked
12 if it was so, of me.

13 MR. FREDERICK CHENOWETH: Just assist
14 me again, Mr. Longo.

15 Did you attend or were you involved in
16 the closing in any way on July 31st?

17 MR. LEO LONGO: No, I was not in any
18 way.

19 MR. FREDERICK CHENOWETH: Good, thank
20 you.

21

22 (BRIEF PAUSE)

23

24 MR. FREDERICK CHENOWETH: I'm looking
25 at a correspondence -- further correspondence. If we

1 could bring it up, that would be helpful. It says --
2 I'm assuming it's correspondence ABR234.

3

4 (BRIEF PAUSE)

5

6 MR. FREDERICK CHENOWETH: Go up or
7 down a little bit. I'm looking for another
8 correspondence of January 18th sent by Mr. Longo.
9 Back up. I don't think that was it, but --

10

11 (BRIEF PAUSE)

12

13 MR. FREDERICK CHENOWETH: My
14 correspondence says -- it actually says AB0000234,
15 which I'm assuming is ABR.

16 MR. JOHN MATHER: There are emails
17 from Mr. Longo on page 11, potentially what's being
18 referred to.

19 MR. FREDERICK CHENOWETH: That could
20 be. I'm looking for a January 18th email from --

21 MR. JOHN MATHER: There you go.

22 MR. FREDERICK CHENOWETH: There we go.
23 That appears to be it. Thank you very much.

24

25 CONTINUED BY MR. FREDERICK CHENOWETH:

1 MR. FREDERICK CHENOWETH: In any
2 event, this is an email of yours dated January 18th,
3 sent on to Sandra Cooper, Rick Lloyd, Kim Wingrove,
4 Sara Almas, Ed Houghton, Mascarin, Clark, and Kennedy.

5 Are you familiar with this email?

6 MR. LEO LONGO: Yes, sir.

7 MR. FREDERICK CHENOWETH: And it would
8 seem to suggest that you had a conference call that
9 afternoon with at least some of the participants in
10 this email or some of the people you've copied?

11 MR. LEO LONGO: That's correct.

12 MR. FREDERICK CHENOWETH: All right.
13 And did you have an email with Ms. Cooper? Was -- was
14 Ms. Cooper in that conversation?

15 MR. LEO LONGO: I don't recall that
16 conference call.

17 MR. FREDERICK CHENOWETH: Okay. Was -
18 - would you recall having a conference call with Mr.
19 Lloyd on that occasion?

20 MR. LEO LONGO: I don't recall that
21 conference call at all, sir.

22 MR. FREDERICK CHENOWETH: You have no
23 memory of the conference call?

24 MR. LEO LONGO: That's correct.

25 MR. FREDERICK CHENOWETH: You seem to

1 have been discussing, if I look at the document, and
2 this may assist you and then again it may not -- you
3 seem to have been discussing the bylaw on that
4 occasion.

5 MR. LEO LONGO: I think we were
6 discussing the version of the bylaw that Mr. Houghton
7 had returned back to me from my initial draft.

8 MR. FREDERICK CHENOWETH: Mr. Nolan's
9 copy of the bylaw.

10 MR. LEO LONGO: What I've subsequently
11 discovered to be, yes.

12 MR. FREDERICK CHENOWETH: Thank you.

13 MR. LEO LONGO: Yes.

14 MR. FREDERICK CHENOWETH: And you
15 indicated you were discussing that draft bylaw and --
16 would you have any memory that -- that you would have
17 received the comment of Cooper or Lloyd or Wingrove or
18 Almas, suggesting that you take out the clause
19 requiring the return of the bylaw after review of the
20 Town solicitor?

21 MR. LEO LONGO: No. Having reviewed
22 this email, I recall the second paragraph where it
23 says:

24 "As directed, this bylaw will not
25 cite any statutory provisions in the

1 whereas clauses."

2 I do recall mentioning to the client,
3 the Town, that normally in a whereas clause you'll put
4 the statutory basis upon which one is proceeding to
5 enter into the action they're taking in the bylaw.

6 And I believe it was at the Mayor's
7 direction that no whereas -- no statutory provisions
8 need be included in the whereas clauses. So the note
9 in the second paragraph was to acknowledge that --

10 MR. FREDERICK CHENOWETH: It appears --

11 MR. LEO LONGO: -- the third paragraph
12 speaks to the staff reporting back issue and --

13 MR. FREDERICK CHENOWETH: Have that.

14 MR. LEO LONGO: -- that I indicate,
15 obviously after whatever call I had, that I had left
16 that in, but then said if people thought it was -- the
17 Town -- if the client thought it was unnecessary or
18 undesirable, they could remove it.

19 MR. FREDERICK CHENOWETH: I'm -- I'm
20 taking from this, and again I wasn't involved in the
21 conversation either, you were, but I'm taking from
22 this that in the conversation it would have been
23 suggested to you by one of the people you've
24 described, Cooper or Lloyd, that they weren't -- or
25 Almas, that they weren't anxious to have the -- the

1 return after solicitor review clause in the document.

2 Is that -- is that -- does that twig
3 your memory at all?

4 MR. LEO LONGO: It does not and I -- I
5 -- I couldn't say that to be so at all.

6 MR. FREDERICK CHENOWETH: But if Ms.
7 Almas said that that was her view, you wouldn't be in
8 a position to counter that, because you don't have any
9 memory of the conversation?

10 MR. LEO LONGO: She said it was her
11 view that such a -- a reporting back clause was
12 unnecessary.

13 MR. FREDERICK CHENOWETH: Correct.

14 MR. LEO LONGO: I -- I would disagree
15 with her as to the necessity of that.

16 MR. FREDERICK CHENOWETH: Whether you
17 disagree with her or not, if she says that that was
18 her position, you're not in a position with re -- as a
19 result of your memory of this conversation to say
20 otherwise, correct?

21 MR. LEO LONGO: Correct on that point.

22 MR. FREDERICK CHENOWETH: Thank you
23 very much.

24 No doubt that you were putting section
25 4 back in again or -- or leaving it in, but is it fair

1 to say that you made it clear in the remainder of the
2 sentence, i.e., it's felt that such provision if --
3 it's felt that such provision is unnecessary or
4 undesirable, you can remove it.

5 Fair to say you were, amongst other
6 things, saying to your clients that that section
7 wasn't a legal necessity?

8 MR. LEO LONGO: That's correct, not a
9 legal necessity. I want -- I was recommending it, but
10 if they deemed it unnecessary or undesirable they
11 could strike it for the second time.

12 MR. FREDERICK CHENOWETH: Very good.
13 Could we pull up ARB14?

14

15 (BRIEF PAUSE)

16

17 MR. FREDERICK CHENOWETH: This is an
18 email to you, Mr. Longo, from Ron Clark and it's dated
19 Monday the 16th.

20 MR. LEO LONGO: Yes, sir.

21 MR. FREDERICK CHENOWETH: And I think
22 you and I have pulled this up on other occasions in
23 this examination and I think you indicated that you
24 had some memory of receiving this email?

25 MR. LEO LONGO: I don't deny receiving

1 this email.

2 MR. FREDERICK CHENOWETH: Thank you.

3 And I asked you -- I put to you that it
4 suggested to me that -- that you would've had some --
5 that after reviewing the agreements, the share
6 purchase agreement and the unanimous shareholders
7 agreement, as you told us you did on the 15th and 16th
8 of January, that you had some discussions with Mr.
9 Clark because he says "two (2) more issues of which
10 you should be aware," and you suggested to me that was
11 inaccurate. This --

12 MR. LEO LONGO: I -- I --

13 MR. FREDERICK CHENOWETH: -- i.e., it
14 didn't -- i.e., just to make my question clear. I.e.,
15 that it didn't suggest that you had any conversations
16 with Mr. Clark.

17 MR. LEO LONGO: I don't recall having
18 any conversations with Mr. Clark that day. This came
19 the morning of him travelling up to Collingwood to
20 make his presentation to Council that evening.

21 I received this email, it just simply
22 said two more issues which you should be aware of. I
23 -- it's not, in my view, or understanding, a
24 recollection, a follow-up of a discussion with him
25 that day. Just -- he was alerting me to two issues.

1 MR. FREDERICK CHENOWETH: So you
2 didn't have any discussions with him during the time
3 of your review of those documents on January 15th and
4 16th, 2012?

5 MR. LEO LONGO: That's correct, I
6 don't believe I did.

7 MR. FREDERICK CHENOWETH: I'm
8 referring you to a document, and I hope I've got this
9 document number right, ARB23. If we could look at
10 that.

11 And that appears to be, and we can go
12 through it slowly, this appears to be your account, I
13 think, of February 27th, 2012, it's under your
14 signature.

15 Can we just cruise through that if we
16 could, please?

17 MR. LEO LONGO: Yes.

18

19 (BRIEF PAUSE)

20

21 MR. FREDERICK CHENOWETH: Let's stop
22 for a moment on -- on an entry -- a doc --

23 THE HONOURABLE FRANK MARROCCO: Sorry,
24 whose account is this?

25 MR. FREDERICK CHENOWETH: As I

1 indicated in my question, it's Mr. Longo's account.

2 We went to the -- we can go to the bottom of the

3 account and just confirm that, if we could.

4

5 CONTINUED BY MR. FREDERICK CHENOWETH:

6 MR. FREDERICK CHENOWETH: Mr. Longo,

7 this is your account?

8 MR. LEO LONGO: Yes, sir.

9 MR. FREDERICK CHENOWETH: It is your

10 account, sir?

11 MR. LEO LONGO: Your Honour, this is

12 the file that -- that I charge my time to related to

13 the work I did for the Town.

14 THE HONOURABLE FRANK MARROCCO: Well,

15 Mr. Chenoweth -- is this your account?

16 MR. LEO LONGO: Yes.

17 THE HONOURABLE FRANK MARROCCO: Okay.

18 MR. FREDERICK CHENOWETH: Thank you.

19

20 CONTINUED BY MR. FREDERICK CHENOWETH

21 MR. FREDERICK CHENOWETH: And we were

22 looking at an entry for the 15th of January, 2012.

23 MR. LEO LONGO: Yes.

24 MR. FREDERICK CHENOWETH: It's an

25 entry in which you spent an hour, it would appear.

1 MR. LEO LONGO: yes.

2 MR. FREDERICK CHENOWETH: And it
3 appears to indicate that what you did in that hour was
4 you were vetting the revised agreements, which I take
5 it to be the share purchase agreement --

6 MR. LEO LONGO: M-hm.

7 MR. FREDERICK CHENOWETH: -- and the
8 unanimous shareholders agreement, as you earlier
9 described you did on that day, correct?

10 MR. LEO LONGO: Yes.

11 MR. FREDERICK CHENOWETH: And it
12 suggests that you had a telephone conference call with
13 Mr. Clark and Mr. Kennedy, which is consistent with
14 the earlier suggestion I made to you looking at the
15 earlier document, that the earlier document suggested
16 that there had been a call in which you discussed this
17 transaction.

18 MR. LEO LONGO: I'm -- thank you for
19 refreshing my memory. I rec -- I recall I did not
20 have a discussion with Ron on the 16th, the day that
21 the email came in, but on the 15th it appears that I
22 the one hour of dockets, a portion of that was a
23 conference call.

24 MR. FREDERICK CHENOWETH: And
25 obviously it was a conference call between the two (2)

1 of them, not just one (1) of them --

2 MR. LEO LONGO: Yes.

3 MR. FREDERICK CHENOWETH: -- but the
4 two (2) of them. And it would seem to be clear that
5 during that conference call you were discussing and
6 vetting the share purchase agreement and the unanimous
7 shareholders agreement, correct?

8 MR. LEO LONGO: I would have had them
9 in my possession.

10 MR. FREDERICK CHENOWETH: That wasn't
11 my question, sir.

12 My question was: Is it the case that
13 during that call with Ron Clark and Corrine Kennedy,
14 you were vetting and discussing the share purchase
15 agreement and the unanimous shareholders agreement?

16 MR. LEO LONGO: I can't say I did that
17 over the phone with them. I could say vetted revised
18 agreements: telephone conference call with the two of
19 them.

20 So I -- I would have seen the
21 agreements and I would have had a discussion with
22 them. Was I vetting the agreements over the phone
23 call with them? I may have been discussing the
24 agreements, but maybe I'm misunderstanding what you're
25 asking.

1 MR. FREDERICK CHENOWETH: Maybe you
2 are.

3 You -- you wouldn't deny that what you
4 were talking about on the 15th of January was the very
5 agreements that you had in front of you on that day?

6 MR. LEO LONGO: Yes, so I guess I'm
7 just saying when you're -- when you're saying "vetting
8 the agreements" --

9 MR. FREDERICK CHENOWETH: I see.

10 MR. LEO LONGO: -- that strikes me as
11 sitting on a phone call and going through each
12 agreement. I can't recall if that was so, I just
13 wanted to be as accurate as possible.

14 MR. FREDERICK CHENOWETH: You can't
15 recall whether it was so or wasn't so.

16 MR. LEO LONGO: Whether we were
17 talking about the agreements, whether it was an actual
18 vet through the agreements, that's what I can't
19 recall.

20 MR. FREDERICK CHENOWETH: But it's
21 clear that you were vetting the agreements during that
22 very same hour that you had this call with Ms. Kennedy
23 and Mr. Clark, correct?

24 MR. LEO LONGO: I provided my answer
25 as best I can.

1 MR. FREDERICK CHENOWETH: Thank you.

2 Your Honour, those are all the
3 questions I have of this witness. Thank you very
4 much.

5 THE HONOURABLE FRANK MARROCCO: Go
6 ahead, Mr. Marron.

7 MR. GEORGE MARRON: I might do this
8 from the table.

9 THE HONOURABLE FRANK MARROCCO: I'm
10 sorry, somebody coughed. You might do this from?

11 MR. GEORGE MARRON: From the counsel
12 table.

13 THE HONOURABLE FRANK MARROCCO:
14 Whichever you prefer.

15 MR. GEORGE MARRON: Yes. It's a
16 little bulky. Thank you.

17

18 (BRIEF PAUSE)

19

20 MR. GEORGE MARRON: I'll complete a
21 couple house cleaning -- or housekeeping duties here.
22 Thank you, Your Honour.

23

24 CROSS-EXAMINATION BY MR. GEORGE MARRON:

25 MR. GEORGE MARRON: Mr. Longo, my name

1 is George Marron. We know one another. And I
2 represent Sandra Cooper, who was the mayor in the 2010
3 to 2014 session and in respect of the years that are
4 under review here, namely 2010, 2011, 2012, the latter
5 part of 2010.

6 I -- I just wanted to review with you.
7 I took special note of the evidence that you gave
8 yesterday in reference to the Municipal Conflict of
9 Interest Act.

10 And I just wanted to make reference, if
11 I could, to the Foundation Document, Your Honour, and
12 the Foundation Document, page 15, paragraph 22. I
13 don't whether we need this pulled up, but I just
14 simply wanted to advise.

15

16 (BRIEF PAUSE)

17

18 MR. GEORGE MARRON: Thank you. This
19 indicates that in 2010 the Municipal Act had
20 provisions that permitted municipalities to establish
21 codes of conduct for councillors, and that's codes of
22 conduct as opposed to code of ethics, and to appoint
23 an integrity commissioner to conduct inquiries into
24 breaches of those codes of conduct.

25 Just in reference to that, there was a

1 staff report that was prepared on the 27th of April,
2 2009, by Sara Almas. And, Your Honour, this is
3 CJI0009231.

4

5 (BRIEF PAUSE)

6

7 MR. GEORGE MARRON: Thank you. And --
8 and, Mr. Longo, we're advised in the Foundation
9 Document at page -- paragraph 24 that in 2010 the Town
10 of Collingwood did not have a code of conduct or an
11 integrity commissioner.

12 And I understand that that was the gist
13 of your evidence yesterday?

14 MR. LEO LONGO: I suspect that was so,
15 yes.

16 MR. GEORGE MARRON: Okay. And this
17 staff report that's dated the 27th of April is an
18 indication of a recommendation from council, if you
19 would be kind enough to look at paragraph 1, that
20 council approved the reestablishment of an ad hoc
21 committee to review the current code of ethics and
22 determine necessary amendments, including whether it
23 should be replaced as a code of conduct?

24 MR. LEO LONGO: I see that.

25 MR. GEORGE MARRON: Yeah. And if I

1 could ask that -- that we scroll up. I got that
 2 right, up as opposed to down. I had difficulty last
 3 day. And if we could get right to the third page.
 4 Yeah, that's it.

5 And, of course, it means we all have to
 6 crane our heads or lean to the left or right, Your
 7 Honour, but it is -- is an indication here that the
 8 staff report, see 2009/'08 which is what I reviewed
 9 with you, being Sara Alma's report, indicates that it
 10 was recommended by council to approve the
 11 reestablishment of the ad hoc committee to review the
 12 current code of ethics and determine necessary
 13 amendments, including whether it should be replaced as
 14 a code of conduct.

15 It indicates that that be approved.
 16 And it indicates that vote was carried. And then it
 17 further indicates that, not only did Sandra Cooper
 18 vote in favour of that, but it indicates that Deputy
 19 Mayor, as she was at that time, requested that all
 20 members of council interested in being a part of the
 21 ad hoc committee submit their interest to her no later
 22 than noon on Friday the 1st of May, 2009.

23 MR. LEO LONGO: I see that. Could I
 24 ask as a favour -- could I just see page 2 of this
 25 report for a moment?

1 MR. GEORGE MARRON: Could we scroll
2 that, please?

3

4 (BRIEF PAUSE)

5

6 MR. LEO LONGO: Further down, please.
7 Further down. Thank you. Okay. Thank you, Mr.
8 Marron.

9 MR. GEORGE MARRON: Okay. So, there's
10 nothing on that page that --

11 MR. LEO LONGO: No.

12 MR. GEORGE MARRON: -- on which you
13 want to remark? Okay.

14 MR. LEO LONGO: What I was looking
15 for, frankly, sir, was department head review. I was
16 just seeing if there was any reference to my firm
17 having been involved in the preparation of -- of this
18 --

19 MR. GEORGE MARRON: Right. Right.
20 Well, Justice --

21 MR. LEO LONGO: -- report.

22 MR. GEORGE MARRON: -- Marrocco --

23 MR. LEO LONGO: Yeah.

24 MR. GEORGE MARRON: -- I recall him
25 asking that yesterday, yeah

1 MR. LEO LONGO: And I don't --

2 MR. GEORGE MARRON: Yeah, there's no
3 indication --

4 MR. LEO LONGO: -- see --

5 MR. GEORGE MARRON: -- of a staff
6 report, no.

7 MR. LEO LONGO: Right. Thank you.

8 MR. GEORGE MARRON: Okay. All right.
9 So -- okay. So, I can bring you forward. And I can
10 do this just by way of statement, that on January the
11 5th, 2015, it was resolved by the council of the Town
12 of Collingwood to receive the conclusions and
13 recommendation provided in an integrity commissioner's
14 report of October 20, 2014.

15 And it's indicated here that Deputy
16 Mayor Saunderson provided that the following motion
17 will be presented for consideration at the next
18 regular meeting of council scheduled for January 19,
19 2015.

20 And it indicates here that a code of
21 conduct, including enhanced conflict of interest
22 provisions to include a broader definition of family
23 members and undue influence provisions.

24 Now, were -- were you acting for the
25 Town of Collingwood on the 5th of January, 2015?

1 MR. LEO LONGO: No.

2 MR. GEORGE MARRON: Well -- well,
3 what's --

4 MR. LEO LONGO: May I be clear? The -
5 - in 2014, the Town put out a new -- put out an RFP
6 for legal services. Our firm, like others, bid on
7 that service.

8 I -- our firm was not selected as -- as
9 the Town solicitor on a go-forward basis. But I
10 always understood that under that RFP, the CAO had the
11 ability to retain whomever he thought would be the
12 most appropriate person to deal with the matter.

13 So, even after 2014, when Miller
14 Thomson had taken over doing the work for the
15 municipality, Aird & Berlis would periodically get
16 calls from the municipality, either the CAO or the
17 clerk, to undertake work.

18 Even to this day, I believe John
19 Mascarin still does the occasional bit of work for
20 Collingwood.

21 MR. GEORGE MARRON: All right. Well,
22 thank you.

23 MR. LEO LONGO: But my involvement
24 ceased after the 2014 --

25 MR. GEORGE MARRON: Okay.

1 MR. LEO LONGO: -- election.

2 MR. GEORGE MARRON: Well, I -- I was
3 just bringing you up to what I believe to be the
4 current situation as of 2015. Otherwise, there was a
5 bylaw, actually, it's dated the 8th day of September,
6 2015, to establish a code of conduct for members of
7 council and a complaint protocol, so -- and with an
8 expanded definition as to -- as to persons affected by
9 -- by way of family members and otherwise in a what
10 one might call a modern definition of the family to
11 include common law spouses and -- and brother-in-laws,
12 things of that sort.

13 In fact, I -- I could read it to you,
14 but it indicates immediate -- immediate relative. And
15 it -- it broadly extends the -- the definition as it
16 relates to individuals who would be in a deemed
17 position of conflict of interest, okay.

18 I don't know that I need to read that
19 into the record unless Your Honour would care to have
20 me do that. I mean, it --

21 THE HONOURABLE FRANK MARROCCO: I
22 think we probably have it --

23 MR. GEORGE MARRON: Yeah.

24 THE HONOURABLE FRANK MARROCCO: --
25 somewhere and --

1 MR. GEORGE MARRON: Yeah. Okay.

2 Thank you. All right. So, I -- I just want to
3 briefly review the evidence.

4 THE HONOURABLE FRANK MARROCCO: Just
5 before you do that, if you want to file a copy of the
6 bylaw --

7 MR. GEORGE MARRON: No, no, I'm
8 content.

9 THE HONOURABLE FRANK MARROCCO: --
10 I'll receive it as an exhibit.

11 MR. GEORGE MARRON: No, no. I'm
12 content. It was just -- there were a couple things I
13 believe that were outstanding yesterday, and I just
14 wanted to bring Mr. Longo up to speed in that, you
15 know, the code of conduct was not something that
16 existed prior to September 2015.

17 MR. LEO LONGO: Right.

18

19

20 CONTINUED BY MR. GEORGE MARRON:

21 MR. GEORGE MARRON: There was --
22 obviously, it goes back to 2009 Sara Almas staff
23 report. But it took some period of time to be enacted
24 or brought in by way of a bylaw.

25 MR. LEO LONGO: Yeah.

1 MR. GEORGE MARRON: So we were
2 talking -- or you were talking yesterday and educating
3 us on this Municipal Conflict of Interest Act.

4 And in reference to the deemed
5 interest, you're -- you indicated that the deemed
6 interest is one that is deemed to be that of the
7 member even though it belongs to someone else.

8 And a Conflict of Interest Act says
9 that under certain circumstances, the interest of
10 certain individuals, either direct or indirect, or a
11 pecuniary interest of theirs becomes the deemed
12 pecuniary interest of the Council member.

13 MR. LEO LONGO: That's correct.

14 MR. GEORGE MARRON: So it -- your
15 indication was under certain circumstances. And so --
16 and that was -- you've gone on further, I believe, in
17 your evidence to indicate that these matters would be
18 factually dependent and that under certain
19 circumstances would obviously be conditional to the
20 implication or the involvement of the member with the
21 Municipal Conflict of Interest Act.

22 MR. LEO LONGO: In my testimony, I
23 reviewed what the Act said about who -- whose interest
24 would be deemed to be that of the member.

25 MR. GEORGE MARRON: Right.

1 MR. LEO LONGO: I spoke of family
2 connections and the fact that siblings is -- is not --

3 MR. GEORGE MARRON: Right.

4 MR. LEO LONGO: -- currently
5 mentioned.

6 MR. GEORGE MARRON: Right. And you
7 indicated that on January the 7, 2011, you were
8 involved in the orientation of the new Council.

9 MR. LEO LONGO: Yes, sir.

10 MR. GEORGE MARRON: And I take it that
11 this is something that occurs with a new Council. So
12 it's every four (4) years that you had -- would be
13 involved or so involved or someone would be in the
14 orientation of the new Council?

15 MR. LEO LONGO: I would have assumed
16 that it's a -- it's a worthwhile practice that I'm
17 sure the Town has continued for its new Council.

18 MR. GEORGE MARRON: Yeah. So this
19 isn't something that occurred every year in the month
20 of January or at any particular point in time during
21 the currency of the Council.

22 MR. LEO LONGO: You like to get to the
23 new Council as early in their term as possible in
24 order to lay this all out for them.

25 MR. GEORGE MARRON: All right. And

1 having regard to New Years and the festivities. So
2 this was January the 7th, which is right following the
3 new year.

4 MR. LEO LONGO: That's right. They --
5 they normally take their oath the first -- first week
6 of December and -- but there's really not much in the
7 way of meeting schedules prior to January.

8 MR. GEORGE MARRON: All right. So
9 you, in the orientation, made it clear that siblings
10 aren't involved insofar as the -- of the Municipal
11 Conflict of Interest Act.

12 MR. LEO LONGO: That's correct.

13 MR. GEORGE MARRON: All right. And,
14 you know, we've heard from a number of witnesses.
15 We've heard from Sara Almas. We heard from Kim
16 Wingrove, Rick Lloyd, Sandra Cooper to that fact that
17 they all obviously came away from the orientation
18 session knowing that there was an exclusion of
19 siblings from the -- from the dictates of the
20 Municipal Conflict of Interest Act.

21 MR. LEO LONGO: Hopefully they
22 listened to the seminar.

23 MR. GEORGE MARRON: All right. So
24 just to deal with this. You indicated that there was
25 a local government Disclosure Act, and I take it that

1 that was something that the province had an
2 involvement with obviously. It's a provincial piece
3 of legislation. And it was never proclaimed, and you
4 indicated that after about 10 or 15 years, it just
5 fell off the books.

6 Was it something that would deal with
7 conflict of interest in a broader way, or was it -- in
8 other words to fill in for the deficiencies of the
9 Municipal Conflict of Interest Act as you described it
10 be? I mean, you indicated there was a glaring
11 omission that siblings were not included in the
12 Municipal Conflict of Interest Act --

13 MR. LEO LONGO: Right. So --

14 MR. GEORGE MARRON: -- and then spoke
15 about this local government Disclosure Act.

16 MR. LEO LONGO: -- the back -- Your
17 Honour, the background to that was after the
18 consultation committee presented its -- that I sat on
19 presented its recommendations to the province in July.
20 The -- the Rae government introduced and enacted
21 something called the Local Government Disclosure of
22 Interest Act, 1994, and that Act was part a piece of
23 legislation called the Planning and Municipal Statute
24 Law Amendment Act, 1994, Statutes of Ontario, 1994,
25 chapter 23. And the Local Government Disclosure of

1 Interest Act was schedule B of that Act.

2 Unfortunately, the government did not
3 act on the recommendation of the consultation
4 committee to include siblings as familial members for
5 which there would be a deemed interest. That
6 legislation, while it received royal assent -- was
7 only -- royal assent was only to take effect on
8 proclamation, and proclamation never occurred.

9 THE HONOURABLE FRANK MARROCCO: I
10 think you told me that yesterday.

11 MR. LEO LONGO: And -- just to finish
12 up -- and then 10 or 15 years later, it was expunged
13 from the -- like, formally taken out of the -- the
14 legislation.

15 But -- but even the government's
16 attempt in '94 to amend the Municipal Conflict of
17 Interest Act did not go as far as the consultation
18 committee recommended that -- that it -- it might.

19

20

21 CONTINUED BY MR. GEORGE MARRON:

22 MR. GEORGE MARRON: Okay. Thank you.
23 So that brings us back then to 2010 when provincial
24 authority in the Municipal Act made provision or
25 permitting municipalities to establish codes of

1 conduct for councillors and to appoint an integrity
2 commissioner.

3 MR. LEO LONGO: Well, if I recall
4 the -- the genesis of the legislation, it followed the
5 Bellamy Report, the computer scandal in -- in Toronto.

6 The Municipal Act made it discretionary
7 for municipalities to have codes of conduct, integrity
8 commissioners, et cetera, but I believe there was then
9 an amendment that said, no, we're making code of
10 conduct a mandatory feature for every municipality
11 now.

12 So I believe every municipality in
13 Ontario has to have a code of conduct and many have
14 chosen to have integrity commissioners as -- as we
15 move forward.

16 MR. GEORGE MARRON: Well -- and
17 there's some indication as to the expense involved in
18 the -- having these -- if I for want of a better
19 word -- these facilities or these available contacts.
20 I mean, if you're a small municipality, it's a lot
21 more onerous perhaps to carry the burden of the
22 salaries for professional people than if you're a
23 larger municipality.

24 MR. LEO LONGO: That's true, but some
25 of that has been addressed by having, for example,

1 municipalities pool their resources together and hire
2 a single integrity commissioner that serves the -- the
3 entire county or whatever number of municipalities
4 that choose to participate in that process.

5 MR. GEORGE MARRON: Right, right. All
6 right. And I think that was the case with Collingwood
7 in the initial stages and probably still is.

8 But in any event, the code of conduct
9 was not brought in until September 2015 to the Town of
10 Collingwood --

11 MR. LEO LONGO: Yes.

12 MR. GEORGE MARRON: -- by way of
13 bylaw, and Robert Swayze was the integrity
14 commissioner, and I believe it wasn't appointed until
15 the 16th of December 2013. And that is information
16 that is in the Foundation Document, and I'm not going
17 to ask to search through the documents.

18 MR. LEO LONGO: I'm not certain how I
19 can assist on this because I wasn't part of the Town's
20 legal work at that time.

21 THE HONOURABLE FRANK MARROCCO: Well,
22 I don't think you can. I think Mr. Marron's made the
23 point. It's in the document, and you're just
24 finishing off the line of questioning.

25 MR. LEO LONGO: Yeah. Yeah.

1 THE HONOURABLE FRANK MARROCCO: I
2 don't really think you can add anything to that.

3 MR. GEORGE MARRON: Yeah. Thanks,
4 Your Honour.

5 THE HONOURABLE FRANK MARROCCO: It was
6 more in the form of a extemporaneous discussion of the
7 issue.

8 MR. GEORGE MARRON: And I'll stand by
9 that because I pulled that out of the documentation.

10 THE HONOURABLE FRANK MARROCCO: Yes.

11

12 CONTINUED BY MR. GEORGE MARRON:

13 MR. GEORGE MARRON: Okay, so if I
14 could just move on then.

15 And then you indicated in your evidence
16 that -- and -- and we went through the -- the bulletin
17 or the points that you set out in your -- I'd call it
18 a paper, but in your presentation of January --
19 presentation, I'll be consistent with that then, that
20 if -- if anybody needed advice they'd have to go to
21 their own lawyer, they couldn't use Aird & Berlis and
22 you indicated the reason why, because you're the Town
23 solicitor and there'd be a conflict, certainly a
24 potential conflict if you're giving advice to one of
25 the Council members and then are turning around and

1 acting for the Town of Collingwood proper.

2 MR. LEO LONGO: That's correct.

3 MR. GEORGE MARRON: Right. Right.

4 So I -- and then you made a statement
5 that while you're giving this orientation and/or
6 perhaps while you're advising Council as the solicitor
7 for the Town of Collingwood, no one ever spoke to you
8 directly about conflict of interest?

9 MR. LEO LONGO: That's correct.

10 MR. GEORGE MARRON: So not unlike the
11 siblings point that you made, the -- the conflict that
12 you would be in, that point was made well, in the
13 sense that no one came forth and reviewed or asked you
14 to review with them a conflict of interest.

15 MR. LEO LONGO: That's correct.

16 MR. GEORGE MARRON: Okay. And then
17 you were asked by Commission counsel if -- if you knew
18 if Council ever received any training or information
19 about the Municipal Conflict of Interest Act and your
20 indication was that you wouldn't know that.

21 And I take it that that's the situation
22 by virtue of the fact that no one ever came to you
23 with that subject matter.

24 And the last bullet, and this was a
25 review of your slide presentation, talks about

1 abundant and at times contradictory case law, and then
2 you went on to indicate that even if a person were to
3 reach into their own pocket and go to -- go forth with
4 the expense to obtain a -- an opinion, that -- that
5 you were advised or you indicated that one of your
6 colleagues at Works, once again a Municipal law
7 expert, that independent advice often times was -- was
8 wrong.

9 MR. LEO LONGO: His -- his
10 recollection was that most of the time the advice
11 given is incorrect, but the fact that a Councillor had
12 sought and obtained legal advice guaranteed that the
13 saving provision of the Act would kick in and a
14 Councillor would not suffer the consequences of having
15 their seat vacated.

16 MR. GEORGE MARRON: Right. Right.

17 Now -- now, I take it that -- that
18 obtaining legal advice and a written report, and I
19 think your indication was that if somebody's going to
20 -- a member -- if a member of Council is going to seek
21 legal advice, they want to obtain a written report so
22 that they can, number 1, prove that they've obtained
23 the legal advice, and number 2, be able to present
24 what they've obtained.

25 And -- and for that very reason that it

1 -- if it's something that is determined in the
2 eventual and final stage, that it's in error, at least
3 the person has made the attempt that shows good faith
4 on the part of the individual.

5 MR. LEO LONGO: Putting it in writing
6 is usually the prudent thing to do.

7 MR. GEORGE MARRON: Right, right

8 So you were then directed to -- to this
9 term, the spirit, and it made reference to the
10 Municipal Act which you said there is nothing in the
11 Municipal Act that would --

12 MR. LEO LONGO: Not on the conflict of
13 interest aspect.

14 MR. GEORGE MARRON: Yeah, yeah.

15 And -- but it says here that the spirit
16 of the provisions of the Municipal Conflict of
17 Interest Act and -- and Mr. Mather asked you what's
18 meant by the spirit of the Municipal Conflict of
19 Interest Act and it seemed to me you were a little
20 hesitant on that, but your indication was you didn't
21 draft it, so -- but you gave what you believe that
22 term or phrase meant, and you -- you indicated that
23 you -- it's -- was an expectation that a Council
24 member would adhere to the legislation in an effort to
25 achieve its principles and desired outcomes.

1 So then you went on further to -- you
2 were asked if you could recall any conversations that
3 you had with the CAO, and that would have been Kim
4 Wingrove in 2011, or with the clerk about the content
5 of the Code of Ethics and specifically what this
6 provision meant.

7 And you -- your indication that you had
8 no recollection of that, but that on occasion Sara
9 Almas indicated to you that she wasn't going to be
10 advancing herself as somebody who could provide a
11 legal opinion on a conflict of interest.

12 And -- and you were asked well, when
13 did -- when did that occur and your indication was
14 well generally it was something that perhaps was
15 reinforced by a number of indications from Sara Almas.

16 And when she testified here, I believe
17 that her evidence overall indicated her ability to
18 make the distinction between providing a legal
19 opinion, because she wasn't a solicitor, and even
20 referring to anything by way of an opinion in the
21 sense that she wouldn't want what she said to be
22 misinterpreted.

23 So was that in keeping with sort of the
24 general conversation as you recall it to be that you
25 had with her?

1 MR. LEO LONGO: My understanding is
2 Ms. Almas has consistently taken the position, while
3 she's been clerk, that she is not a person to whom
4 Councillors are to go to seek advice as to compliance
5 with the Municipal Conflict of Interest Act.

6 MR. GEORGE MARRON: Right.

7 So they'd have to retain their own
8 counsel and reach into their pocket to do so.

9 MR. LEO LONGO: Yes, sir.

10 MR. GEORGE MARRON: We -- we heard
11 from Rick Lloyd, who was the Deputy Mayor, that in and
12 around the years under review that his -- his salary,
13 I take it gross salary, it didn't indicate, but his
14 salary was \$22,000 a year as the Deputy Mayor or
15 occupying that position, that's what they paid him.

16 And I would submit that a legal opinion
17 could be a significant outlay from the \$22,000,
18 depending on the circumstances, obviously, I mean it
19 could be quite involved. It's a difficult area of the
20 law.

21 MR. LEO LONGO: I don't really know if
22 there's a question in there for me.

23 MR. GEORGE MARRON: Yes. Well, I --
24 you nodded and so I went further than perhaps I should
25 have.

1 But -- but this is a fairly complex
2 area of the law, or at least it can be because it's
3 factually driven and --

4 MR. LEO LONGO: It's -- it's fact-
5 driven. The legislation is not an extensive piece of
6 legislation.

7 MR. GEORGE MARRON: Right.

8 MR. LEO LONGO: I -- I think most
9 competent lawyers can read it and -- and understand it
10 and would be able to assist clients quickly in
11 understanding what their obligations are under the
12 Act.

13 MR. GEORGE MARRON: Well, that's your
14 opinion and once again though, it's factually driven
15 and -- and you know, without getting into the details,
16 I mean there was some review of the -- of the email
17 chain which occurred as between yourself, Sandra
18 Cooper and Rick Lloyd back on the -- back in January
19 of 2011 -- or sorry, 2012.

20 MR. LEO LONGO: What about those
21 emails?

22 MR. GEORGE MARRON: Well, there --
23 there was that chain of -- of emails that we went
24 through or --

25 MR. LEO LONGO: Yes.

1 MR. GEORGE MARRON: -- you know, it
2 was -- I don't want to characterize it, but for want
3 of a better word, a precautionary issue that you
4 raised with Sandra Cooper and Rick Lloyd as to whether
5 the interests of Collus were compatible or whether
6 they may be different with the interests of the Town?

7 MR. LEO LONGO: Yes, sir. Right.

8 MR. GEORGE MARRON: And there was some
9 review of that by the Miller Thomson firm in 2015.
10 Are you aware of that?

11 MR. LEO LONGO: Yes.

12 MR. GEORGE MARRON: Okay. And there
13 was some comment made by the -- I have her name, but
14 it just escapes me now, there was some comment made
15 by. Was -- was it a Ms. Kennedy? No, no, no, no.

16 THE HONOURABLE FRANK MARROCCO: Well,
17 we can -- we can figure out the name.

18 MR. GEORGE MARRON: Yeah.

19 THE HONOURABLE FRANK MARROCCO: Just --

20 MR. GEORGE MARRON: Yeah, yeah.

21 THE HONOURABLE FRANK MARROCCO: Why
22 don't you just put the question --

23 MR. GEORGE MARRON: Yeah, I'll come
24 back to that. This is -- okay. All right, so.

25

1 CONTINUED BY MR. GEORGE MARRON:

2 MR. GEORGE MARRON: Now, so Mr.
3 Breedon stood up at the podium and asked you some
4 questions. And he asked you about the duty of
5 councillors. And -- and he put the evidence to you
6 that the duty of councillors is to act in the best
7 interests of the municipality. And your response was,
8 Yes?

9 MR. LEO LONGO: Correct.

10 MR. GEORGE MARRON: And -- and then he
11 asked whether there was a duty to be impartial on the
12 part of the council member. And your indication was,
13 well, the term 'impartial' is something that you were
14 a little dubious about, I think you used the term
15 'dubious', but that the councillor's duty would be not
16 to have a closed mind of matters that come before
17 them?

18 MR. LEO LONGO: Correct.

19 MR. GEORGE MARRON: Yeah. And you
20 indicated that -- that, you know, there were persons
21 who were elected and were obviously partial perhaps to
22 certain things in the community, and so, hence --
23 perhaps a better term to be an open mind.

24 And so, the -- the fundamen --
25 fundamental idea is that councillors have to act in

1 the best interests of the municipality. And you agree
2 with that?

3 MR. LEO LONGO: Yes, sir.

4

5 (BRIEF PAUSE)

6

7 MR. GEORGE MARRON: And then -- then
8 Mr. Chenoweth took over and asked some questions
9 towards the end of the day. And he referred to the
10 term 'confidentiality'.

11 And you indicated to him that the term
12 'confidentiality' was not something that was involved
13 in the Municipal Conflict of Interest Act per se, that
14 it was a different aspect?

15 MR. LEO LONGO: M-hm.

16 MR. GEORGE MARRON: And -- and you
17 indicated that your experience with codes of ethic was
18 that, on the issue of conflict of interest, they would
19 do no more but repeat the legislation and the
20 requirements under the Municipal Conflict of Interest
21 Act and that they were -- they were -- you indicated,
22 I suggest, that -- that your experience has been that
23 -- that the ki -- the kind of codes of ethics which
24 you had reviewed, that they didn't really supplant the
25 Act.

1 And I believe it's section 15 of the
2 Conflict of -- or the Municipal Conflict of Interest
3 Act that actually reinforces that, isn't it? Is it
4 section 15? I may have the wrong section.

5 MR. LEO LONGO: I'm drawing a blank
6 right now about what section 15 says --

7 MR. GEORGE MARRON: Yeah. Well --

8 MR. LEO LONGO: -- so I apologize.

9 THE HONOURABLE FRANK MARROCCO: Well,
10 I think we can all -- you can cite that section at the
11 appropriate time.

12 MR. GEORGE MARRON: Okay.

13 THE HONOURABLE FRANK MARROCCO: But
14 you're right, the witness did give this evidence
15 yesterday.

16 MR. GEORGE MARRON: Yeah. Thank you.

17

18 CONTINUED BY MR. GEORGE MARRON:

19 MR. GEORGE MARRON: Okay. And -- and
20 you went on just in that vein to say that it would
21 simply, in your experience, have a placeholder that
22 said a councillor will be aware that the Conflict of
23 Interest Act applies and you shall adhere to it.

24 And that's, in my experience, what
25 those kinds of codes of ethics addressed?

1 MR. LEO LONGO: It has been my
2 experience.

3 MR. GEORGE MARRON: So -- so, there's
4 a distinction then, I suggest, when one considers a
5 code of ethics, the no penalty provision's in the code
6 of ethics, and it's -- it's indicated that it's more
7 of a guideline.

8 I think -- I think that's the term they
9 used, 'as a guideline'. And that may be -- that may
10 be in the preamble. I believe it is. I don't --

11 MR. LEO LONGO: Don't mean to diminish
12 a code of ethics by just saying it's a guideline.
13 It's an important document that a council clearly
14 believes should be adhered to and to guide the
15 behaviour of their councillors.

16 But as it pertains to conflict of
17 interest legislation, I'm just repeating myself, the
18 code usually just recites that the member must be a
19 aware of their obligations under that Act and adhere
20 to the Act.

21 MR. GEORGE MARRON: Right. Right.

22 MR. LEO LONGO: But even here in
23 Collingwood they took an extra step in their new code
24 of conduct.

25 MR. GEORGE MARRON: Right.

1 MR. LEO LONGO: They chose to broaden

2 --

3 MR. GEORGE MARRON: Right.

4 MR. LEO LONGO: -- not from the
5 conflicted -- municipal conflict of interest
6 legislation, but they chose on their own to say we
7 believe there are other interests that should -- that
8 -- that a councillor should have to declare. And --
9 and they've done that --

10 MR. GEORGE MARRON: Right.

11 MR. LEO LONGO: -- the -- the last
12 time through.

13 MR. GEORGE MARRON: Right. As of
14 September 2015?

15 MR. LEO LONGO: Right.

16 MR. GEORGE MARRON: Right. Okay. But
17 that didn't exist back in 2011 and 2012?

18 MR. LEO LONGO: It didn't exist back
19 then.

20 MR. GEORGE MARRON: So, we've got this
21 void, I suggest, 2011 and 2012 where the -- the void
22 that the conflict -- or sorry, the void that the code
23 of conduct accounts for. I mean, it fills the void?

24 MR. LEO LONGO: Somewhat, yes.

25 MR. GEORGE MARRON: Yeah. Well,

1 somewhat significantly, I would suggest.

2 MR. LEO LONGO: Well, I haven't had
3 any involvement with the -- the Collingwood code of
4 conduct --

5 MR. GEORGE MARRON: Okay.

6 MR. LEO LONGO: -- since it's been in
7 place, but it --

8 MR. GEORGE MARRON: Yeah. Okay.

9 MR. LEO LONGO: -- it certainly has
10 the appearance of filling that void.

11 MR. GEORGE MARRON: Okay. But -- but
12 I -- I take it that anyone drafting it would obviously
13 have reference to other codes of conduct and it would
14 be hopefully one (1) -- hopefully there would be some
15 uniformity in the --

16 MR. LEO LONGO: I don't know who dra --

17 MR. GEORGE MARRON: -- code.

18 MR. LEO LONGO: A good draftsperson
19 might look to precedent for assistance.

20 MR. GEORGE MARRON: Okay. Okay.

21

22 (BRIEF PAUSE)

23

24 MR. GEORGE MARRON: Okay. So, Mr.
25 Chenoweth then asked you about the oath of office.

1 And he asked if -- during the presentation that you
2 made January the 7th, 2011, if you made any comments
3 with respect of the oath of office when you were
4 discussing conflicts and the Municipal Conflict of
5 Interest Act.

6 And you -- you indicated that,
7 obviously, you're under time constraints and that it
8 wasn't something that you were directed to to -- to
9 deal with in a direct sense.

10 You were asked to make comment on the
11 Municipal Conflict of Interest Act. And you confined
12 your --

13 MR. LEO LONGO: I am --

14 MR. GEORGE MARRON: -- your
15 presentation of that?

16 MR. LEO LONGO: I was aware at the
17 time and am aware now that the current and then oath
18 of office for councillors had in it a statement that
19 they would adhere to the Municipal Conflict of
20 Interest Act.

21 MR. GEORGE MARRON: Right.

22 MR. LEO LONGO: I was aware that was
23 part of the oath. The councillors would have taken
24 that oath the month prior to the orientation session.
25 Whether I mentioned in passing during my presentation

1 -- you'll recall your oath spoke about this piece of
2 legislation. I can't recall.

3 MR. GEORGE MARRON: Right, right.
4 Well, yeah. And you went on to say that and make that
5 -- make that point. And so, the oath of office
6 essentially sets out that the council members should
7 truly, faithfully, and impartially exercise the office
8 to the best of my knowledge and ability.

9 Do you agree with that?

10 MR. LEO LONGO: That's correct.

11 MR. GEORGE MARRON: All right. So
12 once again, it uses the term "impartially," and you're
13 assenting to that which I won't go back through that.
14 But that is --

15 THE HONOURABLE FRANK MARROCCO: It
16 does though. I mean, is there --

17 MR. GEORGE MARRON: Yeah.

18 THE HONOURABLE FRANK MARROCCO: It
19 does say that.

20 MR. GEORGE MARRON: Oh, yeah. Yeah.
21 It's --

22 THE HONOURABLE FRANK MARROCCO: I
23 mean, I didn't need Mr. Longo to tell me it said that.
24 It says that, right?

25

1 CONTINUED BY MR. GEORGE MARRON:

2 MR. GEORGE MARRON: Okay. Well, he --
3 well, Mr. Longo then perhaps, the opinion that you
4 gave earlier in your testimony referencing the term
5 "impartial," I take it you're consistent on that.
6 There's no need to go back through that.

7 MR. LEO LONGO: I believe -- I believe
8 I've been consistent, yes.

9 MR. GEORGE MARRON: Yeah. You prefer
10 the concept of an open mind --

11 MR. LEO LONGO: Open mind is that --

12 MR. GEORGE MARRON: -- double
13 negative, not a closed mind.

14 MR. LEO LONGO: That test is the one
15 the Supreme Court has articulated several times as to
16 determining whether there's a bias shown by a Council
17 member to a matter.

18 MR. GEORGE MARRON: Right.

19 MR. LEO LONGO: Having a mind that's
20 open to persuasion is usually indicia that you do not
21 have a disqualifying bias.

22 MR. GEORGE MARRON: All right. Now,
23 there's -- but there's a bit of a circuitous route
24 here in the sense that the oath of office -- one of
25 the four (4) things that a councillor's giving oath to

1 is the requirement or at least the acknowledgment that
2 he or she would adhere to the Conflict of Interest
3 Act, the Municipal Conflict of Interest Act.

4 MR. LEO LONGO: That's correct.

5 MR. GEORGE MARRON: All right. So if
6 we could just move on then. When we're dealing with
7 conflict of interest and we're dealing with matters of
8 confidentiality, the onus is on the individual member
9 to make the call or make the declaration?

10 MR. LEO LONGO: That's correct.

11 MR. GEORGE MARRON: And I assume that
12 there are a number of instances as there -- as I
13 intend to advance in this Inquiry where a member of
14 Council is approached by someone and provided with
15 some disclosure.

16 And is there a duty on the member to
17 make reasonable enquiry of what's being disclosed, or
18 is it a situation where you can essentially take
19 refuge if there's a problem down the road by saying
20 well, this is what he told me here.

21 MR. LEO LONGO: I'm not sure I'm
22 understanding your question, sir.

23 MR. GEORGE MARRON: Well, it's --
24 yeah. I'm not too sure I understood it either as --

25 MR. LEO LONGO: Okay. So...

1 MR. GEORGE MARRON: -- I went on with
2 it.

3 But what I'm suggesting is this, if
4 there's a duty to disclose on the part of the Council
5 member, that obviously is based on a person having an
6 appreciation or a knowledge of the circumstances.

7 MR. LEO LONGO: Yes. I always would
8 advise a Council member -- when I'm not acting for the
9 elected Council at large -- your obligation is not
10 just to disclose. You have a pecuniary interest. You
11 have to give a reason context around that declaration
12 of pecuniary interest.

13 So you have to say I have a pecuniary
14 interest. I'm declaring a pecuniary interest because
15 my daughter works for the applicant who's before here
16 today. You have to give the context of it. You just
17 simply don't make a declaration of interest baldly.

18 MR. GEORGE MARRON: Well, that's the
19 obvious reason that comes forth is that's it's an easy
20 way to dodge a controversial issue unless you give
21 particulars of the -- as to the conflict or the area
22 of conflict.

23 MR. LEO LONGO: There used to be a
24 councillor in the city of Toronto who would declare a
25 conflict of interest to avoid participating in any

1 controversial decision.

2 THE HONOURABLE FRANK MARROCCO: That's
3 not before me.

4 MR. LEO LONGO: No, it's not.

5 THE HONOURABLE FRANK MARROCCO: It's
6 an interesting tactic.

7 MR. LEO LONGO: I thought it would be
8 an interesting little sidebar.

9 THE HONOURABLE FRANK MARROCCO: And
10 this excursion through the world of conflicts of
11 interest is fascinating and hopefully coming to an
12 end.

13

14 CONTINUED BY MR. GEORGE MARRON:

15 MR. GEORGE MARRON: We are. And so --
16 but we are. And I just wanted to establish the point,
17 Your Honour, that there -- the duty to disclose can
18 and obviously is related to a duty to make reasonable
19 enquiry as to the circumstances in which the conflict
20 of interest may arise. Do you agree with that?

21 MR. LEO LONGO: Yes. It has to be
22 reasonably known to the -- to the member --

23 MR. GEORGE MARRON: Okay.

24 MR. LEO LONGO: -- the fact situation.

25 MR. GEORGE MARRON: Okay. So if

1 there's a situation where there's misrepresentation as
2 to that disclosure, I mean this representation can be
3 what someone has said by statement of fact, or it can
4 be by way of an omission act.

5 MR. LEO LONGO: Misrepresentation by
6 whom? Like, I -- by the Council member who's making
7 the declaration or --

8 MR. GEORGE MARRON: No, no, no. By
9 the third party who's approaching the Council member.

10 MR. LEO LONGO: I'm not really sure I
11 have an answer to --

12 MR. GEORGE MARRON: Okay. Well, let
13 me get a little more clear then. I mean, in this
14 Inquiry, we've heard evidence that Sandra Cooper on
15 the 2nd of June 2011 was approached by her brother,
16 Paul Bonwick and that he presented to her a letter --
17 a draft of a letter which he asked her to consider and
18 send on to the PowerStream corporation. And I'll get
19 into that in detail.

20 But the question at this point is to
21 ask you, just generally, that if in providing that
22 letter in making disclosure, it may very well affect
23 the ability of a Council member -- in this case
24 Sandra Cooper -- to consider and to execute on her
25 duty to disclose the conflict of interest.

1 MR. LEO LONGO: I don't know all the
2 details, but theoretically, it might.

3 MR. GEORGE MARRON: Yeah. I mean,
4 it's clear that the duty is on Sandra Cooper. She's
5 the Council member. It's not on Paul Bonwick.

6 MR. LEO LONGO: That's correct.

7 MR. GEORGE MARRON: Right. But as I
8 said, if there's some misrepresentation, that was
9 something that would -- or could provide a reasonable
10 excuse if there's any subsequent involvement with a
11 breach of the conflict of interest scenario.

12 MR. LEO LONGO: Your Honour, is that
13 something that I'd be wanting --

14 THE HONOURABLE FRANK MARROCCO: It's
15 an appropriate question in my view if you're able to
16 answer it. If not, then just say so.

17 MR. LEO LONGO: Just want to
18 understand if there was a misrepresentation by
19 Mr. Bonwick to his sister --

20 MR. GEORGE MARRON: Yes.

21 MR. LEO LONGO: -- that could have
22 affected her assessment of the situation?

23 MR. GEORGE MARRON: Yes.

24 MR. LEO LONGO: I -- I guess the
25 answer is that's correct because it's the individual

1 councillor who has to make the assessment and that
2 councillor has to make the assessment on the facts
3 that he or she has when dealing with the situation.

4

5 CONTINUED BY MR. GEORGE MARRON:

6 MR. GEORGE MARRON: And there might
7 very well be an enquiry as to what, if anything, by
8 way of enquiry was made by Sandra Cooper in those
9 circumstances.

10 MR. LEO LONGO: Right.

11 MR. GEORGE MARRON: That would be
12 important.

13 MR. LEO LONGO: Correct.

14 MR. GEORGE MARRON: Yeah.

15 MR. LEO LONGO: Because there'd be --
16 there'd be an expectation that a councillor would take
17 reasonably prudent steps to ascertain the situation.

18 MR. GEORGE MARRON: Right. But that
19 could somehow -- or rather, I suggest, be conflicted
20 with the trust element. I mean, here's a member of
21 your immediate family approaching you making a
22 misrepresentation as to facts or an omission -- a
23 misrepresentation by way of omission of facts. I
24 mean, there's this element of trust, and that would be
25 taken into consideration as well, I suggest.

1 MR. LEO LONGO: That I'm not certain
2 of.

3 MR. GEORGE MARRON: All right. But it
4 would present a reasonable excuse, I suggest. It
5 could.

6 MR. LEO LONGO: I don't want to sit on
7 judge and jury on this. I -- I can't say. It -- it
8 would certainly make for a difficult Thanksgiving
9 dinner, I would think, at the family dinner table.
10 But as to how it plays out without knowing more of the
11 facts, I'd only be making assertions that didn't have
12 much of a foundation.

13 MR. GEORGE MARRON: Okay. Well, we'll
14 get into that. I'm just wondering. It's -- is this a
15 good time to ...

16 THE HONOURABLE FRANK MARROCCO: Is it
17 convenient from your perspective?

18 MR. GEORGE MARRON: Thank you.

19 THE HONOURABLE FRANK MARROCCO: All
20 right, ten (10) minutes.

21

22 --- Upon recessing at 11:20 a.m.

23 --- Upon resuming at 11:32 a.m.

24

25 THE HONOURABLE FRANK MARROCCO: Yes,

1 please. Go ahead.

2 MR. GEORGE MARRON: Thank you.

3

4 CONTINUED BY MR. GEORGE MARRON:

5 MR. GEORGE MARRON: Okay, Mr. Longo,

6 I'm -- I'm going to address the -- what I believe to

7 be the relevant circumstances in this Inquiry as

8 pertaining to Sandra Cooper and in relation to

9 allegations conflict of interest, breach of

10 confidentiality. And so I -- I'm -- I propose to

11 review -- and I'll do this as -- briefly and as -- but

12 as completely as I can.

13 And, Your Honour, I'm going to be

14 making reference to summary document 1-2. And there

15 we go. If we could go to page 2 of that document, and

16 -- and I intend to review the document basically the

17 way it's set out, and obviously, there are instances

18 where I'm going to be asking -- or putting some

19 questions to Mr. Longo as we do that.

20 And I think it's the most efficient way

21 for me to do it, and -- and I'm particularly concerned

22 in addressing the facts in an appropriate way. So I'm

23 going to have regard to the Foundation Document. And

24 I can indicate that to when it comes to the -- the

25 prompts or the footnotes, that I have checked those

1 out. So I would hope that there wouldn't be anything
2 amiss or awry in -- in the manner in which I do this.

3 But if there's anything that creates a
4 difficulty for you along the way, Mr. Longo, you bring
5 that to my attention, I'll do whatever I can to
6 assist. And -- and I'm doing this with a view to --
7 at the end of the factual disclosure is I propose to
8 present it to ask you your opinion in referencing the
9 area that we've talked about as concerns disclosure,
10 misrepresentation by way of factual misstatement or
11 omission.

12 So having said all that, I'll get
13 underway, then. Thank you.

14 So I'd -- I'd refer you to the first
15 page, paragraph 2. It indicates, and I can go through
16 this quickly -- I don't know that there's any
17 requirement in your part to review this, but it
18 indicates that on the 10th of January, 2011, Mr.
19 Bonwick sent an email to an individual by the name of
20 Brian Bentz, who was the CEO of PowerStream, or at
21 least was a -- a director of the Corporation.

22 I may be in error with CEO, but that's
23 what I believe the position was. And he introduced
24 himself, indicated that the -- during the time he
25 spent in elected office, the potential sale of

1 Collingwood's utility service had been raised with
2 mixed emotions and he would like -- his -- his
3 proposal was to indicate that he would like to meet
4 and discuss PowerStream's level of interest in
5 pursuing such an option.

6 And then he went on further to
7 indicate:

8 "The municipal Council is in the
9 process of beginning their budget
10 considerations, and as a result,
11 timing is potentially a critical
12 factor. As a result, I'm requesting
13 an opportunity to meet and discuss
14 the situation, should PowerStream
15 have a potential interest."

16

17 (BRIEF PAUSE)

18

19 MR. GEORGE MARRON: He goes on to Mr.
20 Bentz, who had been in contact with Ed Houghton in the
21 late months of -- or at least in December of 2010 went
22 -- contact into Ed Houghton, and -- to review with Ed
23 Houghton the fact that Paul Bonwick had made a call to
24 him. And there was an indication there that there was
25 a potential, according to Ed Houghton, that Bonwick

1 could help you.

2 So on the 11th of January, there's a
3 further email where Brian Bentz and PowerStream
4 contacts Paul Bonwick, and thanks him for the email
5 message, indicates that:

6 "I would be interested in discussing
7 the issues and potential
8 alternatives that you indicated in
9 your email regarding the budget
10 deliberations of the current
11 Council."

12 So they met at the PowerStream offices
13 following day, January the 12th, and Mr. Bentz made
14 some notes. They were undated, but indicates that, I
15 believe, it's -- it's fair that they indicate to -- to
16 this meeting -- wherein he indicated that he had told
17 Paul Bonwick that PowerStream may be interested in
18 hiring him, and would like to receive a proposal,
19 something that he could take to his audit and
20 financial committee.

21 And he raised the fact that, in
22 particular issue, with you being the brother to the
23 mayor, and penned the question, "Is that a conflict?"

24 Now, those notes were transcribed and
25 then made available in the Foundation Document in

1 paragraph 6. We're then -- we're then told that on
2 the 17th of January, deputy mayor Rick Lloyd emailed
3 Sara Almas, and the substance of the email is set out
4 in paragraph 8 of the Foundation Document.

5 So I -- I'd ask you just to review that
6 briefly, Mr. Longo.

7

8 (BRIEF PAUSE)

9

10 MR. GEORGE MARRON: It -- it's some
11 indication on Mr. Lloyd's part that his brother is
12 considering bidding on Town work --

13 MR. LEO LONGO: I've read the --

14 MR. GEORGE MARRON: Yeah. Okay.

15 MR. LEO LONGO: -- I've read the
16 email.

17 MR. GEORGE MARRON: Okay.

18 MR. LEO LONGO: Or -- or the
19 paragraph.

20 MR. GEORGE MARRON: All right. So he
21 -- he's asking that Ms. Almas provide him with a
22 opinion on whether he's got to declare an interest in
23 reference to his indication that his brother is
24 perhaps about to bid on Town work or is considering
25 it.

1 And so he's asking her if this is her
2 understanding as well. And he indicates that:

3 "I do realize you cannot give advice
4 on this matter."

5 And -- and that's essentially what you
6 referred to earlier in your testimony, when you
7 indicated Sara Almas said --

8 MR. LEO LONGO: Right.

9 MR. GEORGE MARRON: -- perhaps on a
10 few occasions, confirmed that with you.

11 MR. LEO LONGO: He's articulating his
12 understanding that he doesn't believe he has a
13 conflict of interest and then seems to ask her for her
14 position while realizing she can't give advice.

15 MR. GEORGE MARRON: Right.

16 MR. LEO LONGO: That's what it says.

17 MR. GEORGE MARRON: Okay. So just
18 moving along then, she responded, and that's at
19 paragraph 9, where she indicates to Mr. Lloyd:

20 "You're correct in that the
21 Municipal Conflict of Interest Act
22 clearly identifies that a member of
23 Council is not deemed to be in
24 conflict if it's the interest,
25 direct or indirect, of a sibling."

1 And that's your indication yesterday
2 and --

3 MR. LEO LONGO: Yes, sir.

4 MR. GEORGE MARRON: All right. So
5 there's an indication next that on the 29th of January
6 that -- that this copy of Ms. Almas' email to Deputy
7 Lloyd was forwarded to Brian Bentz, and an indication
8 that here is the response the Deputy Mayor received
9 from the clerk's office. And he indicates to Mr.
10 Bentz that:

11 "If you require more substance,
12 please let me know. The Deputy
13 Mayor had informed me that this was
14 a legal opinion."

15 And I would suggest that flies in the
16 face of what Sara Almas had been indicating to you.
17 So it's misleading, I would suggest. That would be --
18 you would confirm that, wouldn't you? Well,
19 potentially --

20 MR. LEO LONGO: It doesn't appear to
21 accurately set out what Ms. Almas said.

22 MR. GEORGE MARRON: Yeah. Well,
23 that's -- that's fair.

24 And -- and then it goes on to say:

25 "That said, the clerk is the person

1 responsible for the interpretation
2 of the Municipal Act for Council."

3 So I don't know what is meant by that.
4 I would suggest that that wouldn't hold water either,
5 would it, make a statement like that?

6 MR. LEO LONGO: I'm -- I'm sure Mr.
7 Bonwick will be asked to explain this email --

8 MR. GEORGE MARRON: All right.

9 MR. LEO LONGO: -- or this item.

10 MR. GEORGE MARRON: Okay, that's fair.
11 Thank you.

12 So -- so once again then, we've got --
13 at paragraph 11, we've got Brian Bentz, who makes --
14 making further notes.

15 So he said that:

16 "Got back to me sometime later with
17 a proposal and opinion he had
18 received saying the Mayor was not in
19 conflict."

20 So far I don't see anything that
21 involves Sandra Cooper at all, do you?

22 MR. LEO LONGO: From what I've read
23 with you, I didn't see that that response had anything
24 to do with the Mayor.

25 MR. GEORGE MARRON: Right, thank you.

1 And he says -- goes on to say -- said:

2 "Do you have that opinion?"

3 And he's told by Bonwick, who said it
4 came from the city clerk on advice of counsel, and I -
5 - I would venture forth that on advice of counsel that
6 counsel would properly be spelled as legal counsel, C-
7 O-U --

8 MR. LEO LONGO: S-E-L --

9 MR. GEORGE MARRON: Yeah.

10 MR. LEO LONGO: -- not C-I-L, right.

11 MR. GEORGE MARRON: So it's -- I mean,
12 you wouldn't -- you wouldn't engage the Town Council,
13 the Town of Collingwood, on some matter pertaining to
14 this. Okay. So it said -- said:

15 "Came from the city clerk on advice
16 of counsel that if the interest is
17 of a sibling, then the elected
18 official does not have a conflict."

19 Then he indicates that the request came
20 from the Deputy Mayor, not the Mayor.

21 So that's in conflict, I suggest, with
22 what Mr. Bentz has noted in the first sentence that he
23 writes, although he indicates that it came from the
24 city clerk and that the request came from the Deputy
25 Mayor, not the Mayor. There seems to be a little

1 confusion. Can we leave it at that on that? It
2 doesn't quite add up, does it?

3 MR. LEO LONGO: I see Mr. Bentz
4 writing:

5 "Asked him to get more information
6 to that effect."

7 "Said he would."

8 So I'm assuming Mr. Bonwick said he
9 would give Mr. Bentz more information.

10 MR. GEORGE MARRON: Right. Well, Mr.
11 Bentz will be testifying in this Inquiry. We haven't
12 heard from him yet.

13 Okay. So he said, well, can you get
14 some documentation to that effect and he was told that
15 he would.

16 So now we move ahead to paragraph 12 in
17 the January 20th, 2011, where Mr. Bonwick emails Brian
18 Bentz again, and he says:

19 "I want to be perfectly clear on my
20 understanding of the conflict
21 guidelines contained in the
22 Municipal Act."

23 Well, it's not the Municipal Act; it's
24 the Municipal Conflict of Interest Act.

25 MR. LEO LONGO: Correct.

1 MR. GEORGE MARRON: He says:

2 "The Town's solicitor provided legal
3 opinion to the Deputy Mayor
4 clarifying there's no breach of
5 conflict of interest guidelines in
6 this situation."

7 Now, on the 20th of January 2011, you
8 were the Town's solicitor.

9 MR. LEO LONGO: I did not provide any
10 advice at all in this regard.

11 MR. GEORGE MARRON: Well, not advice,
12 but you weren't even approached to provide advice.

13 MR. LEO LONGO: I was not, right.

14 MR. GEORGE MARRON: And then it goes
15 on to indicate -- it makes reference to the
16 discussions relating to Mr. Bonwick's overall proposal
17 and --

18 MR. LEO LONGO: Well, just to stop
19 there, not only does it -- does it say that there is
20 no breach of conflict of interest, it says:

21 "In this situation."

22 And I don't understand how Ms. Almas'
23 response to the Deputy Mayor is a legal opinion on
24 this situation, which I assume he's talking about his
25 role with PowerStream, but --

1 MR. GEORGE MARRON: Right. I mean,
2 there's a paucity or very few -- there are no facts
3 provided, right?

4 MR. LEO LONGO: Yes.

5 MR. GEORGE MARRON: So this is Mr.
6 Bonwick indicating that in -- in this regard, I would
7 -- he's got "purpose," but I assume that's:

8 "Propose PowerStream consider
9 engaging my company, subject to a
10 satisfactory fee structure, on a
11 much broader level, eliminating the
12 potential accusation that our
13 business relationship is somehow
14 predicated on family contacts."

15 So that -- that I would advise or would
16 assume, relates to Sandra Cooper, the fact that she's
17 the Mayor.

18 MR. LEO LONGO: Correct.

19 MR. GEORGE MARRON: And so we're
20 getting into a little bit of window dressing I'm
21 suggesting, and in other words we're getting a bit of
22 an optic consideration here, how is this going to
23 look?

24 Is that a fair -- that a fair
25 assessment or --

1 MR. LEO LONGO: I -- I'm looking at
2 this comment that Mr. Bonwick has made and it -- it --
3 he's saying I'd like to be engaged by -- by your
4 company, on a much broader level, eliminating any
5 potential accusation. It says what it says.

6 I'm not really sure what you're asking
7 me to comment on --

8 MR. FREDERICK CHENOWETH: Your Honour,
9 I --

10 MR. LEO LONGO: -- Mr. Bonwick's --

11 THE HONOURABLE FRANK MARROCCO: Sorry,
12 what's this --

13 MR. FREDERICK CHENOWETH: I
14 interrupted --

15 THE HONOURABLE FRANK MARROCCO: -- got
16 to do with --

17 MR. FREDERICK CHENOWETH: I
18 interrupted -- I interrupted the witness --

19 THE HONOURABLE FRANK MARROCCO: It
20 doesn't have anything to do with Mr. Houghton. His
21 questions are related to Mr. Bonwick and the witness
22 is having difficulty answering them.

23 MR. FREDERICK CHENOWETH: Look, I --
24 my only concern, Your Honour, is I'm -- I'm just not
25 entirely sure where we're going with this line of

1 questioning.

2 THE HONOURABLE FRANK MARROCCO: Well,
3 we'll find out. I'm going to -- I mean --

4 MR. FREDERICK CHENOWETH: All right.
5 I -- I make the comment that this -- this witness has
6 been pretty clear that he had no involvement in any of
7 these matters, so I'm -- I'm assuming that his -- that
8 his comments that he's making with respect to these
9 matters can only be as some sort of expert in that he
10 has no knowledge of them, wasn't involved in any of
11 them, and -- and is that -- is that what we're now
12 getting --

13 THE HONOURABLE FRANK MARROCCO: I'm
14 not going to get sidetracked into an explanation. Mr.
15 Marron is putting questions to the witness. The
16 witness is sophisticated enough to either answer them
17 or not. I'm not getting into this, getting
18 sidetracked.

19 I -- I'm going to allow Mr. Marron to
20 ask the questions. If he can't answer them, just say
21 he can't answer them.

22 MR. FREDERICK CHENOWETH: Very good,
23 Your Honour.

24 THE HONOURABLE FRANK MARROCCO: Go
25 ahead, Mr. Marron.

1

2 CONTINUED BY MR. GEORGE MARRON:

3 MR. GEORGE MARRON: Right. Well, I'm
4 going to move on in any event.

5 Okay. So, we ended -- we see that
6 there was a -- on January the 20th, 2011, there is a -
7 - an email sent to Brian Bentz with a proposal from
8 Paul Bonwick's company, Compenso Communications and --

9 MR. LEO LONGO: I see that on the
10 screen, yes.

11 MR. GEORGE MARRON: Right. And if we
12 go further to January 25, and then on February the 1st
13 there's another email sent by Paul Bonwick to Brian
14 Bentz, and an indication that:

15 "In the interests of time I had to
16 initiate the beginning of the
17 process we discussed."

18 Now, I'll leave that for another day
19 and for the PowerStream executives.

20 In any event, it says that Mr. Bonwick
21 understands that PowerStream will not be in a position
22 to formally consider my proposal til the end of
23 February.

24 So that takes us then to the 8th day of
25 March, 2011, and when Mr. Bentz makes a presentation

1 about Collus Power to the Audit and Finance Committee
2 and the Board of Directors for PowerStream.

3 And the -- if we go over to paragraph
4 18 -- well, 17, it says:

5 "The presentation advised the
6 committee that informal discussions
7 with senior employees of Collus
8 Power lead to a suggestion that
9 PowerStream explore the potential
10 hiring of Paul Bonwick as a
11 consultant."

12 And then paragraph 18 indicates that
13 the slides prepared for the PowerStream board included
14 this information about Mr. Bonwick.

15 If you go down to the sixth bullet
16 point -- well, no, let's -- maybe we'd better just
17 come back up a bit. It says:

18 "Mr. Bonwick would assist
19 PowerStream in navigating and
20 advising PowerStream on how to best
21 work with the Town of Collingwood's
22 Council if an acquisition
23 opportunity were to arise with
24 Collus Power. Mr. Bonwick is the
25 brother of the current Mayor of

1 Collingwood. That currently Mr.
2 Bonwick lives in the Town of
3 Collingwood and he operates a
4 government-relations firm, servicing
5 clients in Canada and the United
6 States."

7 It indicates here that the Deputy Mayor
8 of Collingwood has confirmed that the Municipal
9 Conflict of Interest Act clearly identifies that a
10 member of Council is not deemed to be in a conflict if
11 it's the interest, direct or indirect, of a sibling.

12 Finally:

13 "Should PowerStream pursue this
14 arrangement at a minimum we would
15 want to ensure that there is full
16 disclosure."

17 So that's the first we hear of
18 PowerStream having any particular interest or concern
19 with full disclosure.

20 So if we then --

21 THE HONOURABLE FRANK MARROCCO: Can I
22 just interrupt for a second?

23 I take it the reason you're doing this
24 is you're setting the stage for asking a question at
25 some point?

1 MR. GEORGE MARRON: Yeah.

2 THE HONOURABLE FRANK MARROCCO: All
3 right.

4 MR. GEORGE MARRON: Well that's --
5 that's the remarks I made at the outset before I
6 started and --

7 THE HONOURABLE FRANK MARROCCO: I just
8 wanted to make sure I understood that.

9 MR. GEORGE MARRON: Yes, yes. Thank
10 you.

11

12 CONTINUED BY MR. GEORGE MARRON

13 MR. GEORGE MARRON: So March 9th
14 there's an indication here that there's a
15 communication between a -- the Director of
16 PowerStream, who happens to be the Mayor of Barrie,
17 Jeff Lehman. And he wrote to Brian Bentz and he -- he
18 offered to schedule a meeting with Mayor Sandra Cooper
19 for Mr. Bentz.

20 And Mr. Bentz said while he was
21 planning on speaking with Ed first:

22 "I was also thinking after our
23 meeting the he may be somewhat
24 sensitive to me seeing the Mayor
25 before this process gets off the

1 ground."

2 Then he goes on to say:

3 "Perhaps an informal, one on one
4 meeting, either by phone or face to
5 face between you and Mayor Cooper
6 would make more sense at this stage,
7 given the fact that you know each
8 other."

9 He said:

10 "I'll call him in any event to get
11 his perspective. My instincts tell
12 me that he [being Ed] wouldn't want
13 me going directly to the top at this
14 point in the process."

15 So on March 10th and 11th in 2011, if
16 you look at paragraph 21, the PowerStream Board held a
17 strategic retreat, and it indicates that the materials
18 at that meeting include a merger and acquisition
19 update that, among other things stated, we understand
20 the Town of Collingwood may be experiencing financial
21 problems related to his 2011 budget, and as a result
22 may be looking to divest of some of its assets.

23 And an indication on the following
24 page:

25 "Furthermore, we understand that the

1 Collus audit and finance committee
2 has engaged a consultant to evaluate
3 the utility in case of a potential
4 sale."

5 There will be some issue raised as to
6 how PowerStream would have that information on the
7 10th and 11th of March, 2012.

8 No -- next we go to considering --
9 PowerStream considering letters of reference and that
10 on February 13th there was an email by Paul Bonwick
11 advising Mr. Bentz he'd requested reference letters
12 from representatives of three (3) clients, and he
13 names one (1) of them as Mr. Houghton, who provided a
14 reference back in 2005.

15 And he indicated that:

16 "I contacted Ed to secure his
17 approval providing this letter to
18 you. It was my opinion that
19 requesting a more current letter
20 from Ed could put him in a conflict
21 situation."

22 And knowing that Ed Houghton it -- was
23 associated with Collus PowerStream group, you'd
24 confirm that, it could very well put him in a conflict
25 --

1 MR. LEO LONGO: Can I confirm?

2 MR. GEORGE MARRON: I say knowing that
3 Ed Houghton, and you indicated yesterday that you knew
4 that Ed Houghton was associated not only with the
5 Public Works, but with the Collus PowerStream group.

6 MR. LEO LONGO: Yes.

7 MR. GEORGE MARRON: So I -- I'm
8 suggesting to you that -- that -- that this opinion as
9 indicated by Paul Bonwick, that a more current letter,
10 apart from the 2005 recommendation, could put Ed
11 Houghton in a conflict situation.

12 And I'm suggesting to you that is a
13 potential.

14 MR. LEO LONGO: I -- I don't know what
15 the letter of -- of 2005 is addressing.

16 MR. GEORGE MARRON: Okay, all right.
17 That's fair.

18 You'd want to look at the content of
19 the letter or assess the letter and -- before you
20 could, obviously assess whether --

21 MR. LEO LONGO: You're asking me a
22 question about the letter and I never seen this letter
23 or know what its content is.

24 MR. GEORGE MARRON: I appreciate that.
25 But what -- what I'm asking is it -- would you agree

1 with me that it's an indication of a potential
2 conflict? It could be.

3 MR. LEO LONGO: A conflict for Mr.
4 Houghton or a conflict to -- the Conflict of Interest
5 Act doesn't apply to staff members, it applies to
6 Council members only. So I --

7 MR. GEORGE MARRON: Okay.

8 MR. LEO LONGO: I'm a little uncertain
9 as to what -- what you're asking.

10 MR. GEORGE MARRON: Okay, all right.

11

12 (BRIEF PAUSE)

13

14 MR. GEORGE MARRON: So now we go to
15 April 20th, 2011 and this is an email, once again from
16 Paul Bonwick to Brian Bentz.

17 And there's an indication attached to
18 memo that I'd like to review -- like you to review
19 prior to participating in the conference call we've
20 scheduled.

21 And the memo reads as follows, and I
22 will read this, it says:

23 "Brian, I wanted to put some
24 thoughts to paper for your
25 consideration and that of your audit

1 committee."

2 It goes on:

3 "On the matter related specifically
4 to optics concerning Collus and the
5 Town of Collingwood, I would like to
6 share my thoughts and
7 recommendations. The position the
8 audit committee has taken on this
9 matter clearly reflects the
10 reputation PowerStream has earned
11 since it's inception. Transparency,
12 integrity, and unreserved commitment
13 to the shareholders and the
14 reputation of PowerStream continue
15 to be the number 1 priority."

16 More importantly, page 12, the memo
17 continues that:

18 "In keeping with this direction I'd
19 recommend the following actions.
20 Subject to the approval of the terms
21 and conditions in an agreement
22 between PowerStream and Compenso, I
23 would propose we agree to create an
24 approach in addressing the perceived
25 issue of optics. If the RFP, that's

1 the Request for Proposal, unfolds, I
2 would propose we request a meeting
3 with the following people."

4 And he names people named there, Ed
5 Houghton, present CEO of Collus, Dean Muncaster, the
6 Chairman of the Board of Collus, Kim Wingrove, the CAO
7 of the Town of Collingwood, Mayor Sandra Cooper,
8 Deputy Mayor Rick Lloyd, budget chair, and Sara
9 Almas's clerk.

10 "The sole purpose of this meeting is
11 to provide full disclosure to the
12 officials of Collus and the Town of
13 Collingwood related to my business
14 activities and relationship with
15 PowerStream and to seek their input
16 as it relates directly to my
17 engagement."

18 And it goes on.

19 "In reality, if Compensio is engaged
20 in any manner with PowerStream, the
21 concern of optic still exists unless
22 we move to full disclosure, as
23 previously identified."

24 He said:

25 "I don't believe the audit

1 committee's concerns, be as to
2 optics, would be alleviated if I was
3 engaged by PowerStream to provide
4 ongoing services in other areas
5 while not actively participating on
6 the Collus file."

7

8 (BRIEF PAUSE)

9

10 MR. GEORGE MARRON: So, this memo was
11 forwarded by Brian Bentz to the audit and finance
12 committee, a member of that committee. And...

13

14 (BRIEF PAUSE)

15

16 MR. GEORGE MARRON: We now go forward
17 to paragraph 27, where, on the 25th of April, the
18 PowerStream CFO, John Glicksman, emails Brian Bentz
19 attaching the Bonwick memo and page headed, "Draft key
20 points for discussion."

21 In the email, Mr. Glicksman stated:

22 "I would suggest we forward or
23 discuss with him the attached terms
24 of the deal."

25 And they set out some terms of the

1 deal. And then there's a letter that's drafted on the
2 18th of May by Paul Bonwick, and it was sent to Brian
3 Bentz and which is -- and it was a draft letter which
4 was for Mayor Sandra Cooper's signature.

5 And Mr. Bonwick sent a cover --
6 covering email that indicated:

7 "Here is a draft letter as per our
8 discussion. Please review and let
9 me know if the context (sic) is
10 satisfactory."

11 Now, the draft letter is set out on
12 paragraph 29. And I can indicate to you, Mr. Longo,
13 that this was a letter that ends up being dated the
14 2nd of June, 2011. And it was forwarded by way of
15 email and regular mail by Sandra Cooper to Brian
16 Bentz. And...

17

18 (BRIEF PAUSE)

19

20 MR. GEORGE MARRON: Just have your
21 indulgence.

22

23 (BRIEF PAUSE)

24

25 MR. LEO LONGO: Could we scroll down

1 so I can continue reading what the draft -- thank you.

2 MR. GEORGE MARRON: I'm sorry, I
3 didn't hear that.

4

5 (BRIEF PAUSE)

6

7 MR. GEORGE MARRON: I'm just trying to
8 locate the June 2nd letter, Your Honour.

9

10 (BRIEF PAUSE)

11

12 MR. GEORGE MARRON: Yeah, so.

13

14 (BRIEF PAUSE)

15

16 MR. GEORGE MARRON: If you would...

17

18 (BRIEF PAUSE)

19

20 MR. MICHAEL WATSON: Your Honour, if -
21 - if we're looking for the letter itself, I can say
22 it's TOC48812, if that helps.

23 MR. GEORGE MARRON: Yeah. Thank you.
24 I have the letter here.

25

1 CONTINUED BY MR. GEORGE MARRON:

2 MR. GEORGE MARRON: So, it -- it, as I
3 indicated, is -- is basically unchanged from what is
4 set out in paragraph 29. But if we could call up that
5 then, TOC0048812. Could -- could you review that, Mr.
6 Longo?

7

8 (BRIEF PAUSE)

9

10 MR. LEO LONGO: Scroll down some more,
11 please. Okay, I see this letter. Thank you.

12 MR. GEORGE MARRON: Okay. Now, I'm
13 going to question -- ask some questions of you. And
14 I'll just defer that for a bit and I'll ask some
15 questions in -- in reference to that letter, but just
16 to continue on with the -- the events as they
17 progressed.

18 So, on the 19th of May, there's an
19 indication by way of an email from Paul Bonwick to
20 Brian Bentz indicating that Mayor Cooper offered to
21 call Mayor Lehman, if he would still like that to take
22 place and Mr. Bonwick indicating:

23 "I'm available if you wish to call
24 me at some point this afternoon."

25 And Mr. Bentz indicated that he had

1 spoken with Mayor Lehman, who was agreeable to
2 receiving a call. And following this exchange, Mr.
3 Bentz sent the draft Mayor Cooper letter to Mayor
4 Lehman.

5 And -- and there's an indication by Mr.
6 Bonwick to Mr. Bentz writing:

7 "As you can see by the letter I
8 drafted, I wrote it with the thought
9 of public disclosure if ever
10 required."

11

12 (BRIEF PAUSE)

13

14 MR. GEORGE MARRON: Now, that was on
15 the 19th of May. If we go forward to paragraph 32, it
16 indicates that a meeting occurred on the 24th of May
17 between Bri -- or among Brian Bentz, John Glicksman,
18 and Paul Bonwick.

19 And after the meeting, apparently
20 letters of reference were forwarded. And there was a
21 proposal of a contract for a period of six (6) months
22 starting on January the 24th and ending on July the
23 31st, 2011.

24 And the proposal sought monthly fees of
25 ninety-five hundred dollars (\$9,500) with a 2.5

1 percent success fee based on the acquisition price of
2 a particular LDC paid within ten (10) days of closing.
3 The proposal included the following areas of service.
4 It says:

5 "Build the case and enhance the
6 profile, develop a personalized
7 contact program, access key decision
8 makers, issue monitoring and
9 tactical recommendations."

10 Now, in the letter that Mr. Bonwick
11 prepared and -- and Mayor Cooper sent on on the 2nd of
12 June, I'm submitting that the description in the
13 second paragraph in the letter -- could we have
14 TOC0048812 again? If we could look at the second
15 paragraph.

16 "Paul has described the potential
17 services this company will be
18 providing to include but not limited
19 to strategic advice and matters
20 related to public relations,
21 strategic planning, acquisitions and
22 media relations."

23 I'm suggesting to you that what's set
24 out in paragraph 32, points 'A' through 'E' inclusive,
25 suggests something beyond what is set out in the

1 letter of June the 2nd, 2011.

2 MR. LEO LONGO: Cou -- could we go
3 back to paragraph 32 so I could see it?

4 MR. GEORGE MARRON: Yeah. Thank you.

5

6 (BRIEF PAUSE)

7

8 MR. LEO LONGO: I agree that --

9 THE HONOURABLE FRANK MARROCCO: Well,
10 is that paragraph --

11 MR. LEO LONGO: -- the 'A' -- 'A'
12 through 'E' --

13 THE HONOURABLE FRANK MARROCCO: Is
14 that paragraph 32? Can we just --

15 MR. GEORGE MARRON: Yeah, it is, Your
16 Honour.

17 THE HONOURABLE FRANK MARROCCO: Okay.
18 Fine.

19 MR. LEO LONGO: 'A' through 'E' seem
20 to speak to different matters and potential broader
21 matters than set out in the letter.

22

23 CONTINUED BY MR. GEORGE MARRON:

24 MR. GEORGE MARRON: Thank you. The le
25 -- the letter goes on to say that -- that he also

1 stated that these -- if we could go back to the
2 letter. I apologize for jumping around here.

3 But it indicates at paragraph 2, the
4 last sentence:

5 "He has also stated that these
6 responsibilities could potentially
7 incorporate advice related to the
8 Town of Collingwood subject to
9 certain conditions unfolding in the
10 coming months."

11 So that's an indication, I suggest,
12 that -- it speaks for itself, I would suggest, that
13 there may be conditions or developments in relation to
14 Mr. Bonwick which might come into play and hence might
15 be conditions -- or certain conditions that have some
16 bearing on or have some relation to the Town of
17 Collingwood.

18 MR. LEO LONGO: That's what it says.

19 MR. GEORGE MARRON: Right. And then
20 it goes on to say:

21 "Should these conditions come into
22 play, Paul has suggested that a
23 meeting be scheduled with relevant
24 parties to move more formally to
25 clarify Paul's role with

1 PowerStream."

2 So I would suggest that that paragraph,
3 once again, says what it says that if the conditions
4 come into play, there should be a meeting, and we
5 should -- we should review that and obviously review
6 with a consideration as to whether the Municipal
7 Conflict of Interest Act might come into play.

8 MR. LEO LONGO: It doesn't mention
9 Conflict of Interest Act explicitly in here, and I'm
10 having some difficulty really understanding what the
11 undefined certain conditions are that are mentioned in
12 paragraph 2 and in paragraph 3 should these conditions
13 come into play. That is so vague to me that it
14 could -- it could mean anything. But -- so...

15 MR. GEORGE MARRON: Okay. All right.
16 But it's -- once again, though, it's setting out that
17 certain conditions could unfold, and a meeting should
18 be held, or at least there should be some disclosure
19 or review of what the conditions are.

20 MR. LEO LONGO: There seemed to be an
21 indication in the mayor's letter to PowerStream that
22 she understood that beyond general strategic advice to
23 PowerStream, her brother might be engaged in providing
24 PowerStream with services related directly to the
25 Town of Collingwood, subject to certain -- certain

1 conditions unfolding.

2 MR. GEORGE MARRON: Right. Right.

3 So -- and this letter was provided, and I'm
4 suggesting -- and we'll review the Foundation Document
5 a little more closely -- that this letter is dated the
6 2nd of June and was provided, as I indicated, by way
7 of --

8 MR. LEO LONGO: I see that.

9 MR. GEORGE MARRON: -- regular mail
10 and email. And I can indicate that on the 31st of May
11 2011 that Paul Bonwick had entered into a draft -- or
12 at least a draft agreement was negotiated. And on the
13 1st of June 2011, there was a draft agreement
14 prepared, and I will be showing that to you
15 momentarily.

16 MR. LEO LONGO: Okay. You're telling
17 me this. I have no independent knowledge of it.

18 MR. GEORGE MARRON: Well, this is
19 where we're going. If we look at paragraph 33, it
20 says:

21 "On the 31st of May 2011,
22 PowerStream CFO John Glicksman sent
23 a draft consulting agreement to
24 Paul Bonwick."
25

1 And it says:

2 "The draft consulting agreement
3 required Mr. Bonwick to represent
4 and warrant that he had disclosed
5 the scope of his services and his
6 retainer by PowerStream to the mayor
7 and to the clerk of the Town of
8 Collingwood and to provide written
9 evidence of such disclosure to
10 PowerStream."

11 So if I could -- well, we'll just
12 finish this off. Mr. Bonwick replied with:

13 "One small correction required in
14 the disclosure paragraph."

15 He said that although he had informed
16 the mayor, he had not formally engaged with the clerk
17 or any other municipal staff on this matter at this
18 time.

19 That appears, I would suggest, to be
20 inconsistent with the indication that had been
21 forwarded by Rick Lloyd to Paul Bonwick referencing
22 what Sara Almas had provided to Rick Lloyd.

23 MR. LEO LONGO: I -- I really can't
24 comment on -- on that any -- beyond what's -- what's
25 written there.

1 From a Conflict of Interest Act, this
2 is PowerStream requiring Mr. Bonwick to make certain
3 disclosures to the Town.

4 MR. GEORGE MARRON: That's right.

5 MR. LEO LONGO: The Conflict of
6 Interest Act doesn't require non -- doesn't impose any
7 obligations on someone who's not a Council member. So
8 this -- is PowerStream wanting to set its own criteria
9 or preconditions to engaging Mr. Bonwick as I -- as I
10 read it --

11 MR. GEORGE MARRON: Right.

12 MR. LEO LONGO: -- with you this
13 morning -- or this afternoon.

14 MR. GEORGE MARRON: Right. On
15 condition that he make full disclosure to the Town of
16 Collingwood. I've got the agreement --

17 MR. LEO LONGO: It says what it
18 says --

19 MR. GEORGE MARRON: Right.

20 MR. LEO LONGO: -- that the scope of
21 his services be disclosed and that he provide written
22 evidence of such.

23 MR. GEORGE MARRON: Right.

24

25 (BRIEF PAUSE)

1 MR. GEORGE MARRON: So if I could
2 refer you to do document number ALE0000160.

3

4 (BRIEF PAUSE)

5

6 MR. GEORGE MARRON: And this is the
7 draft agreement, Mr. Longo, that was dated the 1st of
8 June, and then -- it's a letter agreement.

9 There was a non-disclosure agreement
10 which was entered into on the 1st of June, as well,
11 between PowerStream and Paul Bonwick's company. But
12 that was in relation to confidential information as
13 held by PowerStream that -- that contracted Compenso
14 communications in Paul Bonwick personally not to
15 disclose any of the trade secrets or confidential
16 information held by PowerStream.

17 MR. LEO LONGO: Yeah. I've just --
18 I've just only seen the first two (2) paragraphs of
19 that letter. I've not seen anything else about
20 non-disclosure.

21 MR. GEORGE MARRON: And let me -- and
22 let me confirm that the -- that I've reviewed the
23 June 1 draft proposal, and I reviewed it with the
24 June 7, 2011 letter, and they're exactly the same.

25

1 (BRIEF PAUSE)

2

3 MR. JOHN MATHER: Are you referring to
4 the schedule A that's contemplated in the
5 confidentiality heading?

6 MR. GEORGE MARRON: Yeah. Yeah. I
7 didn't -- yeah. I should have indicated. It was the
8 attachment, I believe, to the June 1.

9 MR. JOHN MATHER: There is a version
10 of that at ALE192.

11 MR. GEORGE MARRON: Yeah. Thank you.
12 But I think for purposes of the examination this
13 morning that I need to have it called up or pulled up
14 on the electronics.

15

16 CONTINUED BY MR. GEORGE MARRON:

17 MR. GEORGE MARRON: Okay. So the --
18 this indicates, I would suggest, if we consider the
19 background, it sets out pretty clearly, I would
20 submit -- if you look at the first page of this
21 engagement letter, it says:

22 "As part of our corporate strategy,
23 PowerStream is committed to pursuing
24 growth opportunities by way of
25 acquisitions and mergers involving

1 other local distribution companies
2 within the province of Ontario."

3 And it says that:

4 "The Honourable Paul Bonwick, as
5 principal of CCI, has expertise in
6 government relations and in
7 communications that may assist
8 PowerStream in achieving its M&A
9 objectives."

10 So if we look at the letter of June
11 2nd, which is TOC0048812, that -- that's a consistent
12 statement with what is in the letter dated June 2nd,
13 where it says where Sandra Cooper has set out in the
14 letter, although it was drafted by her brother, set
15 out that his services will be limited to strategic
16 advice and matters related to public relations.

17 MR. PAUL BONWICK: Your Honour, just
18 on a point of order. Or sorry, correction there. Mr.
19 Marron forgot to leave out the first part of the
20 sentence, "will be provided to included but not
21 limited to." He just started the sentence at
22 "strategic advice".

23 THE HONOURABLE FRANK MARROCCO: All
24 right.

25 MR. GEORGE MARRON: All right.

1 I'll set it out fully.

2

3 CONTINUED BY MR. GEORGE MARRON

4 MR. GEORGE MARRON: Paul has described
5 the potential services his company will be providing
6 to include, but not limited to strategic advice and
7 matters related to public relations strategic planning
8 and media relations.

9 So I'm suggesting, Mr. Longo, that
10 government relations and communications would be a
11 similar description to what is set out in the June
12 2nd, 2011, comparing that in the -- the retainer
13 letter of June 1st, 2011.

14 In any event, if we move down into the
15 scope of work it -- in my submission if you would
16 review that and compare it to the June 2nd letter, it
17 sets out a scope of work which is not set out in the
18 June 2nd, 2011 letter.

19 MR. LEO LONGO: The Mayor's June 2nd
20 letter, is that what you're referring to? The June --

21 MR. GEORGE MARRON: The letter, yes,
22 the letter that was directed to Brian Bentz by Sandra
23 Cooper.

24 MR. LEO LONGO: Please scroll down
25 some more.

1 I see the reference to strategic advice
2 in the top bullet on page 2.

3 MR. GEORGE MARRON: Yes. Right.

4 But it goes on, it's much broader, I
5 suggest, the scope of work in the agreement of June
6 1st, 2011, or the draft agreement, than what is set
7 out in the text of the letter dated June 2nd, 2011, as
8 sent by Sandra Cooper to Brian Bentz at PowerStream.

9 MR. LEO LONGO: It -- it may be. I
10 mean the words just speak for themselves, Mr. Marron,
11 and comparing one to the other, I -- I'm not sure how
12 I can assist -- how my evidence or my comments are --
13 are of assistance to -- to you or the Tribunal, the
14 Commission, excuse me.

15 MR. GEORGE MARRON: Okay. Well --

16 MR. LEO LONGO: In that regard.

17 MR. GEORGE MARRON: All right. Well
18 then if we could go down through the bullet points
19 then, under the scope of work. Scroll up -- down.

20 First bullet point:

21 "Identify potential opportunities
22 for the purchase, merger or other
23 business combination of LDCs
24 primarily within PowerStream's
25 geographic footprint or outside of

1 the geographic specialized --
2 specifically authorized by
3 PowerStream."

4 I would ---

5 MR. LEO LONGO: Is it -- Your -- Your
6 Honour, is it possible to split screen this -- the --
7 this display and put the letter up, because Mr. Marron
8 has both letters, you know, back and forth. I -- all
9 I have is the screen and it's hard for me to remember
10 what's in the letter and --

11 THE HONOURABLE FRANK MARROCCO: I
12 think we might be better to do it by hard copy because
13 --

14 MR. GEORGE MARRON: Yeah.

15 THE HONOURABLE FRANK MARROCCO: --
16 there's some difficulty with putting the two (2)
17 documents on screen at the same time.

18 MR. JOHN MATHER: We're arranging to
19 have printed copies right now.

20 THE HONOURABLE FRANK MARROCCO: I'm --
21 I appreciate, you know, I've sort of let this go on
22 for while. Are -- but it does come -- I mean, it does
23 come a point where I -- I'm not sure how much help --
24 how much further help the witness can be.

25 Have you got a lot more to -- I don't -

1 - I don't want to foreclose your client and -- and
2 certainly I've let others ask questions for an extend
3 -- you know, I don't want to do that.

4 But is there much more of this?

5 MR. GEORGE MARRON: No. No. We're --
6 we are getting to the end of this segment of the
7 examination of -- of Mr. Longo and I appreciate the
8 difficulty here.

9 I -- I'm --

10 THE HONOURABLE FRANK MARROCCO: You're
11 essentially asking Mr. Longo to agree that there is a
12 difference --

13 MR. GEORGE MARRON: Yes, exactly.

14 THE HONOURABLE FRANK MARROCCO: --
15 between the two descriptions of the work that Compenso
16 is going to --

17 MR. GEORGE MARRON: Yes. Well, --

18 THE HONOURABLE FRANK MARROCCO: And he
19 -- it seems that he requires both documents to -- to
20 look at them.

21 MR. GEORGE MARRON: Well, yes.

22 THE HONOURABLE FRANK MARROCCO: I'm
23 not sure whether his read of the document is any
24 different than mine.

25 MR. GEORGE MARRON: Well, yes, I -- I

1 appreciate that.

2 THE HONOURABLE FRANK MARROCCO: He --
3 Mr. Longo does have a background in municipal law and
4 he's certainly spoken about the Municipal Conflict of
5 Interest Act and so on, he's done all those things.

6 MR. GEORGE MARRON: No. Well -- well
7 the relevance, in my submission, is to put Mr. Longo
8 in a position where I can ask him some questions
9 dealing with representations, misrepresentations as it
10 pertains to -- to the situation that will eventually
11 be fully before Your Honour.

12 THE HONOURABLE FRANK MARROCCO: That's
13 why I've -- I'm -- I understand that's what you're
14 trying to do and that's why I'm really not trying to
15 unduly intrude into the somewhat tedious way you have
16 to go about this to set the stage for it.

17 I get -- I understand that.

18 MR. GEORGE MARRON: All right, well
19 could we do it this way then. Could we put the
20 letter, which is 48812, and I can read from the
21 PowerStream document or I can provide a -- a copy of
22 the PowerStream document to Mr. Longo. How's that?

23 MR. JOHN MATHER: We have --

24 THE HONOURABLE FRANK MARROCCO: You
25 can do that.

1 MR. JOHN MATHER: We have a hard copy
2 of the June 1st PowerStream letter.

3 MR. GEORGE MARRON: That's perfect,
4 sure. Thanks, Mr. Mather.

5 THE HONOURABLE FRANK MARROCCO: You
6 might want to give that to Mr. Longo. Thank you.

7 MR. LEO LONGO: Okay, so I've got this
8 letter, now you're asking me some questions about the
9 June 2nd letter that the Mayor sent to --

10

11 CONTINUED BY MR. GEORGE MARRON

12 MR. GEORGE MARRON: Yes, so -- so if
13 it could be pulled up on the screen, there we go.
14 Okay.

15 MR. LEO LONGO: Okay, so your question
16 is, sir?

17 MR. GEORGE MARRON: Yes, so I'd like
18 to go down through, if I could refer you, as I have,
19 to the -- the content in the letter, was Paul has --
20 the second paragraph reads:

21 "Paul has described the potential
22 service his company will provide to
23 include, but not limited to
24 strategic advice in matters related
25 to public relations, strategic

1 planning, acquisitions, and media
2 relations."

3 Now, we're asking you to -- with the
4 document, the PowerStream document ALE160 that's
5 before you, and just in reference to scope of work, it
6 sets out the first bullet point:

7 "Identify potential opportunities
8 for the purchase, merger, or other
9 business combinations with LDCs."

10 I would suggest and ask you, Mr. Longo,
11 that in my submission would go beyond what is set out
12 in the -- the letter of June 2nd, 2011.

13 MR. LEO LONGO: I don't know. I see
14 the truth -- the June 2nd letter referring to
15 strategic advice related to acquisitions.

16 MR. GEORGE MARRON: All right.

17 MR. LEO LONGO: I look at bullet 1,
18 under scope of work on the June 1 letter, that speaks
19 to identify opportunities for purchase merger, or
20 other business combinations.

21 I'm assuming purchase, merger, or other
22 business combinations would fall with -- an
23 acquisition would certainly fall within that
24 description. Maybe a -- an acquisition might not
25 include merger or other business combinations, but --

1 MR. GEORGE MARRON: With LDCs, yeah.
2 I hear you. Okay. Well, now -- and I -- I appreciate
3 what you say. There was -- there is evidence before
4 the commission that there was a business relationship
5 set up in reference to a roof vent, a solar powered
6 roof vent. And that was set up in the month of August
7 2011, so.

8 MR. LEO LONGO: And, Mr. Marron, I
9 look at the second paragraph of -- of the Jan -- of
10 the June 2nd letter --

11 MR. GEORGE MARRON: Right.

12 MR. LEO LONGO: -- that says,
13 "Providing to include but not limited to."

14 MR. GEORGE MARRON: Right.

15 MR. LEO LONGO: So, that's usually a
16 more open-ended language suggesting that what follows
17 isn't meant to be closed language in any -- in -- in
18 any way, shape, or form.

19 So, just describe potential services
20 his company will be providing to include but not
21 limited to.

22 MR. GEORGE MARRON: Okay.

23 MR. LEO LONGO: So, the mayor seems to
24 be suggesting I -- there -- there may be something
25 greater than that, but I'm only mentioning these three

1 (3) or four (4) things here --

2 MR. GEORGE MARRON: All right. That's
3 fair.

4 MR. LEO LONGO: -- in that paragraph.

5 MR. GEORGE MARRON: Okay. Now, the
6 second bullet point on the June 1 letter:

7 "Prepare detailed briefings
8 identifying key decision makers
9 related to a particular
10 opportunity."

11 Would that be included, in your
12 opinion, in the -- in the content of the second
13 paragraph in the letter of June the 2nd, 2011 --

14 MR. LEO LONGO: Well --

15 MR. GEORGE MARRON: -- briefing?

16 MR. LEO LONGO: -- one would assume
17 identifying key decision makers is -- is important
18 when dealing with potentially public relations, me --
19 media relations, and even strategic planning, so I can
20 see how that second bullet could be said to be
21 included in that second paragraph of the June 2nd
22 letter.

23 MR. GEORGE MARRON: Okay. Thank you.
24 And the third bullet:

25 "Assist in the preparation of any

1 proposals that PowerStream intends
2 to submit."

3 And I assume that -- that that would
4 fall within the -- the first paragraph -- or sorry,
5 the second paragraph of the letter of June the 2nd?

6 MR. LEO LONGO: You would -- it would
7 appear so.

8 MR. GEORGE MARRON: All right.

9 MR. LEO LONGO: Strategic advice for
10 respecting communications, I would think that's --

11 MR. GEORGE MARRON: Yeah. Right.

12 MR. LEO LONGO: -- clearly media
13 relations and public relations, so that would be
14 included. The final bullet is:

15 "Assist with any other duties
16 required as it relates to
17 PowerStream's merger and acquisition
18 activity."

19 MR. GEORGE MARRON: Activity, yeah.

20 MR. LEO LONGO: Again, acquisitions is
21 mentioned in paragraph --

22 MR. GEORGE MARRON: Okay.

23 MR. LEO LONGO: -- two.

24 MR. GEORGE MARRON: Okay. So, if we
25 look at...

1

2

(BRIEF PAUSE)

3

4

MR. GEORGE MARRON: If we look at
develop a personalized contact program, it talks about
targeting its messaging with a purpose to -- to
obtain, maintain, enhance political and bureaucratic
relationships related to this file.

9

MR. LEO LONGO: I -- I'm sorry, sir,
which letter are you referring to, June --

11

MR. GEORGE MARRON: This is the --

12

MR. LEO LONGO: -- PowerStream letter?

13

MR. GEORGE MARRON: Yeah. No, no.
Yeah, it is the PowerStream letter, yeah.

15

MR. LEO LONGO: Okay. Which page are
you on?

17

MR. GEORGE MARRON: I'm on the second
page. I'm sorry, Mr. Longo, I should have identified
this, under the general topic, "Methodology and
deliverables."

21

MR. LEO LONGO: Build a case and enh -
- sorry. Build a case and enhance profile --

23

THE HONOURABLE FRANK MARROCCO: I must
say, I'm not clear -- are you clear which document Mr.
Marron's referring to?

1 MR. LEO LONGO: I believe he's asking
2 me about the June 1st PowerStream letter.

3 MR. GEORGE MARRON: That's right.
4 That's correct.

5 MR. LEO LONGO: And I was just asking
6 him to direct me where he wanted to have my attention
7 drawn to.

8

9 (BRIEF PAUSE)

10

11 CONTINUED BY MR. GEORGE MARRON:

12 MR. GEORGE MARRON: Okay. Well, I'm -
13 - I'm looking at -- at those subtitles, "Build the
14 case and enhance profile," and I -- on the PowerStream
15 letter.

16 MR. LEO LONGO: I -- I see that.
17 Okay.

18 MR. GEORGE MARRON: And I'm asking you
19 to -- does that fall within the -- those -- those
20 bullet points, those three (3) bullet points? Would
21 that fall within the content of the June 2nd second
22 paragraph?

23

24 (BRIEF PAUSE)

25

1 MR. LEO LONGO: Well, it speaks to --

2 MR. GEORGE MARRON: What --

3 MR. LEO LONGO: -- enhancing profile
4 and providing consistent professional and concise
5 information and reports and ensure key decision makers
6 have clear access to information.

7 That seems to fall within public
8 relations, media relations that would be mentioned in
9 paragraph 2 of the June 2nd letter.

10 MR. GEORGE MARRON: Thank you.
11 "Develop a personalized contact program." It talks
12 about:

13 "This will ensure that PowerStream
14 appropriately targets its
15 messaging."

16 MR. LEO LONGO: Yes, that would be
17 media relations, I would think, and public relations.

18 MR. GEORGE MARRON: Okay. And then
19 the second bullet:

20 "Seek out internal government
21 champions to help position and
22 advocate for the initiative."

23 MR. LEO LONGO: I -- I don't have a
24 clue what an internal government champion is.

25 MR. GEORGE MARRON: Okay. Okay.

1 Well, we'll leave that for another time. And then
2 access key decision makers and an indication to work
3 with PowerStream developing and implementing specific
4 strategies for communicating your unique benefits.

5 "As PowerStream's plans progress,
6 we, as a matter of course, will make
7 every effort to maintain progressive
8 professional profiles for our
9 client."

10 That would fall within the letter of
11 June the 2nd?

12 MR. LEO LONGO: I think it's caught
13 within public relations and media relations.

14 MR. GEORGE MARRON: Okay. And then
15 the -- finally, the iss -- the issue:

16 "Monitoring at CCI is constant
17 contact with the municipal
18 government leaders and, as such, is
19 able to monitor and report any
20 changes or opportunities that may
21 arise as your early warning system
22 are intelligence gathering will help
23 you to respond to any potential
24 critical challenges brought forward
25 regarding this approach."

1 MR. LEO LONGO: I would assume that
2 would fall under strategic planning that's mentioned
3 in paragraph 2.

4 MR. GEORGE MARRON: Okay. Okay. So,
5 if we get -- well, then there's tactical
6 recommendations.

7 "Throughout this process, we'll
8 provide PowerStream with an
9 identified contact list and detailed
10 verbal brief of tactics and
11 recommended approaches for
12 proceeding."

13 That would fall within the paragraph?

14 MR. LEO LONGO: I could see how it
15 could be argued so.

16 MR. GEORGE MARRON: Okay. Okay, so.
17 Now, under the term, "Disclosure," if I could ask you
18 to review it. I don't think we need the -- the June
19 2nd letter. So, the -- do you ha -- you have -- you -
20 - you have the PowerStream June 1 --

21 MR. LEO LONGO: That's correct.

22 MR. GEORGE MARRON: -- retainer
23 letter?

24 MR. LEO LONGO: So, I'm on page 3
25 looking up disclosure.

1 MR. GEORGE MARRON: Okay.

2 MR. LEO LONGO: So, I've got that.

3 MR. GEORGE MARRON: Okay. So, it
4 talks about:

5 "Bonwick agrees to make all
6 necessary and prudent disclosure of
7 his CCI engagement with PowerStream.
8 Any such disclosure shall be
9 discussed and authorized by
10 PowerStream in advance."

11 And then it goes on to say:

12 "Specifically, with respect to any
13 authorized activity on PowerStream's
14 behalf relating to Collus Power,
15 Bonwick represents and warrants that
16 he has disclosed the scope of his
17 services and his retainer to Power -
18 - by PowerStream to the mayor and
19 the clerk of the Town of Collingwood
20 and shall provide written evidence
21 of such disclosure to PowerStream."

22 MR. LEO LONGO: Yes, I see that.

23 MR. GEORGE MARRON: Okay.

24 "Further, with respect to Collus
25 Power, CCI shall, after consulting

1 with PowerStream, make any
2 additional disclosures that may be
3 prudent or required by applicable
4 law during the course of this
5 engagement or any extension
6 thereof."

7 All right. So, that's in reference to
8 Collus Power.

9 MR. LEO LONGO: And that puts
10 obligations on Mr. Bonwick to --

11 MR. GEORGE MARRON: Yeah.

12 MR. LEO LONGO: -- make certain
13 disclosures.

14 MR. GEORGE MARRON: Well, certain
15 disclosure being the scope of his services and his
16 retainer?

17 MR. LEO LONGO: It's the -- the
18 arrangement he's making with PowerStream or that
19 PowerStream is prepared to make with him.

20 MR. GEORGE MARRON: Right. And this
21 is a significant contract; it's a significant
22 retainer: a sum of 10,000 a month, plus applicable
23 taxes invoiced monthly, and then an administrative fee
24 of a thousand dollars a month to cover out-of-pocket
25 expenses.

1 MR. LEO LONGO: Sir, I don't know
2 Mr. Bonwick or his company, and I have no idea if
3 that's a significant retainer in his eyes or not.

4 MR. GEORGE MARRON: Okay. All right.

5 THE HONOURABLE FRANK MARROCCO:
6 We're -- you know, Mr. Longo's interpretation is his
7 interpretation, and I'm allowing you to elicit it.
8 But I don't know -- well, I'll see.

9

10 (BRIEF PAUSE)

11

12 CONTINUED BY MR. GEORGE MARRON:

13 MR. GEORGE MARRON: Okay. So just to
14 go back to the Foundation Document, if I may,
15 Your Honour, and I ask to summary document 12. It's
16 paragraph 34.

17 Well, at this point, there's an
18 indication here that on the morning of the 1st of
19 June, John Glicksman of PowerStream wrote to
20 Paul Bonwick that there'd been "some apparent
21 misunderstanding" about his disclosure to the mayor
22 and to the clerk. Mr. Glicksman wrote:

23 "Thanks for your quick reply and
24 comments on our draft letter. There
25 seems to be some apparent

1 misunderstanding of the disclosures
 2 Brian thought you had made to date
 3 with him with respect to both the
 4 mayor and the city clerk. He was
 5 under the impression you had made
 6 disclosure to and received clearance
 7 from the city clerk that under the
 8 Municipal Act, there was no conflict
 9 for you to do work for us leading to
 10 or on a potential RFP of Collus and
 11 that you had received written
 12 confirmation of same from the city
 13 clerk. The indication that given
 14 that you had direct discussion with
 15 Brian regarding this. It may be
 16 best for you to give him a quick
 17 call so that we can sort the wording
 18 out and get on with you supporting
 19 us on this exciting project."

20 MR. LEO LONGO: So this follows what I
 21 understand was an earlier comment where the one small
 22 discrepancy was -- was mentioned about deleting
 23 mention of the clerk's name.

24 MR. GEORGE MARRON: That's right.

25 MR. LEO LONGO: Okay. I -- I see.

1 Yes.

2 MR. GEORGE MARRON: Okay. So there's
3 an indication here about an apparent misunderstanding
4 of the part of PowerStream as to the disclosures that
5 Paul Bonwick is to make.

6 MR. LEO LONGO: That's what it says.

7 THE HONOURABLE FRANK MARROCCO: I
8 really -- that's a difficulty I'm having to the extent
9 that the witness is reading and confirming that words
10 say what they -- what they might say or his
11 interpretation of whether -- of what's meant by a
12 particular term.

13 I'm having some difficulty with the
14 assistance that I'm getting because Mr. Longo is a
15 municipal lawyer. His area is municipal law. You're
16 asking him about contracts and what terms mean in
17 them.

18 MR. GEORGE MARRON: Well, yes. But
19 he's also able to, within his expertise, provide an
20 opinion on disclosure and how that -- and we went
21 through that in a general way, I submit, when we
22 reviewed the first part of the evidence.

23 So we are getting there. I want to, as
24 I say, fairly put the factual situation to him so that
25 when I finally address him in reference to disclosure

1 issues relating to conflict of interest that he has
2 that foundation.

3 THE HONOURABLE FRANK MARROCCO: I
4 really am having some difficulty with -- but I really
5 think we're going to have to get to the question then
6 and --

7 MR. GEORGE MARRON: Okay.

8 THE HONOURABLE FRANK MARROCCO: -- and
9 get on with it because... taking a while.

10

11 (BRIEF PAUSE)

12

13 MR. GEORGE MARRON: Well, I wanted to
14 move on to the 2nd of June now, Your Honour, because
15 there is evidence that has been heard through
16 witnesses -- Sandra Cooper, Kim Wingrove -- and I
17 intend to refer the witness to that -- now, this is
18 evidence that you've heard -- just to complete the
19 scenario.

20

21 (BRIEF PAUSE)

22

23 MR. GEORGE MARRON: If I could have
24 your indulgence here.

25

1 (BRIEF PAUSE)

2

3 MR. GEORGE MARRON: This was organized
4 at one point. I apologize for the delay here.

5 THE HONOURABLE FRANK MARROCCO: Do you
6 want a minute to find what you're looking for?

7 MR. GEORGE MARRON: Could I have a few
8 minutes just to -- thank you.

9

10 --- Upon recessing at 12:47 p.m.

11 --- Upon resuming at 12:53 p.m.

12

13 MR. GEORGE MARRON: Thank you for
14 that, Your Honour. I think I can move on quickly,
15 here.

16

17 CONTINUED BY MR. GEORGE MARRON:

18 MR. GEORGE MARRON: I wanted to refer
19 Mr. Longo to my client Sandra Cooper's cross-
20 examination by William McDowell on the -- on the
21 circumstances as to on June the 2nd in her meeting at
22 Town Hall with Paul Bonwick.

23

24 (BRIEF PAUSE)

25

1 MR. GEORGE MARRON: So if we could to
2 go to -- if we could go to paragraph 189 of the
3 Foundation Document, Your Honour.

4

5 (BRIEF PAUSE)

6

7 MR. GEORGE MARRON: Okay. So this is
8 a matter that we referred to earlier, Mr. Longo, just
9 a -- a confirmation that -- that Paul Bonwick wrote to
10 Brian Bentz to say:

11 "As you can see by the letter I
12 drafted, I wrote it with the thought
13 of public disclosure if ever
14 required."

15 And then in her examination, the --
16 that paragraph was put to Sandra Cooper, and she
17 acknowledged that, and Mr. McDowell indi -- indicated
18 that he appreciated she -- Sandra Cooper wasn't copied
19 on this email, May the 19th, 2011, but at this -- that
20 it was -- that her understanding -- he -- he went on
21 to say:

22 "And I appreciate that you weren't
23 copied on this email, but that was
24 your understanding of this letter
25 was to provide -- provide cover for

1 PowerStream if this relationship
2 ever became public, correct?"

3 And she answered, "Yes."

4 And then he referred to paragraph 197
5 of the Foundation Document, which is the letter of
6 June the 2nd, and con -- confirmed with Sandra Cooper
7 that this letter is substantially in the form of the
8 draft that Mr. Bonwick had given you. And he reviewed
9 the content of the letter with her, the letter of June
10 the 2nd, and then questioned her that:

11 "My understanding of your evidence
12 is that you made no inquiries of Mr.
13 Bonwick about the type of advice he
14 was going to be getting to
15 PowerStream?"

16 And her response was:

17 "I was -- I felt it was a public
18 relations and communications."

19 And Mr. McDowell's question:

20 "Those were -- that was what -- that
21 was what the advice and what
22 services were going to be as you
23 understood it?"

24 Her response, "That's what I
25 understand, yes."

1 And Mr. McDowell indicated, "But you
2 made no inquiries?"

3 And she had indicated that was correct.

4 And there was some indication that she
5 made no requiries (sic) because of some reticence that
6 she had in asking her siblings how they earn their
7 income, and matters of that sort.

8 And then Mr. McDowell asked her:

9 "Did you -- let me ask you this.

10 When you wrote your letter, did you
11 give any independent thought as to
12 the content of your letter? Did you
13 just look at his and say, That looks
14 fine, I'll sign off on that?"

15 And her response:

16 "I looked at his letter and thought
17 it was fine to sign at the time."

18

19 (BRIEF PAUSE)

20

21 MR. GEORGE MARRON: Then he went to
22 Foundation Document paragraph 202, if we could come up
23 on the screen.

24

25 (BRIEF PAUSE)

1 MR. GEORGE MARRON: This is the --
2 this is the retainer letter of -- with PowerStream
3 dated the 7th of June. And Mr. McDowell put the
4 following:

5 "So this is a review of the retainer
6 letter signed on June the 7th by
7 PowerStream. Do you see there that
8 Mr. Bonwick would, among other
9 things, prepare detailed briefings
10 identifying key decision makers
11 related to a particular opportunity?
12 Do you see that?"

13 And acknowledgment by Sandra Cooper,
14 "Yes, I do."

15 Question:

16 "So Mr. Bonwick was to figure out
17 who were the real decision makers in
18 relation to the PowerStream
19 opportunity?"

20 Her response, "Yes."

21 And then for the Collus Power
22 opportunity...

23

24 (BRIEF PAUSE)

25

1 MR. GEORGE MARRON: He goes on after
2 reviewing that the:

3 "Compenso was in cons -- contact
4 with municipal government leaders,
5 and as such, is able to monitor and
6 report any changes or opportunity."

7 Now this is in the issue monitoring:

8 "So Compenso was in constant contact
9 with the municipal government
10 leaders, and as such, is able to
11 monitor and report any changes or
12 opportunities that may arise. Our
13 intelligence gathering will help
14 prepare you to respond to any
15 potential critical challenges being
16 brought forward."

17 Sandra Cooper was asked: "Do you see
18 that?"

19 "Yes, I do see that."

20 He said:

21 "Well, when you put all that
22 together, Mr. Bonwick is being paid
23 because of his access to people like
24 you? Do see that?"

25 And her response, "Yes, I do."

1 Mr. McDowell, "He's being paid for his
2 access to you personally."

3 Her response was, "To government
4 leaders, yes."

5 And he said, "Well, that wouldn't" --
6 and she acknowledges, "That would include me."

7 And so Mr. McDowell's question was:

8 "That would include you, and he's to
9 gather intelligence, right?"

10 And she responded, "Yes."

11 Then he indicated -- Mr. McDowell said:

12 "Intelligence is one of those funny
13 words because it means information
14 gathered by all kinds of means."

15 And she acknowledged that. And his
16 question:

17 "And the most valuable intelligence
18 is going to be information that's
19 confidential to the Vendor, the
20 Town, correct?"

21 And she indicated that she agreed with
22 that.

23 MR. PAUL BONWICK: Your Honour --

24 THE HONOURABLE FRANK MARROCCO: Yes?

25 MR. PAUL BONWICK: -- if I may, I've

1 listened with interest. I'm going to have to object,
2 not in terms of any the information that Mr. Marron is
3 sharing, but I'm confused in terms of how Mr. Longo is
4 somehow lending value or helping with clarity to any
5 points Mr. Marron might be making. Mr. Marron had
6 ample opportunity to cross-examine his witness during
7 the time Mr. McDowell -- once Mr. McDowell finished
8 his. He -- he chose not to ask his client any
9 questions.

10 I'm not sure that Mr. Longo is here as
11 an expert witness to speak on contract law or contract
12 agreements, yet he continues to be asked for his
13 opinion on that.

14 I think the rules of procedure
15 governing a judicial inquiry clearly lay out what is
16 expected in terms of a -- an expert witness and the
17 amount of time and notice that needs to be given as
18 well as any information.

19 And so, as I say, for the past two (2)
20 hours I've sat here and listened and I -- I'm just
21 struggling with how this is somehow helping the
22 hearing in any manner of speaking, relaying all this
23 information to Mr. Longo, when in fact I don't
24 believe, by his own admission, he's an expert in
25 contract law or in agreements.

1 THE HONOURABLE FRANK MARROCCO: Mr.
2 Chenoweth really was advancing the same sort of
3 objection and I -- I -- to an hour, an hour and a half
4 ago. I cut him off and indicated I would go down this
5 road. I have now gone down the road for some time,
6 and I tend to agree, Mr. Marron. I don't really see
7 how it's helpful.

8 Mr. Longo's interpretation of the words
9 in -- in the contract, I -- I just fail to see how
10 it's related to his expertise. His -- his assessment
11 of Mr. -- your client's answers to Mr. McDowell's
12 questions, I -- I don't find helpful, and I -- I think
13 he's outside of -- I -- I think I probably shouldn't -
14 - I probably should have listened to Mr. Chenoweth.

15 I -- I don't want to -- don't want to
16 take that too far, but I -- I probably should have,
17 and I -- I really think you're going to have to wrap
18 up this line of questioning. I don't find the
19 witness' opinions particularly helpful, although
20 they're sincerely given, but I don't find them
21 helpful.

22 MR. GEORGE MARRON: Well we're talking
23 about the scope of disclosure, and -- and -- and my
24 client was examined on that, cross-examined by Mr.
25 McDowell, and -- and so it forms part of the record,

1 and I wanted to put this to --

2 I mean, the issue here is, what was
3 disclosed and what obligation would my client have by
4 way of making reasonable enquiry. And as I indicated
5 at the outset, I mean, there can be a failure to make
6 disclosure by virtue of omission of information or by
7 misstating the information.

8 THE HONOURABLE FRANK MARROCCO: I
9 think it's a matter of argument --

10 MR. GEORGE MARRON: Well --

11 THE HONOURABLE FRANK MARROCCO: --
12 whether there's been an omission.

13 I've allowed the questioning to go on
14 this long, so if there's -- if there's a concluding
15 question you want to ask to this line of questioning,
16 I'll let you ask if, but then I -- but I really -- I
17 really don't think this is helpful.

18 MR. GEORGE MARRON: Okay. Well --
19 well then I -- I will. I'll put the questions to Mr.
20 Longo then.

21

22 CONTINUED BY MR. GEORGE MARRON:

23 MR. GEORGE MARRON: Just in relation
24 to the issue of disclosure, Mr. Longo, I mean, you --
25 you see that what was in effect by way of discussions

1 on the 31st of May 2011, and which resulted in the
2 draft agreement of the 1st of June 2011, and the
3 subsequent contract that was executed on the 7th of
4 June 2011.

5 It sets out what I submit is a
6 requirement on the part of Mr. Bonwick to disclose the
7 terms of his retainer to the Town of Collingwood, to
8 the Mayor and to the Clerk, and --

9 MR. LEO LONGO: That's what -- that's
10 what it appears PowerStream was asking Mr. Bonwick to
11 do.

12 THE HONOURABLE FRANK MARROCCO: And
13 that's -- that's my point though. I can take that
14 from the language.

15 MR. GEORGE MARRON: Well, I appreciate
16 I can bring this information out of the PowerStream
17 witnesses but --

18 THE HONOURABLE FRANK MARROCCO: The
19 language appears to say to Mr. Longo what it says --

20 MR. GEORGE MARRON: Yeah.

21 THE HONOURABLE FRANK MARROCCO: -- to
22 anyone reading it really. But -- but in any event, I
23 said I'd let you conclude, so I'll let you conclude.

24 MR. GEORGE MARRON: All right.

25

1 CONTINUED BY MR. GEORGE MARRON:

2 MR. GEORGE MARRON: Well, I think that
3 probably concludes that area.

4 Now, I wanted to make reference --
5 well, may I -- may I continue? I wanted to make
6 reference to the meeting at Town Hall on the 29th of
7 June, and -- and the evidence that Kim Wingrove gave
8 as to her understanding of that meeting, and --

9 THE HONOURABLE FRANK MARROCCO: In for
10 a penny, in for a pound, Mr. Marron.

11 MR. GEORGE MARRON: Yeah. Well, I --
12 well, I appreciate it's a matter of argument as well,
13 and it's all on the record, so.

14 THE HONOURABLE FRANK MARROCCO: It --
15 it does seem to me it's a matter of -- it's a matter
16 of argument. You -- you're really asking Mr. Longo
17 is, as Mr. Chenoweth said a while ago, you're asking
18 them to -- to opine on matters that --

19 MR. GEORGE MARRON: Right.

20 THE HONOURABLE FRANK MARROCCO: --
21 really not -- he's not here as an expert in that
22 capacity. I'm not satisfied they're municipal law
23 matters either.

24 MR. GEORGE MARRON: Yeah.

25

1 (BRIEF PAUSE)

2

3 MR. GEORGE MARRON: Okay then, the
4 final -- the final matter, I'll be brief, Your Honour.

5

6 CONTINUED BY MR. GEORGE MARRON:

7 MR. GEORGE MARRON: There was an
8 indication that you -- you gave yesterday, Mr. Longo,
9 that -- and this relates to an alleged meeting on the
10 19th of January 2012 and whether you attended this
11 meeting with the Mayor, the Deputy Mayor, or others
12 from the Town on the 19th of January. And you'll
13 recall that you understood that on that date you may
14 have been in Alliston.

15 MR. LEO LONGO: That's right. I --

16 MR. GEORGE MARRON: And --

17 MR. LEO LONGO: -- had no such meeting
18 on that date.

19 MR. GEORGE MARRON: Right, okay. So
20 I'd like to -- like to refer the witness to -- and
21 actually, you -- you checked your -- your billings for
22 the 19th of January 2012 and that confirmed -- that
23 confirmed that -- that you weren't attending at any
24 meeting. You --

25 MR. LEO LONGO: That is correct.

1 MR. GEORGE MARRON: Yeah. And just in
2 reference to paragraph 502 of the Foundation Document,
3 this is a -- this is an email from Paul Bonwick
4 reporting to Mr. Glicksman and Mr. Nolan on -- on the
5 meeting. It's dated the 19th of January 2012. And he
6 reports that:

7 "The meeting went very well this
8 afternoon with the Town lawyers,
9 Mayor, Deputy Mayor, CAO, and Ed."
10 So the Town lawyer -- you weren't
11 there. So --

12 MR. LEO LONGO: That wasn't me.

13 MR. GEORGE MARRON: Right. So there's
14 no indication that Paul Bonwick was at this meeting,
15 although he's reporting on the meeting of January
16 19th, 2012. And if he were at the meeting, that's one
17 thing; if he wasn't at that meeting, he's obviously
18 getting information from another source.

19 MR. LEO LONGO: Mr. Marron, I can tell
20 you I've looked at my dockets, I was out of town in a
21 -- in a different municipality that day. Your Honour,
22 the only docket I had for January 19 was a brief
23 docket. You'll recall that Ms. Kennedy provided the
24 last version of the authorizing bylaw and asked me to
25 take a look at it. She said after she --

1 THE HONOURABLE FRANK MARROCCO: I
2 recall the email. She had made one (1) or two (2)
3 enhancements.

4 MR. LEO LONGO: Yes, and -- and --
5 that's right, put the clause back in. My only docket
6 on that day was looking at that authorizing bylaw and
7 -- and saying fine --

8 THE HONOURABLE FRANK MARROCCO: Yeah.
9 In --

10 MR. LEO LONGO: -- that's it for
11 January.

12 THE HONOURABLE FRANK MARROCCO: In any
13 event -- all right.

14 MR. GEORGE MARRON: Thank you.

15 THE HONOURABLE FRANK MARROCCO: I think
16 the question of whether the source of the information,
17 in -- in the event that --

18 MR. GEORGE MARRON: Yeah.

19 THE HONOURABLE FRANK MARROCCO: -- Mr.
20 Bonwick wasn't there, I think that's a matter of
21 argument.

22 MR. GEORGE MARRON: Right. I
23 appreciate that. Thank you. All right. Those are my
24 questions. Thank you, Mr. Longo.

25 THE HONOURABLE FRANK MARROCCO: Thank

1 you, Mr. Marron.

2 I'm going to break for lunch. We will
3 be sitting later today to try to get back -- get --
4 continue with the schedule, and as you will have --
5 you will have probably received an email now about our
6 attempts to deal with certain scheduling issues that
7 are going to present themselves. I'll pursue that
8 with you after lunch.

9 MR. LEO LONGO: When would you like us
10 back, Your Honour?

11 THE HONOURABLE FRANK MARROCCO: I'm
12 sorry. 2:15.

13 MR. LEO LONGO: Thank you.

14

15 --- Upon recessing at 1:11 p.m.

16 --- Upon commencing at 2:18 p.m.

17

18 CROSS-EXAMINATION BY MS. BELINDA BAIN

19 MS. BELINDA BAIN: Good afternoon, Mr.
20 Longo.

21 MR. LEO LONGO: Good afternoon.

22 MS. BELINDA BAIN: My name is Belinda
23 Bain, I'm one of the lawyers for Alectra, formerly
24 PowerStream.

25 MR. LEO LONGO: Right.

1 MS. BELINDA BAIN: I have mercifully
2 few questions for you.

3 MR. LEO LONGO: Thank you.

4 MS. BELINDA BAIN: I'd like to speak
5 to you about the drafting of the authorization bylaw.

6 MR. LEO LONGO: Okay.

7 MS. BELINDA BAIN: And in your
8 evidence yesterday, you told the inquiry that in your
9 view, it was inappropriate for PowerStream, as the
10 counter-party to the transaction, to have input on the
11 drafting of the bylaw.

12 Was that your evidence?

13 MR. LEO LONGO: Generally speaking,
14 yes.

15 MS. BELINDA BAIN: As you know, --
16 when you say "generally speaking"?

17 MR. LEO LONGO: Well, I wanted to be
18 clear that I had understood the document was just
19 purely a Collingwood document only, that I had done a
20 draft, I had submitted it to my client and I was
21 expecting comments back from my client.

22 There was no anticipation that it was
23 going to be circulated or provided to anybody else.

24 MS. BELINDA BAIN: I understand.
25 Thank you. That was your evidence yesterday.

1 And -- and you understand that your
2 partner, Ron Clark, has previously provided evidence
3 in this proceeding.

4 MR. LEO LONGO: I am aware.

5 MS. BELINDA BAIN: Okay. He was with
6 us on Friday.

7 Could we pull up, please, Mr. Clark's
8 transcript from last Friday? And in particular,
9 please, page 239.

10 So on Friday I asked Mr. Clark, I think
11 your evidence was earlier that in the deals you've
12 been involved in, it's ordinary practice for the
13 purchaser or the counter-party to have involvement in
14 drafting the municipal bylaw, authorizing the sale,
15 correct?

16 Mr. Clark:

17 "It -- it wouldn't strike me as
18 unusual."

19 "Okay, so there's nothing out of the
20 ordinary in that?"

21 Mr. Clark said "Correct". I asked him
22 and I think you actually said that input might be
23 important to make sure that the bylaw accurately
24 reflects the underlying transaction, correct?

25 Mr. Clark: "Yes."

1 I asked him:

2 "And you've learned that Dennis
3 Nolan and PowerStream had input in
4 drafting the bylaw, which authorized
5 the PowerStream and Collus Power
6 transaction, correct?

7 Mr. Clark said "yes".

8 I asked him "And that doesn't surprise
9 you?" and Mr. Clark said "No". I asked him "There's
10 nothing nefarious in that?" and Mr. Clark said "No", I
11 asked him "It doesn't cause you any concern?", Mr.
12 Clark said "No".

13 You've explained to the inquiry, sir,
14 that your background is in municipal law, is that
15 right?

16 MR. LEO LONGO: Correct.

17 MS. BELINDA BAIN: You don't have any
18 transactional experience?

19 MR. LEO LONGO: Correct.

20 MS. BELINDA BAIN: And you're not a
21 corporate lawyer?

22 MR. LEO LONGO: Correct.

23 MS. BELINDA BAIN: Mr. Clark is a
24 corporate lawyer?

25 MR. LEO LONGO: Yes.

1 MS. BELINDA BAIN: And he has
2 considerable background in particular in mergers and
3 acquisitions of LDCs, correct?

4 MR. LEO LONGO: Yes.

5 MS. BELINDA BAIN: I take it from that
6 then that you would likely defer to his expertise in
7 terms of the propriety of a counter-party commenting
8 on an authorizing bylaw in situations such as this?

9 MR. LEO LONGO: I dis -- I personally
10 disagree with the -- the questions and answers that
11 were given are from a transactional lawyer's
12 perspective.

13 When I was at -- when I provided the
14 initial draft of the bylaw, as I indicated it was an
15 authorizing bylaw for my client and my client's staff
16 to comment back to me.

17 Had it been anyone's intention to say
18 we would like to send this to PowerStream, that may
19 have been something I -- I could consider and address,
20 but as I understood it, the way it was done, it was
21 done without my knowledge, without the clerk's
22 knowledge. I'm not sure who had knowledge that
23 PowerStream was being provided with the copy of the
24 bylaw and being asked for transi -- transactional
25 completeness to take a look at it and provide comment.

1 So not only was there no transparency
2 about that, or no knowledge, but there was no
3 attribution when the bylaw came back saying this is
4 what -- this is who has commented on this bylaw and
5 had a say in it.

6 Had there -- had there been
7 transparency and had there been full disclosure of
8 that, it may not have been as problematic to me as I
9 initially felt when I read the foundation document and
10 read for the first time and learned for the first time
11 that PowerStream had been quietly given a copy of a
12 bylaw and that their comments came back not as
13 PowerStream's comments, but as Ed Houghton's comments.

14 MS. BELINDA BAIN: And to be fair, you
15 don't know how that piece of it unfolded.

16 MR. LEO LONGO: I have no idea how
17 that -- other than what I've read in the documentation
18 and saw -- saw in the testimony.

19 MS. BELINDA BAIN: Thank you. And in
20 what you've just told us, you used the phrase
21 "transactional completeness".

22 MR. LEO LONGO: Right.

23 MS. BELINDA BAIN: And -- and I take
24 it from that there is an acknowledgement that this
25 bylaw had to work in a way that was effective for the

1 transaction to take place, correct?

2 MR. LEO LONGO: You would want it to
3 work for -- from my perspective, I wanted it to work
4 for the Town and be -- and be as proper an
5 authorization bylaw as I could prepare.

6 MS. BELINDA BAIN: Thank you.

7 You told the Inquiry yesterday that you
8 prepared the first draft of the bylaw?

9 MR. LEO LONGO: That's correct.

10 MS. BELINDA BAIN: Can we pull up,
11 please, ARB234? And I think you acknowledged
12 yesterday that you'd never prepared the bylaw for the
13 sale of a -- of a --

14 MR. LEO LONGO: That's correct.

15 MS. BELINDA BAIN: -- Town asset
16 before? Okay. So, if we could go to page 8 of 234.
17 Scroll down, please. You were asked yesterday about
18 clause 2 of this being the first draft of the bylaw:

19 "That the mayor and clerk be
20 authorized to exer -- execute the
21 share purchase agreement and
22 shareholders agreement with
23 PowerStream Inc. respecting the
24 purchase of shares of the
25 Collingwood Utility Services Corp.

1 once those agreements are in a form
2 and content to the satisfaction of
3 the Town's solicitor."

4 You drafted that, correct?

5 MR. LEO LONGO: Correct.

6 MS. BELINDA BAIN: I think your
7 evidence was yesterday that the first portion of that
8 came from a precedent, yes?

9 MR. LEO LONGO: Sta -- standard form --

10 MS. BELINDA BAIN: Yes.

11 MR. LEO LONGO: -- bylaw, yes.

12 MS. BELINDA BAIN: And then you added
13 the words:

14 "Once those agreements are in a form
15 and content to the satisfaction of
16 the Town solicitor."
17 Correct?

18 MR. LEO LONGO: Correct.

19 MS. BELINDA BAIN: And you said, I
20 think that you felt it would be prudent because the
21 agreements, at that point, were still in draft form,
22 correct?

23 MR. LEO LONGO: That's my
24 understanding and that was my evidence, yes.

25 MS. BELINDA BAIN: And so, at the

1 time, you're the Town's solicitor, right?

2 MR. LEO LONGO: Yes.

3 MS. BELINDA BAIN: And so, when you
4 drafted those words, once those agreements are in a
5 form and content to the satisfaction of the Town's
6 solicitor, did you intend that they come back to you
7 with the agreements?

8 MR. LEO LONGO: They would come -- it
9 would come back to me in that title. Would I be doing
10 the reviewing of the final agreement and comparing it
11 to the one that was authorized on January 23? It may
12 have been John Mascarin, of my office, who deals with
13 municipal agreements on a daily basis.

14 Likely, it would have been him that I
15 would have said, John, here's what the Town had on
16 January 23, here's what we're now being presented
17 with, please review them and ensure that they're the
18 same deal, as it were. That's what I had in mind when
19 I drafted this.

20 MS. BELINDA BAIN: Okay. You told the
21 inquiry yesterday that you didn't feel qualified to
22 comment on the financial aspects --

23 MR. LEO LONGO: That's correct.

24 MS. BELINDA BAIN: -- or the structure
25 of the transaction, correct?

1 MR. LEO LONGO: Correct.

2 MS. BELINDA BAIN: So, it wouldn't be
3 much use to the Town to have you going over the
4 agreements if you felt you weren't qualified to
5 comment on them?

6 MR. LEO LONGO: This kind of review
7 isn't to the deal points themselves, it's to make sure
8 that the eventual agreement matches or is as close as
9 possible to the agreement that council authorized.

10 And it wasn't a question of do -- do I
11 understand why it was 50 percent and not 49 percent or
12 why it was Collus and not something else. It would be
13 just looking at the January version and the ultimate
14 version and made sure that they had the same terms.

15 It didn't involve an understanding of
16 those terms. It's more ensuring that what council
17 authorized was indeed what they were getting at the
18 end.

19 MS. BELINDA BAIN: Something perhaps
20 that the mayor and the mayor's office could also do?

21 MR. LEO LONGO: On one (1) -- on one
22 (1) level -- on one (1) level, perhaps. But, as I
23 say, this is something that I would have given to my -
24 - my partner, John Mascarin, who writes these agree --
25 who deals with municipal agreements on a daily basis.

1 MS. BELINDA BAIN: Thank you.
2 Yesterday you were also asked about the amendments
3 that were made by -- by Dennis Nolan, and then
4 forwarded back to you by Ed Houghton.

5 Could we go down, please, to page 9?
6 So, we see here at 2:32 Mr. Houghton sends back to you
7 the draft bylaw. And can we scroll down, please, to
8 page 11?

9

10 (BRIEF PAUSE)

11

12 MS. BELINDA BAIN: And we see, we went
13 into this yesterday, as well, at 3:18 you then forward
14 on the further amended bylaw to your clients, Sandra
15 Cooper, Rick Lloyd, Kim Wingrove, Sara Almas, and Ed
16 Houghton, copying your partners at Aird & Berlis?

17 MR. LEO LONGO: Correct.

18 MS. BELINDA BAIN: Could we scroll
19 down, please, to the attachment that you send to your
20 clients at 3:18? Down further, please. And so, just
21 looking at that clause 2 that we looked at before, so
22 there is a change in here now in that this clause 2
23 now states:

24 "...once these agreements are in a
25 form and content to the satisfaction

1 of the mayor."

2 MR. LEO LONGO: Yes.

3 MS. BELINDA BAIN: And previously, you
4 had written the Town solicitor, correct?

5 MR. LEO LONGO: M-hm.

6 MS. BELINDA BAIN: And before you sent
7 this version to your clients just past 3:00, you had
8 an opportunity to review it, correct?

9 MR. LEO LONGO: I did.

10 MS. BELINDA BAIN: And you did review
11 it?

12 MR. LEO LONGO: I did.

13 MS. BELINDA BAIN: And you forwarded
14 your clients without any specific comment on clause 2
15 the amended version, correct?

16 MR. LEO LONGO: That's right, because
17 the version that came back from my client had struck
18 it out. The -- the version Mr. Houghton sent, which
19 was sent globally to my client, and he was the contact
20 person and he sent the version back to me --

21 MS. BELINDA BAIN: Okay. I think we
22 might be confused in terms of timing. So, if we could
23 go back to the email. So, this is at 3:18 p.m. And
24 this is you. If we can scroll up again. Mr. Houghton
25 had forwarded to you at 2:32 --

1 MR. LEO LONGO: Right.

2 MS. BELINDA BAIN: -- the changes that
3 Mr. Houghton had provided to you?

4 MR. LEO LONGO: That's right. So --

5 MS. BELINDA BAIN: Right. I'm sorry.

6 MR. LEO LONGO: -- Mr. Houghton at
7 2:30 --

8 MS. BELINDA BAIN: Yeah.

9 MR. LEO LONGO: -- sent me a bylaw --

10 MS. BELINDA BAIN: Correct.

11 MR. LEO LONGO: -- that excluded
12 reference to the Town's solicitor.

13 MS. BELINDA BAIN: You're talking
14 about another paragraph that we'll get to, absolutely.
15 So, there was another paragraph that had been removed.
16 And then the amendment that I'm talking about right
17 now is just to that clause number 2 that had
18 previously said, "In a form acceptable to the Town's
19 solicitor," has now been changed to mayor, correct?

20 MR. LEO LONGO: Right. And --

21 MS. BELINDA BAIN: Okay.

22 MR. LEO LONGO: And that change first
23 came on the Ed Houghton version back to me.

24 MS. BELINDA BAIN: Cor -- sorry?

25 MR. LEO LONGO: That change first came

1 on the Ed Houghton version back to me.

2 MS. BELINDA BAIN: Absolutely. We're
3 in violent agreement.

4 MR. LEO LONGO: Okay.

5 MS. BELINDA BAIN: Okay.

6 MR. LEO LONGO: So.

7 MS. BELINDA BAIN: So. And you saw
8 that when --

9 MR. LEO LONGO: I saw that.

10 MS. BELINDA BAIN: -- you got the
11 version back from Ed. You reviewed it, correct?

12 MR. LEO LONGO: Yes.

13 MS. BELINDA BAIN: Okay. And you sent
14 that change on to your clients at 3:18 with clause 2
15 that now said mayor, correct?

16 MR. LEO LONGO: M-hm.

17 MS. BELINDA BAIN: Yes?

18 MR. LEO LONGO: Yes. I had understood
19 Ed's version back to me was my client's comments. I
20 don't know if he had circulated or spoken to Sara --

21 MS. BELINDA BAIN: Understood.

22 MR. LEO LONGO: -- or spoken --

23 MS. BELINDA BAIN: Okay. So, you
24 don't know where those comments are coming from?

25 MR. LEO LONGO: Right.

1 MS. BELINDA BAIN: But you do have an
2 opportunity to review and consider the changes that
3 had been made and Ed sent you at 2:32, correct?

4 MR. LEO LONGO: Yes.

5 MS. BELINDA BAIN: And the next
6 version that you sent on to your clients includes in
7 clause 2 the words, "Form satisfactory to the mayor,"
8 correct?

9 MR. LEO LONGO: yes.

10 MS. BELINDA BAIN: And you left it
11 like that when you next forwarded it on to your
12 clients, correct?

13 MR. LEO LONGO: I did. And it may
14 have been, I'm just explaining, on a misapprehension
15 that the client had taken it out and, therefore, I
16 wasn't putting it back in.

17 MS. BELINDA BAIN: They're looking to
18 you for legal advice on the content of this bylaw,
19 correct?

20 MR. LEO LONGO: Yes.

21 MS. BELINDA BAIN: Okay. And when you
22 sent the version back, clause 2 included the words,
23 "Form satisfactory to the mayor," correct?

24 MR. LEO LONGO: Yes.

25 MS. BELINDA BAIN: Yes. And you

1 didn't make any specific comment about that particular
2 phrase?

3 MR. LEO LONGO: I did not, and I've
4 explained why.

5 MS. BELINDA BAIN: Well, I think you
6 said yesterday -- you used the words you didn't want
7 to die on that hill and you thought that there were
8 more important issues to address. Is that right?

9 MR. LEO LONGO: Which was the other
10 clause about the follow-up by Town staff before the
11 final signing took place. That's correct.

12 MS. BELINDA BAIN: Understood. Well,
13 you could have raised this as an issue, as well?

14 MR. LEO LONGO: I could have.

15 MS. BELINDA BAIN: And certainly, you
16 were already typing an email to your client. You
17 could have just added another line if you thought it
18 was necessary to do so, correct?

19 MR. LEO LONGO: Yes.

20 MS. BELINDA BAIN: And you act -- you
21 went into the draft and made some further changes.
22 While you were in there, it would have taken about two
23 (2) seconds to change 'mayor' back to 'Town
24 solicitor', right?

25 MR. LEO LONGO: Yes.

1 MS. BELINDA BAIN: Okay. But you
2 didn't do that?

3 MR. LEO LONGO: I didn't do that.

4 MS. BELINDA BAIN: If it was a really
5 significant issue that you felt your client should be
6 aware of, I take it you would have done that?

7 MR. LEO LONGO: It was in my first
8 draft. It came back without it. I didn't think that
9 was a matter that I needed to dwell on. I thought
10 there was the more important clause, and that's what I
11 dwelled on.

12 MS. BELINDA BAIN: Thank you.

13

14 (BRIEF PAUSE)

15

16 MS. BELINDA BAIN: So, you've
17 mentioned and -- and we can talk about the removal of
18 the clause requiring the matter to come back to
19 council for approval again?

20 MR. LEO LONGO: Yes.

21 MS. BELINDA BAIN: And you -- you said
22 yesterday that you had inserted that clause into the
23 bylaw more than once. Is that correct?

24 MR. LEO LONGO: M-hm. Twice I -- I
25 put it in.

1 MS. BELINDA BAIN: Twice. Okay. And
2 that's provision 4 of the bylaw I think we're talking
3 about. Can we --

4 MR. LEO LONGO: That's correct.

5 MS. BELINDA BAIN: -- please go to
6 page 11. So again, can you -- sorry -- page 12. So
7 this is the attachment of 318 email.

8 And just to orient everybody again,
9 paragraph number 4 that appropriate town staff and the
10 town solicitor report back to Council as required as
11 the condition precedent to closing this transaction
12 are addressed and, in any event, prior to the final
13 closing of the share purchase transaction.

14 Now, I think you said earlier today
15 there's reference to a conference call in the email
16 above, but you can't recall the conference call.

17 MR. LEO LONGO: Right.

18 MS. BELINDA BAIN: If we can scroll
19 back up to the email. So to all:

20 "Further to our conference call this
21 afternoon, please see the revised
22 draft that incorporates much of what
23 was discussed. As directed, this
24 bylaw will not cite any statutory
25 provisions within its whereas

1 clauses. I have left in section 4
2 of the bylaw. If it is felt that
3 such provision is unnecessary or
4 desirable, you can remove it."

5 MR. LEO LONGO: Right.

6 MS. BELINDA BAIN: Okay. So that's
7 what you typed when you were sending this draft to
8 your client.

9 MR. LEO LONGO: That's right.

10 MS. BELINDA BAIN: So you didn't
11 advise your client that in your view it was important
12 that this stay in.

13 MR. LEO LONGO: It wasn't a legal
14 necessity to have it in. I reinserted it but left it
15 to the client as to whether they wished to not see it
16 in there again. So --

17 MS. BELINDA BAIN: Again, so they're
18 looking to you for your legal advice, correct?

19 MR. LEO LONGO: That's the advice I
20 gave them. I've left it in, but if you believe it's
21 unnecessary or undesirable, you can remove it.

22 MS. BELINDA BAIN: Okay. So in your
23 view, it would be fine for it to be removed.

24 MR. LEO LONGO: In my view, it was
25 only fine if they felt it unnecessary or undesirable.

1 I didn't --

2 MS. BELINDA BAIN: I'm not asking for
3 the Town's opinion. Obviously, you don't know what
4 they're thinking. But you, as a municipal lawyer
5 looking at this, felt that it would not be
6 inappropriate if they wished to remove it.

7 MR. LEO LONGO: Again, I had it in.
8 It was taken out. I put it back in. But they're the
9 client. It's their bylaw. So I -- I put that --
10 those final words in as I did.

11 MS. BELINDA BAIN: And certainly, no
12 warning or suggestion that it would be inappropriate
13 for them.

14 MR. LEO LONGO: They had my advice
15 that I'd left it in the bylaw. I said -- the words
16 are clear as to what I said to them.

17 MS. BELINDA BAIN: So the words being
18 "you can remove it" were clear.

19 MR. LEO LONGO: If it's undesire --
20 unnecessary or undesirable, that's correct.

21 MS. BELINDA BAIN: Thank you. Those
22 are all my questions.

23 THE HONOURABLE FRANK MARROCCO: Just
24 can you put 234 back up there, page 11. This email,
25 Mr. Longo, Mr. Mascarin is copied.

1 MR. LEO LONGO: Yes.

2 THE HONOURABLE FRANK MARROCCO: Was --
3 and further to our conference call this afternoon --
4 and I appreciate what your evidence was -- but was
5 that -- would it have been likely or possible that
6 Mr. Mascarin participated, or you can't remember?

7 MR. LEO LONGO: I have my docket
8 sheets. I have docket sheets with me, and I might as
9 well just...

10 I have a one (1) hour docket that day.
11 It says: "discussion with Ron Clark." It says:
12 "telephone conference call with client." It doesn't
13 say whom of a client that I spoke with. And then I
14 said: "revising proposed bylaw in an email."

15 THE HONOURABLE FRANK MARROCCO: Thank
16 you very much. Mr. Fryer....?

17 MR. TIM FRYER: Justice Marrocco.

18 THE HONOURABLE FRANK MARROCCO: Go
19 ahead, Mr. Fryer.

20

21 CROSS-EXAMINATION BY MR. TIM FRYER:

22 MR. TIM FRYER: Hello, Mr. Longo.

23 MR. LEO LONGO: Hi, Mr. Fryer.

24 MR. TIM FRYER: As you know, I'm
25 Tim Fryer, and I'm representing myself in these

1 proceedings.

2 MR. LEO LONGO: Yes.

3 MR. TIM FRYER: So I just have one
4 area of enquiry that I'd like to review with you.
5 Paragraph 481 in the document if we could bring it up,
6 and it's part 2. I think as it comes up, it'll be
7 familiar to you. It's the January 16th, 2012
8 information to you.

9 THE HONOURABLE FRANK MARROCCO: Just a
10 minute, Mr. Fryer. It hasn't come up yet.

11 MR. TIM FRYER: Yes. Sorry. Just
12 scroll it up a little. That's good right there.

13

14 CONTINUED BY MR. TIM FRYER:

15 MR. TIM FRYER: So it's the part 2,
16 and it's where Mr. Clark has pointed out to you
17 that -- just to make you aware that there's two (2)
18 other issues regarding the share sale?

19 MR. LEO LONGO: Yes, sir.

20 MR. TIM FRYER: Okay. So in part 1,
21 it indicates a clause that was inserted, then
22 bargained out, and that's just the review. Do you see
23 that? Yes?

24 MR. LEO LONGO: M-hm.

25 MR. TIM FRYER: Okay. So the second

1 part says they are doing a confidential side letter
2 which Mr. Clark says:

3 "The purpose is to ensure Collus is
4 used as a vehicle for regional
5 integration and not bypassed by
6 PowerStream."

7 You see that?

8 MR. LEO LONGO: Yes.

9 MR. TIM FRYER: Then in 482 -- so if
10 we just scroll that up -- in this part, you note
11 you've reviewed the latest draft agreements.

12 MR. LEO LONGO: M-hm.

13 MR. TIM FRYER: Was the side letter
14 part of what you reviewed?

15 MR. LEO LONGO: It was not. There
16 was -- it was just the -- the Shareholders Agreement
17 and the -- the other principle document.

18 MR. TIM FRYER: Did you ever see the
19 side letter in draft or other form?

20 MR. LEO LONGO: I did not.

21 MR. TIM FRYER: Okay. I tried before
22 with former Deputy Mayor Lloyd, who was the finance
23 chair at the time, to get an understanding of this
24 regional integration process. His testimony, back on
25 May the 2nd, indicated he had no concept of how Collus

1 could grow without impacting the debt-equity ratio
2 which appeared to be the only option for growth if
3 they -- if they went through.

4 So in 485, Deputy Mayor Lloyd states
5 that the Town interest has been taken into account by
6 him and therefore Council. If you wanted to review
7 that...

8 MR. LEO LONGO: I see that, yes.

9 MR. TIM FRYER: Okay. So with that
10 assurance provided by Deputy Mayor Lloyd, since
11 Mr. Clark had informed you that the side letter of the
12 side letter earlier, you wouldn't necessarily be asked
13 to review it?

14 MR. LEO LONGO: I wasn't, and -- and
15 that evening, I was not making any presentations to
16 Council about the deal. That was Ron Clark --

17 MR. TIM FRYER: Okay. So --

18 MR. LEO LONGO: -- Ed Houghton, and
19 John Rockx.

20 MR. TIM FRYER: Okay.

21 MR. LEO LONGO: So there was no
22 request of me to do anything about that.

23 MR. TIM FRYER: Okay. So an integral
24 aspect of the shareholder partnership -- or the
25 strategic partnership was to be this regional

1 integration opportunity. As noted by Mayor Cooper
2 in 483 -- and we can just scroll back down a little
3 bit to just there --

4 MR. LEO LONGO: M-hm.

5 MR. TIM FRYER: -- the Collus Board
6 anticipated there would be forced amalgamation. So
7 therefore, the Town councillors did as well because
8 they were being advised of what the Board thought.

9 MR. LEO LONGO: Okay.

10 MR. TIM FRYER: The anticipated side
11 letter would be very important towards achieving this
12 goal, yet it wasn't initiated. Do you know why?

13 MR. LEO LONGO: I don't.

14 MR. TIM FRYER: It is stated in 481,
15 the side letter was for Collus to be the vehicle, but
16 the investor would still be the shareholder. So the
17 Town would be putting the investment and the dollars
18 in. You'd agree with that?

19 MR. LEO LONGO: Repeat the question?
20 Would --

21 MR. TIM FRYER: Collus would be the
22 vehicle --

23 MR. LEO LONGO: Yes.

24 MR. TIM FRYER: -- but the
25 shareholders would be the ones who would have to

1 invest the dollars in, so therefore the Town and/or
2 PowerStream.

3 MR. LEO LONGO: I -- I'm not certain
4 if that's so or not, Mr. Fryer. I'm sorry.

5 MR. TIM FRYER: Okay. I believe it
6 is, and I was just going to say that the deputy mayor
7 had confirmed that none of the proceeds were set aside
8 in anticipation of this. And that's not a question.
9 That was just to --

10 MR. LEO LONGO: All right.

11 MR. TIM FRYER: -- to dovetail into
12 the next part of the area.

13 MR. LEO LONGO: Thank you.

14 MR. TIM FRYER: So I wanted to bring
15 up slide ALE0005133.0002, and it'd be slide 16.

16

17 (BRIEF PAUSE)

18

19 MR. TIM FRYER: I was looking for
20 the -- I thought -- I had slide 16. I'm looking for
21 the ones with the clarifying -- so the shotgun bullet
22 and the -- or shotgun clause... So maybe we could
23 just scroll I would think -- I would think the other
24 way. One more.

25

1 (BRIEF PAUSE)

2

3 MR. TIM FRYER: And that's the one
4 there. Sorry. It was 18. Sorry about that.

5 MR. LEO LONGO: I'm not familiar with
6 this PowerPoint, Mr. Fryer.

7 MR. TIM FRYER: Oh, I didn't think you
8 would be, so if you could just look at the first
9 bullet, and I give you a chance to read it.

10

11 (BRIEF PAUSE)

12

13 MR. LEO LONGO: Okay.

14 MR. TIM FRYER: So these were -- as
15 you -- as you noted, these were slides that were being
16 presented to the Council. And the first bullet was a
17 -- a further clarification to them about this existing
18 shotgun cause.

19 MR. LEO LONGO: Yes.

20 MR. TIM FRYER: And it did end up in
21 the agreement in spite of appearing to be bargained
22 out at one point in time.

23 So the fact that it is there isn't --
24 is one thing, but it isn't pointed out here, but after
25 two (2) years, it had a twenty (20) day deadline if

1 the shotgun clause was initiated.

2 Did you know of that?

3 MR. LEO LONGO: Not particularly, no.

4 MR. TIM FRYER: Okay. And again, I
5 think it goes back to what you had said before, where
6 it was Mr. Clark's presentation responsibility.

7 But as a former member of Town Council,
8 twenty (20) days would cause concern for me. In your
9 municipal legal counsel experience, would it be of
10 concern to you to put something in front of Council
11 that had a twenty (20) day deadline?

12 MR. LEO LONGO: That's a pretty short
13 turnaround to have Council give consideration to many
14 matters.

15 MR. TIM FRYER: Are you aware of any
16 of this type of municipal work you've done in the past
17 that would have that kind of restrictive --

18 MR. LEO LONGO: I haven't done this
19 kind of work in the past, so I can't say that, but I
20 think I have to leave it at that.

21 MR. TIM FRYER: I'll just add that
22 that when Mark Rodger performed his 2015 review of the
23 Transaction for the previous Council, he identified
24 that the restrictive aspects of the unanimous
25 shareholders agreement appears to be favouring a two

1 (2) stage acquisition. The approach appears to be
2 that after two (2) years, if no regional success, then
3 the second stage would take place.

4 Would you agree with that, or do you
5 have thoughts on that?

6 MR. LEO LONGO: I don't think I'm in a
7 position to agree or disagree with that.

8 MR. TIM FRYER: So in closing, I would
9 say that an even weaker position was precipitated
10 because the side letter was never initiated.

11 Would you agree with that?

12 MR. LEO LONGO: I -- I can't. I'm
13 sorry.

14 MR. TIM FRYER: Okay.

15 THE HONOURABLE FRANK MARROCCO: You --
16 you can't agree, or you can't comment?

17 MR. LEO LONGO: I can't comment on it,
18 sir.

19 THE HONOURABLE FRANK MARROCCO: Thank
20 you.

21 MR. TIM FRYER: Those are my
22 questions, Mr. Longo.

23 THE HONOURABLE FRANK MARROCCO: Thank
24 you.

25 MR. LEO LONGO: Thank you, Mr. Fryer.

1 (BRIEF PAUSE)

2

3 CROSS-EXAMINATION BY MR. PAUL BONWICK:

4 MR. PAUL BONWICK: Thank you, Your
5 Honour. Mr. Longo, my name's Paul Bonwick, and I'm
6 here as a --

7 MR. LEO LONGO: Yes, sir.

8 MR. PAUL BONWICK: -- participant at
9 the hearing. Before I get into some of the matters
10 related to your testimony earlier, I just wanted to
11 clear up a couple of points from earlier today that I
12 was a little bit confused about, and perhaps you could
13 help me out.

14 The -- the first point would be the
15 municipal -- and -- and you'll please excuse me. I'm
16 not a lawyer, I'm a layperson, and so I may use the
17 wrong language, so please feel free to correct me if I
18 misstate --

19 MR. LEO LONGO: Okay.

20 MR. PAUL BONWICK: -- the Act or
21 something to that regard.

22 As I understand it -- or I'm looking
23 for direction from you, sorry -- does the Municipal
24 Conflict of Interest Act apply to a government
25 relations consultant?

1 MR. LEO LONGO: Only if that
2 government relations consultant is also a municipal
3 Councillor.

4 MR. PAUL BONWICK: Thank you. Does
5 the Municipal Code of Conduct apply to a government
6 relations consultant's absence of the fact that they
7 are not a municipal Councillor?

8 MR. LEO LONGO: I don't believe so.

9 MR. PAUL BONWICK: Does -- and this is
10 where I'll likely need some help -- there is a
11 document Councillors -- elected Councillors signed. I
12 likely signed one back in 1994.

13 But there's a document they sign where
14 it lays out the municipal conflict, and that they will
15 abide by --

16 MR. LEO LONGO: The oath of office?

17 MR. PAUL BONWICK: The oath of office.
18 Thank you very much. I couldn't remember that one.

19 The oath of office that municipal
20 Councillors take, does that in -- somehow apply to a
21 government relations consultant that is not sitting on
22 Council?

23 MR. LEO LONGO: It only applies to the
24 Councillor.

25 MR. PAUL BONWICK: Excuse me, and

1 thank you.

2 Did the Town of Collingwood have,
3 during the time 2010 to 2014, a municipal lobbyist
4 registration program?

5 MR. LEO LONGO: I did not believe they
6 did.

7 MR. PAUL BONWICK: Don't believe, or
8 you know they did not?

9 MR. LEO LONGO: They -- they did not
10 have one.

11 MR. PAUL BONWICK: Thank you. The
12 last point I'll ask for clarification on rather than
13 go through the screens, and I'm happy to bring them up
14 again, but I'd prefer to avoid it.

15 MR. LEO LONGO: Okay.

16 MR. PAUL BONWICK: There was a letter
17 sent from then-Mayor Cooper to Mr. Bentz that
18 articulated out not all but the following.

19 MR. LEO LONGO: Yes, sir.

20 MR. PAUL BONWICK: You stated that you
21 felt that that was fairly broad.

22 MR. LEO LONGO: The second paragraph
23 in that June 2nd letter did appear to be broad to me.

24 MR. PAUL BONWICK: And I'm trying to
25 use your language to make sure I'm -- I'm being

1 accurate.

2 And so in going through the engagement
3 agreement that I had with PowerStream -- you've had
4 the opportunity to review that -- did I understand you
5 correctly that when you went through it line by line
6 by line, you understood that the information contained
7 in the letter incorporated the information that was
8 contained in the retainer agreement?

9 MR. LEO LONGO: Your Honour, I saw
10 that letter for the first time today. I looked at it.
11 I could see how you could argue that the bullets
12 contained in that engagement letter could be argued to
13 have been included in paragraph 2 of the June 2nd
14 letter.

15 MR. PAUL BONWICK: Thank you. And I
16 do appreciate you -- your comments in response to the
17 ten thousand dollar (\$10,000) retainer. I think -- I
18 think my friend Mr. Marron referred to it as a
19 significant retainer, and your comment back was,
20 Without knowing what was involved or what my billing
21 practices were --

22 MR. LEO LONGO: I -- I have no idea
23 what that is to you, so.

24 MR. PAUL BONWICK: Right. I thought
25 it would pale in comparison to some of the monthly

1 retainer packages that are going on for this hearing.
2 So putting that into some sort of perspective.

3 Moving on, Mr. Longo, you, along with
4 the court book, have referenced one (1) of your
5 partners, Mr. Mascarin.

6 MR. LEO LONGO: Yes.

7 MR. PAUL BONWICK: I'm not familiar,
8 so I'll apologize off the top. I'm not familiar with
9 Mr. Mascarin. I do see his name referenced in here,
10 and I hear you refer to him in terms of sharing
11 documents from time to time.

12 Could you please elaborate for my
13 benefit and that of the Commission what Mr. Mascarin's
14 role was with the municipality?

15 MR. LEO LONGO: Mr. Mascarin is a
16 certified specialist, as -- as I am. He commenced
17 practice in the public sector. He worked, I think,
18 fourteen (14) years in the City of Markham, having
19 spent maybe his first year or two (2) in private
20 practice.

21 He then joined Aird & Berlis. Mr.
22 Mascarin is the editor of several law digests,
23 municipal and planning law reports.

24 MR. PAUL BONWICK: I did read his bio.
25 I apologize, sir --

1 MR. LEO LONGO: It is --

2 MR. PAUL BONWICK: -- but what I was
3 asking was, what does he do for the Town? I -- I'm
4 familiar with his background.

5 MR. LEO LONGO: So what he did for the
6 -- so providing that background, he provided general
7 municipal advice to the Town. He was the lead lawyer
8 responsible for drafting most agreements, including
9 land development agreements, but also other agreements
10 that would involve the municipality -- municipal asset
11 -- asset agreements, capital matters that the
12 municipality might engage in.

13 So he -- he was the, like, the
14 solicitor, did true solicitor work, drafting
15 agreements, drafting bylaws, things of that nature.
16 And -- and I was the one that dealt with the land use
17 development side, attended at Council, and dealt with
18 the day -- the day-to-day matters, and John would be
19 providing background. He was a great resource to
20 clerk Almas. I know that.

21 MR. PAUL BONWICK: So when you said a
22 certified specialist, is that a -- again, I'm not
23 trying to get too hung up on words --

24 MR. LEO LONGO: The Law Society -- the
25 Law Society of Ontario have a designation where they

1 certified specialists. It was a system put in place
2 when Ian Scott discontinued QCs, and the Law Society
3 felt there was a -- a continued need to recognize
4 specialists and thought it was in the public interest
5 to certify specialists, and indeed they created such a
6 category in municipal law.

7 MR. PAUL BONWICK: Thank you very much
8 for that explanation.

9 And so I'm going to -- is it accurate
10 for me to state that you and Mr. Mascarin had a
11 complementary role with the Municipality and you would
12 have worked closely with him and -- and had a trusted
13 relationship with him?

14 MR. LEO LONGO: That's right.

15 MR. PAUL BONWICK: Okay, thank you.
16 As a lawyer, is there a -- is there a Code of Conduct
17 -- is there set of sort of rules and regulations that
18 you're bound, and Mr. Mascarin and others are -- are
19 bound to --

20 MR. LEO LONGO: Yes.

21 MR. PAUL BONWICK: -- follow? And I
22 assume, like, you and -- and I know you can't speak on
23 behalf of Mr. Mascarin, but he would have viewed the
24 client as Council of the whole, not necessarily the
25 CAO or the Clerk or the Director of Planning, but --

1 MR. LEO LONGO: That's correct.

2 MR. PAUL BONWICK: Would that be fair?
3 Mr. Longo, if -- if you received a phone call -- and
4 I'm going to go Ms. Wingrove in just a moment here
5 because I do have a couple of questions related to her
6 before we move on, but specific to -- if the CAO
7 reached out to you in a telephone conversation or a
8 casual meeting, or meeting, and asked you for
9 information deemed sensitive or of a financial matter,
10 clarification on question that had been put to you
11 before, would you consider that information sensitive
12 in terms of lawyer-client privilege?

13 MR. LEO LONGO: Yes, because it was
14 being conveyed to me by the most senior administrative
15 person of my client.

16 MR. PAUL BONWICK: Thank you very much
17 for that.

18 And so if your response was, give me a
19 couple of days to find out what it is you're asking
20 for, when you come back to the CAO and establish the
21 fact that you have been able to find the information
22 and here's the financial and I can deliver or meet
23 with you to give you the hard copies, if you presented
24 that to the CAO and the CAO responded in the email
25 chain and said thank you but I don't recall, but then

1 went on to state:

2 "Mr. Longo, I would direct or ask
3 you to expunge all record of this
4 discussion."

5 Would that raise red flags with you,
6 that the CAO --

7 MR. LEO LONGO: I would think so.

8 MR. PAUL BONWICK: -- of the
9 municipality would ask you to expunge an email train,
10 especially as it relates to finance?

11 MR. LEO LONGO: I've never faced that
12 situation in my 40-year career.

13 MR. PAUL BONWICK: Thank you. Would
14 it -- would it trigger a response that would be rather
15 significant on your part? And I think would it
16 trigger a response typically where you would have to
17 make your client, Council, at the very least aware of
18 the fact that you've been asked to expunge records or
19 perhaps maybe more? I'm not sure what your
20 obligations are under conflict of interest. You --
21 are you obliged to inform the Minister of Municipal
22 Affairs?

23 What -- what resonates from something
24 that serious --

25 MR. LEO LONGO: Just on the -- on the

1 -- on the theoretical question, the CAO would be the
2 person you would report that concern of abuse for any
3 other staff person, because the CAO is the head of the
4 chain and is responsible for everyone under -- under
5 her.

6 When it's the CAO themselves who you're
7 alleging is -- is doing something improper and asking
8 their lawyer to do something improper, it would
9 logically go to the Mayor, that I would have to -- the
10 head of Council that I would have to take that matter
11 to.

12 MR. PAUL BONWICK: Not necessarily
13 your entire client, but rather through an in camera
14 you would just simply make the where --

15 MR. LEO LONGO: I would do it --

16 MR. PAUL BONWICK: -- them aware of
17 something this serious?

18 MR. LEO LONGO: I would do it with the
19 Mayor because the Mayor under the Municipal Act is the
20 Chief Executive Officer and has duties that are
21 distinct from Council, and so as it pertains to any
22 wrongdoing by a CAO, the Mayor would be the logical
23 person to take that to, not -- not to -- not to
24 Council at large, at least initially.

25 MR. PAUL BONWICK: Thank you very

1 much.

2 Could I ask to bring up document AB496,
3 please? We'll start at the bottom of the email chain.

4

5 (BRIEF PAUSE)

6

7 MR. PAUL BONWICK: Bottom, please.

8 Thank you. Oh, not that far down to the bottom. Keep
9 going up. Okay. Up a little bit more so we can see
10 the --

11 Please take a moment to read this. I
12 think you can conclude that this is a follow-up email
13 to either a phone call or a meeting that took place.
14 It's -- you can get some indication that it's a -- a
15 follow-up to a conversation of some kind. If you
16 could read --

17 MR. LEO LONGO: Is this from John --
18 from John Mascarin?

19 MR. PAUL BONWICK: There's two (2)
20 Johns, so that's why I was a little bit confused. So
21 this one would be from John Mascarin, but I believe he
22 is addressing the email to John Brown, then acting or
23 full-time CAO, I'm not sure, interim CAO, whatever his
24 title was.

25

1 (BRIEF PAUSE)

2

3 MR. PAUL BONWICK: So just in terms
4 of, clearly he thought it was important -- they were
5 important enough documents that he felt strongly that
6 he would not have discarded them.

7 Is that a reasonable take on that
8 email?

9 MR. LEO LONGO: That's what it says.

10 MR. PAUL BONWICK: Could you go up to
11 the next email, please?

12 This one is from -- sorry, just down a
13 little bit further, because I can just -- nope. I
14 apologize with the up and down. There we go, right
15 there.

16 So this is from John Brown to John
17 Mascarin.

18 "Hi John: You never know."

19 The email is blacklined or redacted. I
20 have to assume it's redacted because it's a personal
21 email.

22 THE HONOURABLE FRANK MARROCCO: Maybe
23 an email address, I --

24 MR. PAUL BONWICK: It'll be an email
25 address --

1 THE HONOURABLE FRANK MARROCCO: I
2 don't know -- just -- just -- do we know -- just one
3 second, we'll get more information about that.

4 MR. PAUL BONWICK: Thank you.

5 MR. LEO LONGO: Sorry, was there a
6 question for me?

7 MR. PAUL BONWICK: Sorry. I just
8 wanted before -- before I ask the question, I was just
9 looking for clarification on the redacted version.

10 MR. JOHN MATHER: I understand it was
11 redacted because it contains a personal email address.

12 MR. PAUL BONWICK: Thank you. That
13 helps with my question.

14

15 CONTINUED BY MR. PAUL BONWICK:

16 MR. PAUL BONWICK: And so you can see
17 here by Mr. Brown, the Chief Administrative Officer
18 for the Town of Collingwood, sending emails of a
19 business nature from the Municipal -- related to the
20 Municipality from his personal email account back to
21 Mr. Mas -- Mascarin, if I'm pronouncing it properly; I
22 hope.

23 You can read his email back.

24 MS. LUISA RITACCA: Your Honour, could
25 the witness see the entire page? It looks like

1 there's --

2 MR. PAUL BONWICK: He can. I'm going
3 to show it --

4 MS. LUISA RITACCA: Yeah, okay.

5 MR. PAUL BONWICK: -- all to him,
6 absolutely. Just -- unfor -- if it shrinks maybe you
7 might be --

8 MS. LUISA RITACCA: Because what's on
9 the screen right now is a Re line, so I'm wondering if
10 there's an email above it that might --

11 MR. PAUL BONWICK: I was --

12 MS. LUISA RITACCA: -- give the
13 witness some help.

14 MR. PAUL BONWICK: Thank you. I was
15 fully intending on showing him everything.

16

17 CONTINUED BY MR. PAUL BONWICK:

18 MR. PAUL BONWICK: The second one
19 really isn't too significant. It just -- I think Mr.
20 Brown is asking to meet with Mr. Ma -- Mascarin on a
21 Friday and he just simply says:

22 "I don't think I'll be in the office
23 on Friday. I'll -- I'll let you
24 know in a day or two to firm things
25 up."

1 And keep going up, please, so Mr. Longo
2 can see the balance of it.

3 Again from Mr. Brown's personal email:

4 "We received your most recent bill
5 and Sara and I discussed it. Sara
6 will be calling you to clarify some
7 matters and to see if you can help -
8 - if you can split the bill up so
9 that we do not have a single bill
10 for \$11,000, which will make it
11 notable and require explanation.
12 Call me after you chat with Sara if
13 you have any concerns. Also, I do
14 not recall getting advice about the
15 role of the CAO and the entitlement
16 to information. Can you please
17 resend this email -- this to the
18 email address?"

19 Meaning sometime in the future I'll get
20 back to on that.

21 And then go to the top of the email
22 chain. And again it's from Mr. Brown's personal
23 email, again to Mr. Mascarin.

24 "John: Can you please expunge this
25 email thread? Thank you. John"

1 Brown, I have to assume.

2 MR. LEO LONGO: I see that.

3 MR. PAUL BONWICK: So therein lies the
4 bombshell, I'm sitting there looking at an email from
5 a CAO sending out information that is clearly specific
6 to the Municipality, it's clearly asking for changes
7 to be made to invoices that appear to be in order to
8 allow it to go under the radar, so to speak, but more
9 importantly than that, there's information in there
10 that we don't know when it exists because it was a
11 hard copy. But he's effectively asking, as he's going
12 through an exercise that's related to the eventual
13 launching of this judicial inquiry, he's going through
14 an exercise where he's asking to have records
15 expunged.

16 And so I ask again, if you had to
17 follow this email chain and you received an email from
18 the CAO, did I understand you correctly to say you
19 would have immediately brought this to the Mayor's
20 attention?

21 MR. LEO LONGO: That would be my
22 practice.

23 MR. PAUL BONWICK: In your 40-year
24 career, you never remember having been asked by a CAO
25 on a personal email to expunge financial records or

1 records related to a municipality?

2 MR. LEO LONGO: Or from anyone.

3 MR. PAUL BONWICK: Are you aware of
4 the fact that Ms. Wingrove provided testimony some
5 days ago, and then prior to that about three or four
6 weeks ago, and I apologize for not knowing the -- the
7 exact date.

8 MR. LEO LONGO: Yes.

9 MR. PAUL BONWICK: Are you aware of
10 the fact that Ms. Wingrove in -- within her testimony,
11 included comments, and I'll paraphrase and if I've
12 certainly I expect correction if I've paraphrased
13 incorrectly. But that subsequent to the election of
14 2010 she felt that she, in her opinion, she did not
15 enjoy the confidence and did not have a good
16 functioning relationship with the majority of -- of
17 Council.

18 Were you aware that she stated that?

19 MR. LEO LONGO: I -- I believe I heard
20 something like that, yes.

21 THE HONOURABLE FRANK MARROCCO: Well,
22 I don't know if it was a majority, but she did have --

23 MR. PAUL BONWICK: I think --

24 THE HONOURABLE FRANK MARROCCO: -- she
25 did say she had a problem with her relationship with

1 some of them.

2 MR. PAUL BONWICK: I --

3 THE HONOURABLE FRANK MARROCCO: Did
4 she use the word "majority"?

5 MR. PAUL BONWICK: I -- I believe she
6 said the majority and I can certainly find that, but
7 evidence will, I think, indicate that in fact it had
8 to be the majority, or quite frankly, the end result
9 would not have been the end result.

10

11 CONTINUED BY MR. PAUL BONWICK

12 MR. PAUL BONWICK: Are you aware of
13 the fact that other participants raised issues with
14 regards to Mr. Wingrove's contact, specific to the
15 emotional significance that she attached to various
16 issues that Council was dealing with during that
17 period of time?

18 MR. LEO LONGO: I heard parts of
19 Deputy Lloyd's testimony, I heard parts of Mayor
20 Cooper's testimony.

21 MR. PAUL BONWICK: And -- thank you.

22 MR. LEO LONGO: And they may have
23 addressed that in part.

24 MR. PAUL BONWICK: Would you agree
25 that the CAO serves at the pleasure of municipal

1 Council of the whole?

2 MR. LEO LONGO: That's my
3 understanding, subject to the terms of his or her
4 employment contract with the Municipality.

5 MR. PAUL BONWICK: Agreed entire --
6 set aside the employment contract, because that
7 creates obligations on both parties as it relates to
8 the details in that contract, and so that should
9 something be triggered, would you agree that the
10 employment contract, the provisions within the
11 employment contract come into play, but at the end of
12 the day, irrespective of what's in the employment
13 contract, Council -- sorry, the CAO serves at the
14 pleasure of Council.

15 MR. LEO LONGO: Having been told to
16 put aside the employment contract, yes.

17 MR. PAUL BONWICK: And you would agree
18 then that if Council does not have confidence in the
19 abilities of a CAO from the start and that confidence
20 appears to have been diminished as we've heard from
21 testimony, then it would only make sense that that
22 would trigger a termination?

23 MR. LEO LONGO: The CAO is Council's
24 senior staff person to implement its policies and --
25 and communicate its policies to the organization at

1 large.

2 So I agree with you.

3 MR. PAUL BONWICK: Thank you.

4 Are you aware of the fact that Ms.
5 Wingrove's employment, after that year and four months
6 or something, I don't -- I apologize for being rough
7 on the dates, was terminated by a majority decision of
8 the Town of Collingwood Council?

9 MR. LEO LONGO: I understand that.

10 MR. PAUL BONWICK: Thank you.

11

12 (BRIEF PAUSE)

13

14 MR. PAUL BONWICK: Oh, gees, Your
15 Honour, I'll just be a minute here, I just want to
16 make sure I don't --

17 THE HONOURABLE FRANK MARROCCO: That's
18 fine, take a minute. Go ahead.

19 MR. PAUL BONWICK: -- duplicate what's
20 already been said.

21

22 CONTINUED BY MR. PAUL BONWICK

23 MR. PAUL BONWICK: Again, as a
24 layperson, and I quite often get the exact language
25 wrong, I understand that -- that there are various

1 areas of expertise within the legal community. Is
2 that a fair statement?

3 MR. LEO LONGO: Yes.

4 MR. PAUL BONWICK: As a layperson,
5 would it be reasonable in your mind for a layperson to
6 believe they are being fully represented when they see
7 the firm Aird & Berlis, Gowlings, Elliots, from a
8 layperson's perspective would you not -- would it not
9 be reasonable to assume that you're receiving full
10 representation by the compliment of lawyers that are
11 engaged with that firm, whether that be Mr. Mascarin,
12 Mr. Clark, Mr. Longo, I mean there's a list of six or
13 seven lawyers that were actively engaged in this file.

14 Would it be reasonable for a layperson
15 to assume that the firm is representing their best
16 interests?

17 MR. LEO LONGO: The -- you would have
18 to know what the nature of the retainer -- the
19 retainers were in every circumstance to understand
20 that. But you should always assume that the law firm
21 is there to represent its clients to the best of its
22 ability.

23 MR. PAUL BONWICK: So we've heard
24 testimony from your partner, Mr. Clark, that he along
25 with four or five other of your colleagues from the

1 same firm, perhaps as many as seven if I take into
2 consideration you and Mr. Mascarin, were actively
3 engaged at some level on this transaction.

4 MR. LEO LONGO: I think you're
5 overstating it. It was he and Corrine Kennedy that
6 were acting on the deal from the Collus perspective on
7 the LDC file. They had Michael Ventresca, I believe a
8 student at the time.

9 Those -- those were the individuals
10 involved. Scott Stoll was the environmental lawyer
11 and energy lawyer who took the matter to the Ontario
12 Energy Board. So he was focused just on that.

13 Mr. Masc -- and -- and I was not
14 involved in any of that.

15 So that's a long-winded answer as to
16 what people were doing.

17 MR. PAUL BONWICK: No, and I
18 appreciate the clarification.

19 Let me repeat it because I thought what
20 I said was that according to testimony provided by
21 your partner, Mr. Clark, that there were several
22 lawyers, as many as five, six, or seven, that were
23 engaged on this file to some extent or another.

24 I didn't say that everybody was billing
25 40 hours a week. Is that a fair statement, or would

1 you disagree with your partner's testimony?

2 MR. LEO LONGO: There may have been
3 six or seven lawyers who touched the fi -- who -- who
4 had some aspect of this file.

5 MR. PAUL BONWICK: I'm not trying to
6 play on words, but I've seen several emails from
7 different lawyers within your firm. And so when you
8 say "touched" the file, does that mean they -- it went
9 across their desk one brief afternoon or what level of
10 work would be described?

11 Because I'm reading emails and
12 briefings that are coming forward and they seem to be
13 more significant than just a touch.

14 MR. LEO LONGO: No, they are what they
15 are. I mean, I -- I view my involvement as having
16 been limited to the -- to the areas involved and the
17 times involved that I've testified at today. That was
18 much less involvement than Ron Clark and Corrine
19 Kennedy, that's for certain.

20 That's what I'm meaning about --

21 MR. PAUL BONWICK: You --

22 MR. LEO LONGO: -- yes, I was involved
23 --

24 MR. PAUL BONWICK: You have
25 acknowledged --

1 MR. LEO LONGO: -- the extent and --

2 MR. PAUL BONWICK: Okay. Sorry.

3 MR. LEO LONGO: -- they were involved
4 in a larger extent.

5 MR. PAUL BONWICK: Thank you. I think
6 that addresses that -- that particular question. And
7 I believe you did confirm that you're aware of the
8 fact that your partner, Mr. Clark, on different
9 occasions, both an email and testimony, confirmed that
10 it was his opinion that he was representing the
11 shareholder or the municipality as well as Collus?

12 MR. LEO LONGO: That's my
13 understanding.

14 MR. PAUL BONWICK: Thank you. Where I
15 struggle -- and I'm just going to bring up the email.

16

17 (BRIEF PAUSE)

18

19 MR. PAUL BONWICK: Where the heck did
20 I read that? Perhaps counsel for the Inquiry could
21 help me. I did write it down. There is a number
22 where you provided me Mr. Longo's billings. I had it
23 in here.

24

25 (BRIEF PAUSE)

1 MR. FREDERICK CHENOWETH: That appears
2 to be ARB23.

3 MR. PAUL BONWICK: ARB234. Is that it,
4 sorry?

5 MR. FREDERICK CHENOWETH: No, 2-3.

6 MR. PAUL BONWICK: 2-3. 2-3. ARB23.

7

8 CONTINUED BY MR. PAUL BONWICK:

9 MR. PAUL BONWICK: There was two (2)
10 attachments to that. When I tallied, Mr. Longo, the
11 tally that I landed on was somewhere around seventeen
12 thousand dollars (\$17,000) in billings that you have,
13 appear to have, associated with your time on this
14 particular file.

15 MR. LEO LONGO: Can --

16 MR. PAUL BONWICK: Can you bring that
17 up and show Mr. Longo? Slowly, please. You can see
18 the description of the services which clearly
19 articulate your involvement, the various time that
20 were -- amounts of times that were spent. Please
21 continue down.

22 Please continue down. And further,
23 unless Mr. Leo -- or Mr. Longo wants to go slower.
24 You can get to the bottom, if you wish. There was one
25 (1) for twelve thousand eight hundred and eighty-two

1 dollars (\$12,882). And I believe there was a second
2 one.

3 MR. LEO LONGO: Yes. And I -- I just
4 note that time wasn't just my time, Your Honour. That
5 had John Mascarin's time and -- and others, but...

6 MR. PAUL BONWICK: Sorry, you had
7 suggest Mr. Mascarin and others. I maybe missed the
8 code on the side there. Please go up. JOM, I assume
9 that's John something Mascarin?

10 MR. LEO LONGO: That's John Mascarin.

11 MR. PAUL BONWICK: Okay.

12 MR. LEO LONGO: That's correct.

13 MR. PAUL BONWICK: So -- thank you.
14 You can back down to the --

15 MR. LEO LONGO: And I imagine the
16 blanked out matter, Mr. Bonwick, is something I was
17 doing for the CAO but not related to the Collus
18 matter.

19 MR. PAUL BONWICK: Thank you. Okay.
20 And continue down.

21

22 (BRIEF PAUSE)

23

24 MR. PAUL BONWICK: Continue down,
25 please. Whoops, sorry, too far. Thank you. There's

1 twenty-seven hundred and forty-five dollars (\$2,745),
2 so I was mistaken on my number.

3 MR. LEO LONGO: Can you go --

4 MR. PAUL BONWICK: Yeah.

5 MR. LEO LONGO: The vast majority of
6 that account is for some other file because it's been
7 blocked off. The only item that -- that I'm looking
8 at is -- is point 7.

9 MR. PAUL BONWICK: And you can
10 appreciate, for those of us that don't see the
11 unredacted versions, we're trying to sort that out.
12 That being said --

13 MR. LEO LONGO: Okay.

14 MR. PAUL BONWICK: -- again --

15 MR. LEO LONGO: Those are two (2)
16 accounts for tho -- for tho -- that amount of money;
17 that's correct.

18 MR. PAUL BONWICK: Right. And so, as
19 I look at that, and I see many thousands of dollars in
20 billings, several thousand dollars in billings from
21 you and your partner, Mr. Mascarin, I struggle with
22 that, coupled with the fact that I've seen many emails
23 related to this particular file where I'm getting the
24 impression from your testimony that it's different
25 than what I'm watching in terms of fees.

1 And I guess that's a narrative that
2 doesn't have a question in it. But rather, from a
3 layperson's perspective, when they see an invoice for
4 many thousands of dollars, one would have to assume
5 that you had a reasonable level and your colleague,
6 Mr. Mascarin, had a reasonable level of engagement at
7 key points in this?

8 MR. LEO LONGO: This -- the hours are
9 as shown on the -- on the bill, so those -- those
10 hours were docketed. And -- and I should note, never
11 was any account of mine ever questioned by the
12 municipality ever.

13 MR. PAUL BONWICK: And, Mr. Longo, I
14 don't doubt that for a moment. I have never heard in
15 any form ever that there was a question about your
16 billings as it related to the number of hours you were
17 putting in. I am just simply recognizing the number
18 of hours you were putting in.

19

20 (BRIEF PAUSE)

21

22 MR. PAUL BONWICK: Are you, having
23 followed the testimony and having been the solicitor
24 for the Town of Collingwood during the period -- and I
25 was taking rough notes. I was going to say 2008 to

1 2014 just to kind of hit one (1) in the middle.

2 MR. LEO LONGO: Okay.

3 MR. PAUL BONWICK: Is that a fair
4 statement, somewhere in there?

5 MR. LEO LONGO: Approximate, yes.

6 MR. PAUL BONWICK: Right. And so, are
7 you aware from previous testimony that I did in fact
8 meet with Ms. Almas to disclose to the best of my
9 ability what I was -- what services I was -- or would
10 be providing to PowerStream?

11 MR. LEO LONGO: If that's what the
12 testimony has been, that's --

13 MR. PAUL BONWICK: Well, did you see
14 that part?

15 MR. LEO LONGO: I don't recall if I
16 saw that specifically. I did try to keep track on
17 things, but...

18 MR. PAUL BONWICK: Thank you. Okay.
19 Fair enough. Did you follow the testimony by Ms.
20 Wingrove when in fact she confirmed that we had met
21 and that I had described while her answer varied on
22 three (3) different occasions that she acknowledged
23 that I had met for the purposes of disclosing some
24 level of activity, I won't go into the detail of it,
25 in terms of my potential relationship with

1 PowerStream?

2 MR. LEO LONGO: My memory was there
3 was some testimony about your desire to want to do
4 that, but there was maybe some difficulty in actually
5 having some meetings. That's a thing that sticks in
6 my mind, but...

7 MR. PAUL BONWICK: Fair enough. The
8 tes -- the evidence would show that there was in fact
9 a meeting.

10 MR. LEO LONGO: Okay.

11 MR. PAUL BONWICK: But the meeting
12 ended rather abruptly --

13 MR. LEO LONGO: Okay.

14 MR. PAUL BONWICK: -- related to me.
15 Are you aware of the fact that -- you -- you will be
16 aware of the fact, not that you've gone through this,
17 that clearly I had a meeting or a discussion with my
18 sister, Mayor Cooper, in terms of my level of
19 involvement?

20 MR. LEO LONGO: Yes.

21 MR. PAUL BONWICK: Are you aware of
22 the fact, as testimony or the court book will show --
23 I shouldn't refer to it as that. I guess I should say
24 the -- the disclosure documents will show that there
25 was a meeting coordinated with the chair of Collus,

1 Mr. Muncaster, that there was involved in that meeting
2 Ms. Wingrove. Involved in that meeting was Mayor
3 Cooper. Involved in that meeting was Mayor -- sorry,
4 Deputy Mayor and Chair of Finance, Mr. Lloyd.
5 Involved in that meeting was Mr. Bentz. Involved in
6 that meeting was Mr. Lehman.

7 Are you aware now, having gone through
8 the record, that that meeting took place, as well, for
9 the purpose of disclosure?

10 MR. LEO LONGO: I recall that there
11 was such a meeting convened.

12 MR. PAUL BONWICK: And so, in your
13 experience, forty (40) years working with
14 municipalities, does that seem at the very least on
15 those four (4) touch points and recognizing that I
16 have, nor does PowerStream, any obligation under the
17 Municipal Act, any obligation under the profess -- or
18 the code of conduct or the swearing in, oath of
19 office, thank you, does that seem reasonable that no
20 less than four (4), and I would argue more, meetings
21 took place to in fact disclose the various
22 responsibilities that I might have as it related to
23 PowerStream?

24 Does that seem reasonable to you, those
25 -- the fact that all of those people were brought into

1 the loop?

2 MR. LEO LONGO: Having not been at the
3 meetings or heard what was discussed, it -- it's hard
4 for me to say. It -- it's encouraging that efforts at
5 least were made to -- to disclose that interest.

6 MR. PAUL BONWICK: Thank you. And I
7 wouldn't be so unfair to you to ask you to comment on
8 meetings you didn't participate in. That just simply
9 would not offer any value.

10 I simply want to refer to the fact
11 you've seen testimony, you've seen evidence there was
12 no less than four (4) meetings with some very senior
13 people, in -- set aside my individual meetings, all
14 related to, as testimony has shown, disclosure?

15 MR. LEO LONGO: Meetings for the
16 purposes of disclosure are better than not having any
17 meetings for disclosure, so.

18

19 (BRIEF PAUSE)

20

21 MR. PAUL BONWICK: Are you aware of
22 the fact that your partner, Mr. Clark -- and perhaps
23 we could bring up Mr. Clark's testimony, please,
24 through transcript?

25 And I apologize for not being able to

1 cite chapter and verse here, but if we go down to --
2 is it possible to put my name when I was questioning
3 Mr. Clark?

4

5 (BRIEF PAUSE)

6

7 THE HONOURABLE FRANK MARROCCO: We'll
8 find it in a second.

9 MR. PAUL BONWICK: Thank you.

10

11 (BRIEF PAUSE)

12

13 MR. PAUL BONWICK: If it's too...

14 MR. JOHN MATHER: The examination --

15 Mr. Bonwick's examination begins on page 253 of

16 May 24th.

17 MR. PAUL BONWICK: It should be just
18 below Mr. Fryer's? Typically I follow him. Thank
19 you.

20 If you could go -- down, down, down.
21 When you're down -- it's quite a ways down.

22

23 (BRIEF PAUSE)

24

25 MR. PAUL BONWICK: Sorry. Go up a

1 little bit, please. Okay. Sorry. Keep going down.
2 Like the question that I was putting to Mr. Clark was
3 related to the efforts that he, along with several
4 other of your client -- or sorry -- several other of
5 your colleagues -- the efforts they brought to the
6 table in support of this transaction.

7

8 (BRIEF PAUSE)

9

10 MR. PAUL BONWICK: And keeping going
11 down -- I think you can keep going down. It's
12 typically one of the last questions that I raise.

13 MR. JOHN MATHER: There's a question
14 on page 258, line 14.

15 MR. PAUL BONWICK: Okay. No. Keep
16 going down. I can surmise and you can keep going.

17

18 CONTINUED BY MR. PAUL BONWICK:

19 MR. PAUL BONWICK: In short, what I
20 did -- as they're looking for it --

21 MR. LEO LONGO: Ask the question, and
22 then we'll see if I can answer it without --

23 MR. PAUL BONWICK: Yeah. Exactly.
24 Because I think it's a fairly innocuous in terms of
25 the content.

1 What I effectively -- and I've done
2 this to almost all of the witnesses, the experts from
3 KPMG, your colleagues, Board members, or Mr. McFadden,
4 some of the senior staff -- but specifically, the
5 question was put to Mr. Clark or what I tried to put
6 to Mr. Clark -- and I hope I did -- was specific to
7 the deliverable after the fact.

8 And so I asked if he thought, based on
9 all of these people that were attached to this deal --
10 and it is an arm's length of consultants and staff and
11 Board members -- did he feel that the best result had
12 been achieved for the Town of Collingwood, the
13 ratepayers of Collingwood. Were you aware of his
14 response?

15 MR. LEO LONGO: I believe he may have
16 said yes.

17 MR. PAUL BONWICK: In fact, he did,
18 and I think testimony would show that he concluded
19 that he felt that it was a good result.

20 And while in my cross-examination with
21 your partner, Mr. Clark, I asked him what his belief
22 was after the closing period or the appeal period --
23 sorry -- the approval period from the OEB for the
24 following year.

25 And while he unfortunately, like you,

1 was very busy with a whole bunch of other files, he
2 commented -- and again, I'll paraphrase, but it's in
3 here -- that he felt that a good deal had been struck
4 and had not heard anything critical or negative within
5 the industry about that.

6 So I want to fast forward to 2012.

7 MR. LEO LONGO: Okay.

8 MR. PAUL BONWICK: I'm sorry. Were
9 you -- there was no question in there. I'm learning.
10 Were you aware of the fact that that was his
11 representation?

12 MR. LEO LONGO: Okay. Yes.

13 MR. PAUL BONWICK: Thank you. Yes was
14 the answer. And so I want to fast forward to 2012.

15 It is my understanding and could you
16 please confirm this that it was your colleague,
17 Mr. Mascarin, along with yourself that recommended --
18 when the Town of Collingwood found themselves absent
19 of a CAO and needing one in fairly short term that you
20 and your colleague, Mr. Mascarin, recommended
21 Mr. Brown for the position. Is that correct?

22 MR. LEO LONGO: John did. I don't
23 recall that it was jointly recommended by us, but John
24 had worked in Markham for many of the years that
25 John Brown had been in Markham. So he knew of

1 Mr. Brown, and I think when Collingwood was in need of
2 a CAO, I'm not sure who reached out to -- to
3 Mr. Mascarin, but I believe it was his recommendation
4 that Mr. Brown be invited to apply.

5 MR. PAUL BONWICK: And so you stated
6 earlier that you and Mr. Mascarin worked closely
7 together --

8 MR. LEO LONGO: Yes.

9 MR. PAUL BONWICK: -- had a trusted
10 relationship and delivered what, I think, all would
11 consider reasonable service or good service for the
12 Town of Collingwood. You're obviously aware of the
13 fact that your partner, Mr. Mascarin, recommended
14 Mr. Brown for the position of interim or acting CAO,
15 whatever that position was.

16 MR. LEO LONGO: That's my
17 understanding, yes.

18 MR. PAUL BONWICK: And you've no doubt
19 heard testimony that post-2012, the relationship
20 between Mr. Brown and staff at Collus PowerStream
21 deteriorated in a rather rapid fashion. Are you aware
22 that that transpired?

23 MR. LEO LONGO: I'm not certain of
24 qualifiers like "rapid" and things of that nature, but
25 I -- but I know that Mr. --

1 MR. PAUL BONWICK: Are you --

2 MR. LEO LONGO: -- I know that
3 Mr. Brown was vigilant in trying to understand that
4 the -- the Town-Collus relationship.

5 MR. PAUL BONWICK: Isn't that
6 interesting how one person would use the word
7 "vigilant," yet others would use far more negative
8 descriptions.

9 My point was, are you aware of the
10 fact, irrespective of which side was right, that the
11 relationship had deteriorated in a rather significant
12 way?

13 MR. LEO LONGO: I really wasn't part
14 of that, so I -- I don't -- I can't just say under
15 oath with a hundred percent certainty it deteriorated
16 in a significant way.

17 MR. PAUL BONWICK: I can't let that --

18 MR. LEO LONGO: I -- I understood
19 there was -- there was a friction.

20 MR. PAUL BONWICK: I can't let that
21 slide just as easily because I read one of your emails
22 that you sent to Mr. Brown when he was making
23 enquiries, that email suggested that you had concerns
24 far beyond what you addressed in 2011 or 2010. We
25 could bring up the email if you would like.

1 It talked about not necessarily
2 following the procurement bylaw. It had several other
3 reservations in it. You've got to be direct about it.
4 You've got to appreciate that he obviously had some
5 serious concerns about Collus, and you would know that
6 the relationship had deteriorated.

7 MR. LEO LONGO: The only -- the only
8 work that I did for Collingwood after 2014 was for
9 Mr. Brown enquiring -- trying to understand the Collus
10 deal, the Collus relationships, why didn't the Town
11 get a closing book.

12 So I'm aware that Mr. Brown was
13 actively investigating that and -- and bringing me
14 into -- to provide whatever answers I could provide to
15 him. So -- and to that extent, yes. I'm aware of
16 that.

17 MR. PAUL BONWICK: And we've seen
18 evidence where you've sent an email that articulated
19 concerns that you had in reflection that you didn't
20 identify at the time.

21 MR. LEO LONGO: I'm sorry. That --
22 that I don't understand.

23 MR. PAUL BONWICK: Okay. Could we
24 bring up the email -- I wrote it down. It was from
25 Mr. Longo to Mr. Brown. It was specific to raising

1 issues surrounding the share sale of Collus, and it
2 identified points of concern that Mr. Longo was
3 expressing to Mr. Brown.

4 MR. LEO LONGO: Was that the
5 purchasing bylaw? Is that the one where we're --

6 MR. PAUL BONWICK: No. This is
7 post-transaction, substantially post-transaction.

8 MR. LEO LONGO: Yes. But I'm saying,
9 was the email you're searching for the one where I
10 indicated there had been a Shared Services Agreement,
11 and there hadn't been adherence to the -- to the
12 procurement bylaw?

13 MR. PAUL BONWICK: Yes, that's the
14 one.

15 MR. LEO LONGO: Okay. So yes, I'm --
16 I'm familiar with that one. Yes, sir.

17 MR. PAUL BONWICK: So I'm sitting
18 there -- can you appreciate why those that are
19 attached to the deal and felt it was such a great
20 deal -- and there has been a litany and a long list of
21 people that have come forward that have been attached
22 to this file and said it was a great deal; it
23 delivered exceptional service; it was wonderful for
24 the first year -- can you understand why they might
25 have some reservations about you providing this email

1 some years later?

2 Considering your relationship with
3 Mr. Brown, considering the environment in which
4 Mr. Brown had been part of as it related to Collus,
5 can you understand how people might look at that and
6 view it in a very skewed fashion? Because clearly,
7 they weren't brought up at the time, and now knowing
8 what you know, your partner and several of your
9 colleagues and other partners were actively involved
10 in the file.

11 MR. LEO LONGO: Let's break down what
12 you just said.

13 MR. PAUL BONWICK: Were you --

14 MR. LEO LONGO: I had no -- I had no--

15 THE HONOURABLE FRANK MARROCCO: Just -
16 - just -- can we just go back to one person at a time?

17 MR. LEO LONGO: Thanks.

18 THE HONOURABLE FRANK MARROCCO: Go
19 ahead and answer the question.

20 MR. LEO LONGO: I didn't know Mr.
21 Brown before he joined Collingwood. I had no
22 experience with him. I indicated after 2014 the only
23 bit of work I did for Collingwood was in answering
24 questions that he was posing. I answered those to the
25 best of my ability.

1 The question, especially about the
2 email, how could a shared services agreement exist
3 when we had a -- a procurement bylaw that had not --
4 in 2006 and did not appear to have been adhered to,
5 those were the -- Mr. Bonwick, the first times that I
6 had looked at any of those matters and was providing
7 my -- my advice to the -- to my client.

8 So back in 2011 and 2012, I was not
9 engaged by Collingwood to talk about a shared services
10 agreement or the purchasing bylaw or any of those
11 matters.

12 So it's -- it's not -- I would ask when
13 you say what does the general member of the public
14 think. The general member of the public will -- will
15 look and hopefully say that when Mr. Longo was engaged
16 by his client to do a job or provide advice, he did it
17 to the best of his abilities. That's what I've done
18 throughout all of this.

19 So I don't see the public perception
20 the way you've just described it to me.

21

22 CONTINUED BY MR. PAUL BONWICK:

23 MR. PAUL BONWICK: Okay. I'm just
24 pointing out the fact that -- that years after the
25 fact you're providing this narrative, what I'm saying

1 by your own admission, you had limited engagement,
2 albeit in my mind reasonably extensive from a -- a
3 dollar perspective.

4 But you had limited engagement during
5 the process.

6 MR. LEO LONGO: Right.

7 MR. PAUL BONWICK: You now are aware
8 that your partner, who operates one floor up from you
9 in your building had --

10 MR. LEO LONGO: Four.

11 MR. PAUL BONWICK: Four floors, that's
12 a big law office.

13 By his own admission, was very actively
14 involved along with your colleague, Corrine --

15 MR. LEO LONGO: Kennedy.

16 MR. PAUL BONWICK: Kennedy. Along
17 with other support staff. I've got to ask the
18 question then, if people shouldn't view it as a skewed
19 response when you're being -- when these questions are
20 being directed to you by Mr. Brown, why would you not
21 take the time to go up and have a fulsome discussion
22 with Mr. Clark about just how involved your firm
23 actually was during this entire process?

24 MR. LEO LONGO: The questions posed by
25 Mr. Brown, he was posing questions to Ron Clark at the

1 same time that he was posing them to me. He was
2 asking different questions of me and different
3 questions of Mr. Clark.

4 So Mr. Clark was fully engaged in
5 responding to CAO Brown. I was engaged in responding
6 to CAO Brown on the matters that he asked me to
7 respond to.

8 The issue of a procurement bylaw and
9 whether it was adhered to or not, for the shared
10 services agreement, in my view, didn't have anything
11 to do with the Collus deal itself, it was the CAO
12 trying to understand how a shared services agreement,
13 which I think had an annual -- it was just a year-to-
14 year agreement that just kept kicking over, wanted to
15 know how this agreement got to where it was and -- and
16 whether there was compliance with the procurement
17 bylaw.

18 I looked at that and gave him my -- my
19 advice. I'm not sure if Ron Clark was ever asked in
20 any of the work he did has the procurement bylaw been
21 adhered to or not.

22 So I -- I don't see them as being
23 inconsistent with each other, it's just different
24 questions were asked at different times.

25 MR. PAUL BONWICK: I guess my

1 expectations out of a legal response when I'm dealing
2 with that and -- and again, we had Mr. Firman, the
3 former Chief Operating Officer, if I have his title
4 properly -- for the water utility, clearly explained
5 that Mr. Brown was very actively trying to understand
6 the shared service agreement and in Mr. Firman's
7 opinion it was to take control of -- of the water
8 utility and bring it into the fold of the umbrella of
9 the Town of Collingwood, which you may be aware that
10 Mr. Firman stated emphatically that he was
11 diametrically opposed to that kind of approach,
12 understanding the importance of water, but --

13 MR. LEO LONGO: No, I didn't hear Mr.
14 Firman's testimony.

15 MR. PAUL BONWICK: Okay. I -- I'll
16 close out with this. In the representations that you
17 made in 2014 in terms of emails to Mr. Brown, there
18 did not seem to be, from what I was reading, and
19 please correct me if this is -- if I'm mistaken, any
20 fulsome presentation from you related to all the work,
21 and I can imagine -- I can't imagine how big the --
22 the amount of hours and -- and billings were, that the
23 lawyers from your very own firm provided in support of
24 this process.

25 I would have thought that that would

1 have been extremely valuable to Mr. Brown to
2 understand how fulsome, how robust the team was from
3 Aird & Berlis that was working on this file.

4 And from my perspective, I'm asking you
5 this, simply, why would that not be part of the
6 response that you or Mr. Clark -- and I didn't see
7 much of Mr. Clark's response, more from you, why would
8 that not be part of the response to the client?

9 MR. LEO LONGO: Because I was asked --
10 short answer. I was asked a specific question and
11 gave a specific answer to that specific question.

12 I was not asked put this into the
13 context of the sale or what it meant to the Town or
14 anything.

15 Mr. Longo, can you tell me did the
16 share house -- shared services agreement comply with
17 or not comply with the purchasing bylaw. That's the
18 question that I was asked and it was the question I
19 answered.

20 MR. PAUL BONWICK: I have no more
21 questions for the witness.

22 THE HONOURABLE FRANK MARROCCO: Thank
23 you, Mr. Bonwick.

24 Ms. Ritacca?

25

1 EXAMINATION BY MS. LUISA RITACCA

2 MS. LUISA RITACCA: You have just one
3 area I'd like to re-examine on, thank you.

4 Mr. Longo, yesterday in cross-
5 examination you were asked about your attendance at
6 the closed session meeting on January 16th when your
7 partner and a representative from KPMG and Mr.
8 Houghton presented the PowerStream Collus sale slide
9 presentation, if I can call it that?

10 MR. LEO LONGO: Yes.

11 MS. LUISA RITACCA: And it was put to
12 you or you were asked well why didn't you raise any
13 issues, why didn't you address the Council and in
14 particular why didn't you say anything about who was
15 advising the Town, which was a question you posed in
16 an email that same evening.

17 Do you recall that?

18 MR. LEO LONGO: I guess, yes.

19 MS. LUISA RITACCA: Okay. And in
20 short, you said I wasn't -- it's not my practice, I
21 wasn't asked to participate, I was sitting in the back
22 of the room and I was an observer, not a participant.

23 MR. LEO LONGO: I recall that, yes.

24 MS. LUISA RITACCA: Okay. And so
25 could you help us understand, I think you're probably

1 only -- the only person in the room that's actually
2 been a Town solicitor, so could you help us understand
3 what your normal practice is as Town solicitor when
4 you're sitting either in an open session or an in-
5 camera session of Council? How is it that you become
6 engaged, if you can provide us with some information
7 on that?

8 MR. LEO LONGO: So normally I -- I get
9 engaged by the Municipality through the C -- the
10 clerk, planning director, the CAO, and I'm asked to
11 attend meetings or provide work in a particular area,
12 provide opinion work.

13 So that's how I normally get to deal
14 with matters. On occasion, I would attend Council
15 meetings and on occasion questions would be asked of
16 the Town solicitor while I was at the meeting and I'd
17 answer them to the best of my ability.

18 But normally, other than the Council
19 setting at a public meeting, I was only directed by
20 those three individuals that I've indicated I've -- I
21 took work from.

22 Am I answering the -- the question? I
23 just want to --

24 MS. LUISA RITACCA: You have, but I
25 have a follow-up as well.

1 Would there be any occasion where you
2 would give in an either open session or closed session
3 of Council, would you give unsolicited advice or raise
4 an issue unprovoked?

5 MR. LEO LONGO: Not -- not normally.

6 While you try to do value at its
7 service to a client and -- and try to anticipate what
8 their -- what their needs might be, the -- this
9 relationship with this client was one that was always
10 a request was made and service was provided.

11 That's -- that was my experience
12 throughout, before I was Town solicitor and after I
13 was Town solicitor.

14 MS. LUISA RITACCA: Thank you. Thank
15 you.

16 THE HONOURABLE FRANK MARROCCO: Re-
17 examination?

18

19 RE-EXAMINATION BY MR. JOHN MATHER

20 MR. JOHN MATHER: Just one brief area.
21 Mr. Longo, Mr. Marron had you look at two letters, one
22 dated June 1st from Mayor Sandra Cooper and the other
23 dated June 7th, which was from PowerStream, setting
24 out Mr. Bonwick's retainer.

25 MR. LEO LONGO: I think it was a June

1 2nd letter from the Mayor, and it was a June 1st
2 PowerStream letter.

3 MR. JOHN MATHER: Yes, I appreciate
4 the correction, but you recall the two letters that
5 you were asked to --

6 MR. LEO LONGO: Yes.

7 MR. JOHN MATHER: -- compare.

8 And I believe you told Mr. Bonwick that
9 one of the letters, and I forget which one, today was
10 the first time you'd see that letter.

11 MR. LEO LONGO: Yes.

12 MR. JOHN MATHER: Is that true of both
13 of the letters?

14 MR. LEO LONGO: Actually, for both of
15 them, yes.

16 MR. JOHN MATHER: That's my only
17 question.

18 THE HONOURABLE FRANK MARROCCO: Thank
19 you very much, Mr. Longo.

20 MR. LEO LONGO: Thank you, sir.

21 THE HONOURABLE FRANK MARROCCO: We'll
22 take a short break and then carry on with the next
23 witness.

24 MS. LUISA RITACCA: I won't be here
25 when you come back, so thank you, if that's all right.

1 THE HONOURABLE FRANK MARROCCO: That's
2 right. You're free to leave and so is Mr. Longo.

3 MS. LUISA RITACCA: Great. Thank you.

4

5 --- Upon recessing at 3:47 p.m.

6 --- Upon resuming at 3:57 p.m.

7

8 DENNIS NOLAN, Sworn

9

10 EXAMINATION-IN-CHIEF BY MR. JOHN MATHER:

11 MR. JOHN MATHER: Good afternoon, Mr.
12 Nolan.

13 MR. DENNIS NOLAN: Good afternoon.

14 MR. JOHN MATHER: You are currently
15 the general counsel and corporate secretar --
16 secretary at Alectra. Is that correct?

17 MR. DENNIS NOLAN: That's correct.

18 MR. JOHN MATHER: And it's my
19 understanding that PowerStream effectively became
20 Alectra in 2017?

21 MR. DENNIS NOLAN: As the result of a
22 merger; that's correct.

23 MR. JOHN MATHER: And what position
24 did you hold at PowerStream in the 2011 to 2012 time
25 period?

1 MR. DENNIS NOLAN: I believe my title
2 was executive vice-president corporate services and
3 secretary.

4 MR. JOHN MATHER: And can you just
5 describe briefly what your responsibilities were in
6 that position during that time period?

7 MR. DENNIS NOLAN: Sure. I'd be happy
8 to. I was essentially chief legal officer, so I was
9 responsible for legal, had one (1) other lawyer at the
10 time, had been on my own for -- since the inception of
11 PowerStream until hired another lawyer in 2010.

12 I had a number of other functions
13 reporting to me.

14 MR. JOHN MATHER: And prior to the
15 Collus transaction which will be the subject of our
16 questions today, what -- can you give an overview of
17 what sort of experience you had in terms of mergers
18 and acquisitions in the utility sector?

19 MR. DENNIS NOLAN: Sure. Well, I was
20 hired in -- in 2012 at Hydro Vaughan because of -- I
21 had considerable me -- emanating experience in -- in
22 my career. I've been in-house counsel for the vast
23 majority of my -- my career, except for a brief period
24 in private practice.

25 So, I was involved in the first

1 transaction that formed PowerStream in -- that we
2 closed in 2004, the acquisition of -- of Aurora in
3 2005 or '06, and then with the merger with Barrie in -
4 - in 2009/'10, and then with the -- obviously, with
5 the Collus transaction, and then, after that, with --
6 with the Alectra transaction.

7 MR. JOHN MATHER: And I just want to
8 clarify something. You said you started at Hydro
9 Vaughan in 2012. I --

10 MR. DENNIS NOLAN: I apologize, 2002.

11 MR. JOHN MATHER: Okay. Thank you.

12 MR. DENNIS NOLAN: Sorry.

13 MR. JOHN MATHER: When did you first
14 become aware of a potential sale or RFP for Collus
15 Power?

16 MR. DENNIS NOLAN: I think I became
17 aware of the possibility in -- in late 2010 as just a
18 possibility, and then became a little bit more real in
19 -- in 2011, early 2011.

20 MR. JOHN MATHER: Okay. I want to
21 break that down a bit. What -- what led you to
22 believe it was -- or you -- you learned that it was
23 just a possibility in 2010. What led you to have that
24 understanding?

25 MR. DENNIS NOLAN: I was -- I became

1 aware that there -- that -- that there was some
2 interest certainly expressed, at least by the CEO of
3 Collus, of exploring the possibility of a sale.

4 MR. JOHN MATHER: How did you become
5 aware that the Collus CEO had expressed that interest?

6 MR. MICHAEL WATSON: Your Honour,
7 before the witness answers, I'd like to make the point
8 that has been made by others, as well, that -- and
9 questions can be had about this topic, that Mr.
10 Nolan's role was as lawyer involved in this.

11 And so, in my submission, he should not
12 be asked about communications that he had with others
13 for whom he in fact was acting as lawyer. I have no
14 objection whatsoever to him being asked what he became
15 aware of, but not with respect to any communications
16 that he had internally at PowerStream because he was
17 acting as a lawyer.

18 THE HONOURABLE FRANK MARROCCO: Well,
19 com -- communications or communications for the
20 purpose of giving or receiving legal advice?

21 MR. MICHAEL WATSON: Well, certainly,
22 the latter. And -- and certainly, Mr. Mather can
23 explore, you know, what communications there were and
24 for what purpose and, you know, with Mr. Nolan
25 concerning the Collus transaction.

1 But needless to say --

2 THE HONOURABLE FRANK MARROCCO: Wait,
3 we'll have to do this as -- if -- if there's a
4 question that you find objectionable, you'll have to -
5 - you'll have to object. And I'm sure Mr. Mather will
6 try to avoid, as we have with the other witnesses,
7 eliciting information that's protected.

8 MR. MICHAEL WATSON: Yes, Your Honour.

9 MR. DENNIS NOLAN: So, if you could
10 repeat --

11 MR. JOHN MATHER: Certainly.

12 MR. DENNIS NOLAN: -- the question.

13

14 CONTINUED BY MR. JOHN MATHER:

15 MR. JOHN MATHER: Are you able to tell
16 me who told you about Ms. -- the CEO's interest in a
17 potential transaction?

18 MR. DENNIS NOLAN: Yes, my boss, the
19 CEO, Brian Bentz.

20 MR. JOHN MATHER: And was -- was your
21 conversation with Mr. Bentz in the context of seeking
22 legal advice?

23 MR. DENNIS NOLAN: It was to make me
24 aware of -- of the potential, as -- as simple as that.
25 There -- there was -- at -- at that time, there was

1 not much more to it. It was a very preliminary
2 expression that I understood took place and -- and not
3 -- not much beyond that.

4 I just -- I just knew that he just
5 wanted me because I would be involved in -- and -- and
6 was involved in all the M&A activity and doing the
7 legal work, so he just wanted to put it, you know --
8 you know, have it on my horizon that this was a
9 possibility.

10 MR. JOHN MATHER: It's our
11 understanding from the documents that Mr. Bentz met
12 with Mr. Houghton, I believe, on December 5th or early
13 December 2010.

14 Did he tell you that he had had a
15 meeting with Mr. Houghton?

16 MR. DENNIS NOLAN: Yes. I -- well, I
17 -- I don't know if he told me he had a meeting or a
18 conversation, one (1) or the other.

19 MR. JOHN MATHER: And again, we're not
20 looking for you to provide pri -- privileged
21 information, but --

22 MR. DENNIS NOLAN: Right.

23 MR. JOHN MATHER: -- are you able to
24 tell me what he told you about the meeting he had with
25 Mr. Houghton?

1 MR. DENNIS NOLAN: Simply that there -
2 - that there -- that he was exploring the possibility.
3 Or there was some consideration of -- of options for
4 Collus, including a sale.

5 MR. JOHN MATHER: You said that in
6 late 2010, you understood it to be just a possibility.
7 And then in early 2011, it became more of a
8 possibility?

9 MR. DENNIS NOLAN: Well, in 2011. You
10 know, I said early 2011, but -- yeah.

11 MR. JOHN MATHER: Okay. How did --
12 what -- how did you become aware that it was more of a
13 possibility that the sale was going to happen, or a
14 potential sale might happen?

15 MR. DENNIS NOLAN: Well, I can't -- I
16 -- I can't point to one (1) thing in particular, but,
17 you know, it -- it was just -- just reinforced that --
18 you know, that this -- there was a possibility of
19 that.

20 And -- and because he talked to me
21 about -- I -- I believe that they were looking at how
22 they'd go about it. So, there -- there was probably
23 another conversation.

24 MR. JOHN MATHER: Okay. And the "he"
25 in this is Mr. Bentz?

1 MR. DENNIS NOLAN: Right.

2 MR. JOHN MATHER: Can we pull up
3 paragraph 115 of the Foundation Document?

4

5 (BRIEF PAUSE)

6

7 MR. JOHN MATHER: So, paragraph 115
8 describes an email from Paul Bonwick to -- in which he
9 introduces himself to Mr. Bentz. And if you scroll
10 down... So, Mr. -- keep scrolling down, sorry.

11 And then there -- we have notes from
12 Mr. Bentz that appear to describe that he received an
13 email from Mr. Bonwick on and around this time. Did
14 Mr. Bentz tell you that Mr. Bonwick had reached out to
15 him in early 2011?

16 MR. DENNIS NOLAN: Yes, he did.

17 MR. JOHN MATHER: What did -- what do
18 you recall Mr. Bentz said to you about Ms. -- what --
19 Mr. Bonwick reaching out to him?

20 MR. DENNIS NOLAN: Well, I guess my
21 problem, not that I don't want to answer it, is I'm
22 afraid that I very quickly get into crossing that line
23 in -- into solicitor client privilege because he -- he
24 made me aware that -- that he had been approached.

25 MR. JOHN MATHER: And I'm not seeking

1 any advice that you provided to Mr. Bentz. Do
2 remember if Ms. -- if Mr. Bentz described to you
3 conversations he had with Mr. Bonwick?

4 MR. DENNIS NOLAN: In a -- he did
5 communicate to me that -- that -- the nature of the
6 conversation.

7 MR. JOHN MATHER: And what did he
8 communicate to you about that?

9 MR. DENNIS NOLAN: That Mr. Bonwick
10 had approached, that he didn't know Mr. Bonwick, as --
11 nor did I, about a possibility of providing consulting
12 services to PowerStream.

13 MR. JOHN MATHER: And, at that point
14 in time, did you understand that Mr. Bentz was
15 considering whether or not to retain Mr. Bonwick?

16 MR. DENNIS NOLAN: Yes.

17

18 (BRIEF PAUSE)

19

20 MR. JOHN MATHER: I -- I believe you
21 said you didn't know Mr. Bonwick as -- at the time.
22 Is that accurate?

23 MR. DENNIS NOLAN: That's accurate.

24 MR. JOHN MATHER: Were you made aware
25 that Mr. Bonwick was the brother of Sandra Cooper, the

1 Mayor of Collingwood?

2 MR. DENNIS NOLAN: I became aware of
3 that, yes.

4 MR. JOHN MATHER: Do you recall when
5 you became aware of that?

6 MR. DENNIS NOLAN: Shortly after, I
7 think, it -- it was made known to me.

8 MR. JOHN MATHER: And was it your
9 understanding that Mr. Bonwick -- Mr. Bentz was
10 considering retaining Mr. Bonwick in the context of a
11 potential Collus RFP or sale?

12 MR. DENNIS NOLAN: I understood that
13 in -- in connection with a possible Collus transaction
14 and possible other transactions.

15 MR. JOHN MATHER: And what was -- what
16 was your understanding of what Mr. -- of what Mr.
17 Bonwick was proposing to do in relation to a Collus
18 transaction or other transactions?

19 MR. DENNIS NOLAN: That -- so the --
20 the end -- the focus was to be on providing us with
21 really the lay of the land in -- in the local
22 community.

23 A significant concern of ours, and we
24 had -- we had -- I -- you know, I told you a number of
25 tra -- other transactions that I've been involved

1 with. Been involved with other -- several others at a
2 preliminary stage that went nowhere.

3 So, it was important to get the lay of
4 the land and to know that thi -- whether this was
5 serious or not, that was -- that was one (1) of those,
6 and to give us feedback on what the local
7 sensitivities may be.

8 It was very -- there was a lot of --
9 there was a lot of pressure for LDC consolidation at
10 the time. But there was also a lot of pride and
11 ownership of utilities by municipalities and a lot of
12 reluctance to go down the path.

13 So, you know, we -- you often had
14 someone -- and it may be a CAO or someone on Council
15 who was trying to champion that -- and you found that
16 there was underlying resistance. So that -- that
17 was -- that was a primary concern.

18 MR. JOHN MATHER: So I take it from
19 your answer that at the time that PowerStream was
20 considering retaining Mr. Bonwick, it was your
21 understanding that Mr. Bonwick was going to do two (2)
22 things, and I just want to make sure I understand
23 this.

24 One is give you a sense of the lay of
25 the land, how serious -- I take it -- was it Collus or

1 the Town was about the sale?

2 MR. DENNIS NOLAN: Really, how it
3 would play in the Town, I would think, more
4 importantly. I mean, the -- how serious Collus was
5 about it and be conveyed by -- by Mr. Houghton as CAO.

6 MR. JOHN MATHER: So that -- so one
7 thing was determining the lay of the land with respect
8 to the Town. And the other thing was --

9 MR. DENNIS NOLAN: Right.

10 MR. JOHN MATHER: -- assistance in
11 determining whatever local political sensibilities
12 there may be about a potential sale?

13 MR. DENNIS NOLAN: Those would be
14 two (2) key deliverables or things of -- of feedback
15 that we didn't want to spend a lot of time in -- in
16 energy and resources all for naught.

17 MR. JOHN MATHER: And --

18 MR. DENNIS NOLAN: But there was
19 other -- you know, other things that -- that, you
20 know, I'm not enumerating the things that we -- all
21 the things we engaged Mr. Bonwick for.

22 But, I mean, the initial -- the initial
23 feeling of -- of what he could assist us with, those
24 would have been top of mind.

25 MR. JOHN MATHER: And I appreciate

1 that this is your -- the initial view of what --

2 MR. DENNIS NOLAN: Right.

3 MR. JOHN MATHER: -- what he may
4 provide. Other than those things, was there anything
5 else that you -- that you understood PowerStream was
6 interested in Mr. Bonwick providing?

7 MR. DENNIS NOLAN: Like, he had a
8 communication company, so in -- in terms of vetting
9 communications, again, with the lens of the
10 sensitivity of the Town, he had been a member of
11 Parliament for not only the Town of Collingwood but
12 for -- and I don't know the total -- how to define all
13 the geographic boundaries of -- of his constituency,
14 but it also included several other municipalities that
15 we were interested in in terms of possible
16 consolidation.

17 MR. JOHN MATHER: Had PowerStream
18 hired -- in its previous mergers and acquisitions had
19 it hired someone in a similar position to what would
20 be contemplated for Mr. Bonwick?

21 MR. DENNIS NOLAN: We had hired
22 consultants as others had, such as Bridgepoint
23 (phonetic) and -- and others. Hydro One did that.
24 Certainly, Veridian had in the past hired consultants,
25 I think. You know, I can't enumerate everyone. But

1 it wasn't the first time that we hired consultants.

2 MR. JOHN MATHER: Again not seeking
3 advice that was provided, but did you have any
4 concerns about retaining Paul Bonwick at the time it
5 was being discussed?

6 MR. DENNIS NOLAN: Yes.

7 MR. JOHN MATHER: What were those
8 concerns?

9 MR. DENNIS NOLAN: I was concerned
10 about the relationship with -- with the mayor, being
11 the sister of the mayor --

12 MR. JOHN MATHER: And what --

13 MR. DENNIS NOLAN: -- or the brother
14 of the mayor, I mean. Sorry.

15 MR. JOHN MATHER: Understood. And
16 what was the nature of that concern?

17 MR. DENNIS NOLAN: Well, the concern
18 was because -- and I wasn't an expert in municipal
19 law, so the initial concern was, is there a conflict?
20 And number 2, is there an appearance of conflict?

21 And I was concerned about disclosure of
22 that and came to know fairly quickly through enquiry
23 that it wasn't a legal conflict -- you know, the
24 Municipal Conflict of Interest Act. But this was a
25 concern that was shared and that took some time to

1 address.

2 MR. JOHN MATHER: How did you satisfy
3 yourself that it wasn't a legal conflict under the
4 Municipal Conflict of Interest Act?

5 MR. DENNIS NOLAN: There was --
6 sorry -- initial feedback from Mr. Bonwick initially
7 to that. There were conversations with our mayors who
8 all happened to be experts on the Municipal Conflict
9 of Interest Act. But I also spoke to our outside
10 counsel at Gowlings to have that confirmed.

11 MR. JOHN MATHER: Other than
12 considering the conflict of interest -- provisions of
13 the Municipal Conflict of Interest Act, was there any
14 other consideration given to whether there might be a
15 conflict of interest under any other statutes or
16 standards of the common law or anything like that?

17 MR. DENNIS NOLAN: It was -- the way I
18 understood it that there -- there were -- that there
19 were none. That was my understanding at the time, and
20 it still remains to be -- be the same. I understand
21 some municipalities may have their own, sort of,
22 guidelines, and I wasn't aware of any that applied in
23 this case.

24 MR. JOHN MATHER: Do you know if any
25 enquiries were made into whether or not Collingwood

1 had a code of conduct or a code of ethics?

2 MR. DENNIS NOLAN: No, I don't know.

3 MR. JOHN MATHER: So you mentioned
4 there was a concern about whether or not there was a
5 legal conflict --

6 MR. DENNIS NOLAN: Right.

7 MR. JOHN MATHER: -- under the
8 Municipal Conflict of Interest Act. But you also
9 mention that you were -- one of your concerns was a
10 perceived conflict.

11 MR. DENNIS NOLAN: That's right. And
12 that's why we insisted on the disclosure that we
13 insisted on.

14 MR. JOHN MATHER: And what was the
15 disclosure that was insisted on?

16 MR. DENNIS NOLAN: So contractually,
17 we -- we insisted on disclosure to the mayor and to
18 the clerk.

19 But there was -- you know, as it
20 evolved, it was also, you know, deemed appropriate and
21 -- and you know -- and I think it was in -- to credit
22 to Mr. Bonwick also -- his idea that there be clear
23 disclosure to the deputy mayor, as well as the mayor
24 and the clerk. And -- and I don't know if there was
25 anyone else involved, but it was clear that -- and

1 that gave us some greater comfort that there was
2 adequate disclosure.

3 MR. JOHN MATHER: And we'll get to
4 those specific --

5 MR. DENNIS NOLAN: Sure.

6 MR. JOHN MATHER: -- examples. But at
7 the outset, why does disclosure to the -- why did
8 disclosure to the mayor and the clerk and later the
9 CAO and the deputy mayor -- why did that give you
10 comfort about a perceived conflict of interest or a
11 potentially perceived conflict of interest?

12 MR. DENNIS NOLAN: Transparency.
13 We -- we weren't hiding his engagement and so that
14 there couldn't be inferences that this was -- you
15 know, he was doing work inappropriately, secretly for
16 PowerStream. And we wanted it in the open.

17 MR. JOHN MATHER: By "in the open,"
18 what do you mean you wanted it in the open?

19 MR. DENNIS NOLAN: We wanted it
20 adequately disclosed to -- to Council -- so to the
21 mayor, deputy mayor -- I don't know to say other than
22 that -- and the clerk. We thought that was
23 appropriate.

24 MR. JOHN MATHER: Was any
25 consideration given, that you know of, to a broader

1 disclosure to the public or anything along those
2 lines?

3 MR. DENNIS NOLAN: No.

4 MR. JOHN MATHER: Why not?

5 MR. DENNIS NOLAN: It seemed like
6 the -- since there wasn't a legal impediment and that
7 we had above and beyond that and it wasn't even
8 just -- and it -- and it was beyond what was the
9 contractual obligation that we inserted to, you know,
10 other -- to the -- also to the deputy mayor, it's --
11 it seemed adequate at the time.

12 MR. JOHN MATHER: If we could pull up
13 paragraph 16 of summary document 12.

14

15 (BRIEF PAUSE)

16

17 MR. JOHN MATHER: So this paragraph
18 references a presentation to the Collus Power -- of
19 Collus Power -- sorry -- a presentation about Collus
20 Power to the audit and finance committee that
21 Mr. Bentz made on March 8th, 2011.

22 And the meeting materials provided
23 details regarding Collus Power rated-based multiples
24 and their relationship to purchase price.

25 They also -- the presentation included

1 a graph which compared PowerStream and Collus electric
2 bills for the typical residential customer. And if we
3 could scroll down...

4

5 (BRIEF PAUSE)

6

7 MR. JOHN MATHER: And if you see here
8 the presentation advising the committee of senior
9 employees of Collus Power had led to a suggestion that
10 PowerStream explore the potential of hiring
11 Paul Bonwick as a consultant.

12 Stepping back for a moment, it appears
13 from the minutes of this meeting that you were in
14 attendance on March 8th, 2011. Do you recall being at
15 that meeting?

16 MR. DENNIS NOLAN: I was likely there.
17 I was not at every audit and -- and finance committee
18 meeting at -- at PowerStream, but I was at most of
19 them. So it was -- I was likely there.

20 MR. JOHN MATHER: Do you have a
21 independent recollection of attending a meeting in or
22 around March 2011 where the possibility of retaining
23 Mr. Bonwick was discussed with the audit and finance
24 committee?

25 MR. DENNIS NOLAN: I think I was

1 there. I can't say for sure. I can't -- my memory
2 isn't that -- that good to that specific date, but
3 it's -- in all likelihood, I was there.

4 MR. JOHN MATHER: Do you know when
5 this paragraph references senior employees of Collus
6 Power, it led to a suggestion that PowerStream explore
7 the potential of hiring Paul Bonwick as a consultant
8 who the senior employees at Collus Power were?

9 MR. DENNIS NOLAN: I think it's
10 presented maybe a little bit awkwardly, but I -- I
11 want to have -- I -- I would only assume that the
12 reference was to Mr. Houghton.

13 MR. JOHN MATHER: And what would be
14 the basis of that assumption?

15 MR. DENNIS NOLAN: I don't know what
16 other senior employees of Collus Power it would be
17 referring to.

18 MR. JOHN MATHER: In your
19 conversations with Mr. Bentz or anyone at PowerStream,
20 when Mr. Bonwick approached PowerStream, did you gain
21 an understanding of how Mr. Bonwick found his way into
22 introducing himself to Mr. Bentz in January of 2011?

23 MR. DENNIS NOLAN: What I understood
24 is when he introduced himself, Brian -- Mr. Bentz, it
25 was, you know, with -- with -- without any prior

1 introduction by anyone. And -- and then he -- you
2 know, I don't want to speak for him, but I -- I think
3 what -- what he did was probably speak to Mr. Houghton
4 to say, you know, Who is this person?

5 MR. JOHN MATHER: At that -- this
6 period of time -- actually, stepping back, you said
7 you think Mr. Bentz did that. Do you know -- do you
8 remember Mr. Bentz telling you that he spoke to Mr.
9 Houghton about Mr. Bonwick?

10 MR. DENNIS NOLAN: I don't remember
11 the specific conversation, but I -- I think that -- I
12 -- I think that probably was the case.

13 MR. JOHN MATHER: Do know when that
14 conversation occurred?

15 MR. DENNIS NOLAN: I think shortly
16 after he was approached by Mr. Bonwick.

17 MR. JOHN MATHER: Do you --

18 MR. DENNIS NOLAN: I can't tell you
19 the day.

20 MR. JOHN MATHER: Fair enough. Do you
21 remember what Mr. Bentz said to you about his
22 conversation with Mr. Houghton?

23 MR. DENNIS NOLAN: Just -- he
24 confirmed that -- that he knew him, and that -- that
25 he was the brother of the mayor, and that he had a

1 consulting communications company, and -- and perhaps
2 it could provide services to PowerStream.

3 I don't think there was any insinuation
4 that -- that any -- any pressure whatsoever to hire
5 him. That -- that wasn't my sense of it.

6 MR. JOHN MATHER: At -- at this point
7 in time, January to March 2011, what was your
8 understanding of the relationship between Mr. Bonwick
9 and Mr. Houghton?

10 MR. DENNIS NOLAN: I came to know that
11 they were -- I didn't really know about the
12 relationship at all, I think, in that time. I have to
13 be careful of what I -- I know now from the documents.
14 I might have understood that -- that I -- that they
15 were acquaintances. I didn't know the extent of -- of
16 their relationship.

17 MR. JOHN MATHER: So going back to the
18 audit and finance committee, who sits on PowerStream -
19 - who sat on PowerStream's audits and fine -- audit
20 and finance committee at this point in time?

21 MR. DENNIS NOLAN: So the three (3)
22 mayors, I believe Dan Horchik, Counc -- Regional
23 Councillor Gino Rosati, I think. That's about what I
24 can recall. Yeah.

25 MR. JOHN MATHER: Who were the three

1 (3) mayors?

2 MR. DENNIS NOLAN: Mayor Scarpitti,
3 Bevilacqua, and Lehman.

4 MR. JOHN MATHER: And those would be
5 the mayors of the three (3) municipalities?

6 MR. DENNIS NOLAN: Of -- of -- Mayor
7 Scarpitti of -- of then the Town of Markham, Mayor
8 Bevilacqua of the City of Vaughan, and Mayor Jeff
9 Lehman of the City of Barrie.

10 MR. JOHN MATHER: If we could scroll
11 down a bit.

12

13 (BRIEF PAUSE)

14

15 MR. JOHN MATHER: So this is an
16 excerpt of a -- the presentation that was provided to
17 the audit and finance committee on March 8th, 2011.

18 Do you recall the presentation about
19 Mr. Bonwick?

20

21 (BRIEF PAUSE)

22

23 MR. DENNIS NOLAN: Go down a little
24 bit further, please.

25

1 (BRIEF PAUSE)

2

3 MR. DENNIS NOLAN: I don't remember
4 the exact presentation, but it looks familiar in terms
5 of what it covered.

6 MR. JOHN MATHER: Do you recall if at
7 this meeting, any memb -- what the members of the
8 audits and finance committee wanted to know from
9 management about the potential of retaining Mr.
10 Bonwick, if they had any questions?

11 MR. DENNIS NOLAN: I think they wanted
12 to understand what -- what he would do. They -- I --
13 I think that the mayors understood, as I said, the
14 Municipal Conflict of Interest Act. I think they
15 wanted that confirmed, which was done. They were very
16 concerned about disclosure.

17 MR. JOHN MATHER: Can you tell me
18 anything more about their concerns about disclosure?

19 MR. DENNIS NOLAN: No. I mean, and
20 it's not just taken from this meeting. I'm speaking
21 about the timeframe.

22 MR. JOHN MATHER: So just generally?

23 MR. DENNIS NOLAN: So it's my -- where
24 my recollection is formed, not from -- from this. I
25 want to be clear. So that -- I think they were -- saw

1 that if -- if there wasn't a legal impediment, and if
2 there was proper disclosure, and he could assist us
3 with our efforts, and executing our growth strategy,
4 including with -- with Collingwood, then -- then they
5 were -- they were in favour of retaining him, subject
6 to those conditions.

7 MR. JOHN MATHER: What you mean by
8 "executing our growth strategy"?

9 MR. DENNIS NOLAN: So we had a growth
10 strategy. I mean, PowerStream was -- was formed by
11 the -- the largest voluntary merger in -- in Ontario,
12 bringing together Markham and Vaughan, who co-owned
13 Richmond Hill, and then we did another merger with --
14 with Barrie. We were the second largest municipally-
15 owned utility in -- in Canada at the time,
16 municipally-owned.

17 And so that was part of our DNA. It
18 was growth. And -- and there -- so we were expected
19 to pursue growth, and -- and we did it, and I think we
20 did it very well.

21 MR. JOHN MATHER: So if we could
22 continue to paragraph 23 of the summary document.

23 Actually, sorry. Can we go up to
24 paragraph 20? Up a bit further, and paragraph 19.

25 So -- so this is just explaining again

1 the March 8th, 2011 meeting. And does this paragraph
2 of the summary give you any more recollections about
3 what happened at the meeting?

4 MR. DENNIS NOLAN: Give me a moment,
5 please.

6

7 (BRIEF PAUSE)

8

9 MR. DENNIS NOLAN: It seems -- it's --
10 it's accurate. Yes, I think it -- yeah, it reflects
11 what was happening.

12 MR. JOHN MATHER: Then if we could go
13 to paragraph 23.

14

15 (BRIEF PAUSE)

16

17 MR. JOHN MATHER: So this paragraph
18 contemplates that the three (3) mayor representatives
19 of the audit finance committee, who you've told us who
20 they are, met with Mr. Bonwick on April 13th, 2011.

21 Were you in attendance at that meeting?

22 MR. DENNIS NOLAN: I was not, but I
23 was -- became aware of it, that it had happened, that
24 they wanted to, you know, more or less interview him,
25 meet -- meet with him to gain some, you know, comfort

1 with proceeding with a possible retainer.

2 MR. JOHN MATHER: Did anyone report to
3 you about what happened at that meeting?

4 MR. DENNIS NOLAN: No, no one would be
5 reporting to me about what happened at that meeting.
6 That's what I became aware of, that the meeting had
7 happened, and they were satisfied.

8 MR. JOHN MATHER: And who told you
9 that the meeting had happened and that they were
10 satisfied?

11 MR. DENNIS NOLAN: I probably was --
12 it -- I -- I believe the meeting took place in Mr.
13 Bentz's offices, which were fairly close to mine, so I
14 think I knew it was taking place.

15 MR. JOHN MATHER: So we -- do you
16 remember Mr. Bentz describing this meeting to you?

17 MR. DENNIS NOLAN: I don't rem -- I --
18 I just -- maybe just feedback in terms that they were
19 satisfied, and I'm obviously paraphrasing. That's not
20 a quote or anything, but I -- I got some, you know,
21 positive feedback that they -- that they were -- they
22 -- that the meeting went well.

23 MR. JOHN MATHER: Do you have any
24 recollection or any sense at all of what happened at
25 the meeting to satisfy their concerns?

1 MR. DENNIS NOLAN: No, I don't.

2 MR. JOHN MATHER: Okay. So if we
3 could open up ALE3463.

4

5 (BRIEF PAUSE)

6

7 MR. JOHN MATHER: And if we could --
8 and if we -- so this is a presentation from a Board
9 Strategic Retreat on March the 10th, 2011.

10 Do you recall attending a Board
11 strategic retreat in and around this time period?

12 MR. DENNIS NOLAN: Yes.

13 MR. JOHN MATHER: If we could then go
14 to paragraph 21 of the Foundation Document, paragraph
15 21 of Summary Document 2-1. Yes, 21.

16

17 (BRIEF PAUSE)

18

19 MR. JOHN MATHER: So this is
20 describing that strategic retreat that I showed you
21 the slide deck of.

22 MR. DENNIS NOLAN: Right. Sorry, what
23 meeting is this taken from?

24 MR. JOHN MATHER: So this is --

25 MR. DENNIS NOLAN: Is this from the

1 Audit and Finance Committee meeting?

2 MR. JOHN MATHER: No. This is from --
3 apologies, I -- I could be clearer. I showed you a
4 presentation from a Board Strategic Retreat that
5 occurred on March 10th and 11th.

6 Is that the same meeting as the Audits
7 and Finance Committee --

8 MR. DENNIS NOLAN: No.

9 MR. JOHN MATHER: -- meeting?

10 MR. DENNIS NOLAN: No.

11 MR. JOHN MATHER: What was the Board
12 Strategic Retreat?

13 MR. DENNIS NOLAN: So, we had a
14 practice of having a retreat once or twice a year to
15 review the overall strategy for the Corporation and a
16 focal point of -- of that would be reviewing the
17 growth strategy, et cetera.

18 MR. JOHN MATHER: Do you recall Collus
19 being discussed as part of that growth strategy?

20 MR. DENNIS NOLAN: I'm sure it was.

21 MR. JOHN MATHER: So what this
22 paragraph has is excerpts from that presentation I
23 showed you.

24 MR. DENNIS NOLAN: Okay.

25 MR. JOHN MATHER: And I'm just

1 focusing in on the elements that deal with Collus.

2 The first bullet point says:

3 "We understand that the Town of
4 Collingwood may be experiencing
5 financial problems related to its
6 2011 budget and as a result may be
7 looking to divest of some assets."

8 Was that your understanding at the
9 time?

10 MR. DENNIS NOLAN: It was my
11 understanding at the time that there was a possibility
12 of them looking to consider selling their interest in
13 Collus. The motivation, I -- I wasn't aware of.

14 MR. JOHN MATHER: And is -- and --

15 MR. DENNIS NOLAN: But a lot of munic
16 -- sorry. I -- I didn't mean to interrupt, but a lot
17 of municipalities were con -- were looking at the
18 viability of their ownership of their utilities, one,
19 because of the consolidation that was happening,
20 PowerStream being a prime example, and because of the
21 increasing complexities of -- of running these LDCs,
22 and -- and also because of the feeling that the
23 Province was encouraging consolidations.

24 MR. JOHN MATHER: Do you know specif -
25 - did you have any understanding specifically at this

1 time whether or not Collingwood may be experiencing
2 financial problems related --

3 MR. DENNIS NOLAN: No, I had no
4 knowledge of that.

5 MR. JOHN MATHER: Do you know the
6 source of that bullet point in the presentation?

7 MR. DENNIS NOLAN: No, I do not.

8 MR. JOHN MATHER: If we scroll down,
9 the next bullet point says:

10 "Furthermore, we understand that
11 Collus' Audit and Finance Committee
12 has engaged a consultant to value
13 the Utility in the case of a
14 potential sale."

15 Do you know the source of that bullet
16 point?

17 MR. DENNIS NOLAN: No, I don't.

18 MR. JOHN MATHER: Were you aware in
19 around March 2011 that Collus had engaged a value -- a
20 consultant to do a valuation?

21 MR. DENNIS NOLAN: I don't know if I
22 was aware at that time, but if you're considering
23 selling your utility, it's the prudent thing to. It
24 was no surprise to me. It wouldn't -- it wouldn't
25 have stood out.

1 MR. JOHN MATHER: Would it have
2 surprised you if Collus had done that, that
3 PowerStream would know about it?

4 MR. DENNIS NOLAN: It -- not -- not
5 really. If they were wanting us to -- to find out if
6 -- if we were interested and for them to show that
7 they were serious, again they might tell us that
8 they're taking those steps. I don't see anything
9 wrong with -- with -- that wouldn't surprise me at the
10 time.

11 MR. JOHN MATHER: You -- were you
12 aware of anyone at Collus telling anyone at
13 PowerStream that the value -- a valuation was under
14 way in and around March 2011?

15 MR. DENNIS NOLAN: No, I wouldn't
16 have had any knowledge of that.

17 MR. JOHN MATHER: So can we pull up
18 ALE192?

19

20 (BRIEF PAUSE)

21

22 MR. DENNIS NOLAN: Not directly
23 anyway.

24 MR. JOHN MATHER: When you say not
25 directly, what do you mean?

1 MR. DENNIS NOLAN: Well, I don't know
2 during this time if -- if -- if that -- if -- like I
3 said, I wouldn't be surprised if that was
4 communicated. If they were interested in seeing if we
5 were interested in buying, and I'm just -- I'm just
6 cautious about the -- no one would have communicate
7 that directly to me, but I've -- in reviewing all
8 these documents, you -- you tend to get copied on
9 things that, whether you pay attention to them or not.

10 MR. JOHN MATHER: Fair enough, and I -
11 - and my question was whether you had an independent
12 recollection, and I take it from --

13 MR. DENNIS NOLAN: No. That --

14 MR. JOHN MATHER: -- your answer you
15 do not.

16 MR. DENNIS NOLAN: That's what I --
17 and -- and that's what my answer is, but --

18 MR. JOHN MATHER: So, we've pulled up
19 a document, ALE192. Our understanding is, this is the
20 final engagement letter that was executed on June 7th,
21 2011, between PowerStream and Compenso Communications,
22 which was Mr. Bonwick's company.

23 Is that your understanding?

24 MR. DENNIS NOLAN: Yes. If you could
25 scroll down.

1 MR. JOHN MATHER: Certainly.

2 MR. DENNIS NOLAN: That's the date it
3 was executed, or dated at -- at least.

4 MR. JOHN MATHER: Were you involved in
5 the drafting of Mr. Bon --

6 MR. DENNIS NOLAN: Yes.

7 MR. JOHN MATHER: -- of Compenso
8 retainer? What was your role?

9 MR. DENNIS NOLAN: My role was in --
10 in -- in drafting the -- pardon me -- the retainer.

11 MR. JOHN MATHER: Sorry, did you --
12 did you have the pen, for lack of a better word?

13 MR. DENNIS NOLAN: Yes, for the most
14 part. I mean, there would have been some -- some
15 input from others, what is he going to do for us and
16 conversations about that, but yes, I would have
17 essentially had the pen.

18 MR. JOHN MATHER: And ultimately from
19 the PowerStream side, were you the one who had final
20 sign-off on what was in or was not in the retainer
21 letter?

22 MR. DENNIS NOLAN: Final sign-off? I
23 mean -- I mean, final sign-off would have -- would
24 have been with -- with Mr. Bentz, but, you know, he --
25 he would have wanted to know that I was satisfied with

1 -- with the way that, you know, that we were -- that I
2 was drafting the agreement.

3 MR. JOHN MATHER: If we could scroll
4 up a bit. So -- and then I just want to focus on
5 scope of work. Scroll down.

6 So this sets out the proposed scope of
7 work for Mr. Bonwick:

8 "Identify potential opportunities
9 for purchase, merger, or other
10 business combinations with LDCs,
11 prepare detailed briefings
12 identifying key decision-makers
13 related to a particular
14 opportunity."

15 Scroll down.

16 MR. DENNIS NOLAN: Sorry, I -- I can
17 just see the first two (2) bullet points.

18 MR. JOHN MATHER: Yeah. I asked to
19 scroll down so you can --

20 MR. DENNIS NOLAN: Okay, thank you.

21 MR. JOHN MATHER: -- see the remaining
22 bullet points.

23 "Assist in the preparation of any
24 proposals that PowerStream intends
25 to submit, provide strategic advice

1 relating to communications, assist
2 with any other duties required as it
3 relates to PowerStream's M&A
4 activity."

5 MR. DENNIS NOLAN: Right.

6 MR. JOHN MATHER: This scope of work
7 is worded broadly to capture what sounds like, you
8 know, potential opp -- you know, a variety of
9 potential opportunities that PowerStream may or may
10 not be considering.

11 My question is specifically with
12 respect to Collus. At the time that this was entered,
13 was this your understanding of what the work Mr.
14 Bonwick would be doing with respect to a -- a Collus
15 sale or RFP?

16 MR. DENNIS NOLAN: Yes, generally.

17 MR. JOHN MATHER: When you say --

18 MR. DENNIS NOLAN: As -- as you said,
19 I mean -- if you could scroll up. I mean, there are -
20 - it's -- it's not just specific to Collus, because it
21 -- you know, the first bullet point is, you know,
22 emphasizes:

23 "Identify potential opportunities
24 for the purchase, merger, or other
25 business combinations within -- with

1 LDCs, primarily within PowerStream's
2 geographic footprint or outside of
3 the -- poor drafting -- of the
4 geographic footprint"

5 I should have said,
6 "as specifically authorized by
7 PowerStream."

8 So we had a -- as part of our strategic
9 plan, a geographic footprint where, you know, was --
10 was sort of the focal point, and -- and then we had
11 the concept, well, we'll look at opportunities
12 outside, if they present themselves. For example,
13 London, Ontario, would be outside the geographic
14 footprint, but we had several conversations with --
15 with the folks in London over a period of time.

16 MR. JOHN MATHER: And was Collingwood
17 in the geographic footprint:

18 MR. DENNIS NOLAN: I'm trying to
19 remember whether it was. It was certainly -- I -- I -
20 - I think so because of its proximity to -- to Barrie.
21 I'm not positive but we -- we certainly felt that it
22 was -- you know, it -- it wasn't the -- let's say on
23 the A list of -- of possibilities, but we -- we came
24 to sort of formulate a regional strategy of
25 consolidation in that area, and it did have reasonable

1 proximity to Barrie.

2 MR. JOHN MATHER: What do you mean
3 when you say it wasn't on the A list?

4 MR. DENNIS NOLAN: Well, I mean there
5 -- there -- we were -- you know, if -- if there was
6 opportunities for other contiguous urban utilities to
7 PowerStream and Barrie's footprint, that would be
8 number 1.

9 Number 2 is other areas where -- where
10 we -- where we did have a presence, but we did have a
11 --I apologize, I -- we did have a presence, not just
12 in Barrie, but in other communities that came with the
13 Barrie merger that -- that were in closer proximity to
14 Collingwood.

15 MR. JOHN MATHER: Before Mr. Houghton
16 reached out to Mr. Bentz, which we understand was
17 December 2010, to your recollection was PowerStream
18 considering a potential merger, acquisition, or other
19 opportunity in Collingwood?

20 MR. DENNIS NOLAN: I don't recall it
21 coming up.

22 MR. JOHN MATHER: And sorry, going
23 back to my question about the scope of work, I
24 appreciate that the scope of work is not limited just
25 to Collus or Collingwood, but my question was at this

1 point in time, when you were considering what Mr.
2 Bonwick would be doing with respect to a potential RFP
3 for Collus, was this the scope of work you'd
4 envisioned you'd be doing with respect to Collus?

5 MR. DENNIS NOLAN: Yes. Yes.

6 MR. JOHN MATHER: So if we can scroll
7 down. It says assist in the presentation of any
8 proposals that PowerStream intends to submit.

9 What was meant by "proposals"?

10 MR. DENNIS NOLAN: Presentations,
11 proposals, they could be -- you know, there -- there
12 was -- most utilities were sold sole source, sometimes
13 you had a -- an invitation to come in, sometimes you
14 sort of knocked on the door and ask if -- if you could
15 speak to them. So it could be, you know, a PowerPoint
16 presentation to -- to Council. It could be in support
17 of a meeting with executives at another LDC. It could
18 be in -- in response to, you know, a request.

19 An RFP for an LDC, this is the first
20 time that I'd actually seen it done this way. They
21 weren't very common. I think you've heard that from
22 others as well.

23 MR. JOHN MATHER: I just want to break
24 down part of that.

25 At this point in time do you recall if

1 you knew that an RFP might be what would happen with
2 Collus?

3 MR. DENNIS NOLAN: I'm sorry, what's
4 the question?

5 MR. JOHN MATHER: Let me put it this
6 way. At this point in time, June 7th, 2011, were you
7 aware that Collus may be sold or part of it via RFP?

8 I appreciate it hadn't been finalized
9 yet, but did you know that was an option being
10 considered?

11 MR. DENNIS NOLAN: Yes.

12 MR. JOHN MATHER: Okay. With respect
13 to assisting the preparation of any proposals that
14 PowerStream intends to submit, would that have
15 included any RFP submissions for Collus?

16 MR. DENNIS NOLAN: Yes.

17 MR. JOHN MATHER: But I am interested
18 in what you said, that RFPs were unusual with respect
19 to utilities. Can you expand on what you meant by
20 that?

21 MR. DENNIS NOLAN: Yeah, I don't --
22 like, any of the transactions I was involved with and
23 -- and I didn't know of any others that -- that were
24 by RFP, I think utilities, but I mean Barrie is a good
25 example. It might be viewed as a sole source. We

1 know that the management, after the fact, actually did
2 a strategic planning process and considered their
3 alternatives.

4 But when it came down to it, they
5 approached, identified as PowerStream as the best
6 potential partner and then discussions ensued and it
7 led to that merger.

8 It wasn't a formal RFP process, but
9 they did their due diligence and went through options.

10 MR. JOHN MATHER: Did the fact that an
11 RFP might be a way that Collus decides to proceed, how
12 that that factor into your considerations or
13 PowerStream's considerations about whether or not to
14 retain Mr. Bonwick?

15 MR. DENNIS NOLAN: Well, I think --I
16 don't know if it -- to me it -- it probably would have
17 helped reinforce that you're -- you're going to be in
18 an competitive process for this and to have that --
19 that feedback about community sensitivities and things
20 that we might constructively include in our proposal.

21 And again, getting the feedback of
22 whether -- and you know, just -- whether there was a
23 faction on is -- on Council. In mergers that I've
24 been involved with, there -- there were a couple of
25 times where there were factions on Councils that were

1 strongly opposed.

2 So knowing, you know, that and -- and
3 knowing that those views exist would be helpful.

4 MR. JOHN MATHER: So, moving beyond
5 the scope of work, the next section is called
6 "methodology and deliverables", and then it says:

7 "While executing this retainer, CCI
8 and Bonwick will undertake the
9 following"

10 And it sets out things that it's
11 contemplated that Compenso and Mr. Bonwick would do.
12 Under the heading Build the Case and Enhanced Profile,
13 it says"

14 "Ensure key decision makers have
15 clear access to relevant information
16 to move forward in a positive
17 manner."

18 What was your understanding of what
19 that meant?

20 MR. DENNIS NOLAN: Hard for me to say
21 right now, thinking back. But I don't know, it -- it
22 could mean that they have access to information about
23 what PowerStream was all about, for example. Culture
24 of PowerStream could be our sort of environmental
25 activities, it could be community engagement, support,

1 that sort of thing.

2 MR. JOHN MATHER: Did you contemplate
3 who the key decision-makers would be?

4 MR. DENNIS NOLAN: I did not.

5 MR. JOHN MATHER: With respect to
6 Collingwood and Collus, did you consider whether or
7 not a key decision-maker would be the Mayor?

8 MR. DENNIS NOLAN: I mean, the key
9 decision-makers are obviously the Mayor and members of
10 -- of Council, they're the ones that have to approve
11 this, so, yes.

12 MR. JOHN MATHER: Then if we go to the
13 next heading under this section it says "develops
14 personalized contact program" and it says in the
15 second bullet:

16 "Seek out internal government
17 champions to help position and
18 advocate for the initiative."

19 What did you understand an internal
20 government champion to be?

21 MR. DENNIS NOLAN: It could be a
22 member of Council that -- that was in favour of
23 consolidation. I mean, looking at it now I -- at the
24 time I don't think I really gave it much -- much
25 thought.

1 These -- these were not words that I
2 came up with, but they were incorporated into the
3 contract, but I think that's an obvious one.

4 MR. JOHN MATHER: Do you know who came
5 up with these words?

6 MR. DENNIS NOLAN: No, I don't know if
7 this was -- if this was some suggested wording by Mr.
8 Bonwick or if this was exactly where this input came
9 from.

10 MR. JOHN MATHER: Did you contemplate
11 at the time that based on the sentence Mr. Bonwick
12 would be seeking to find individuals on the
13 Collingwood Council who would be -- advocate for
14 consolidation or a merge or an acquisition?

15 MR. DENNIS NOLAN: To -- to -- sure.
16 To -- to have that -- those conversations and -- and
17 to, you know, to educate as to the -- the -- the
18 opportunities for that consolidation, you know, was --
19 was happening and -- and you know, what the
20 appropriate responses be for that and championing
21 that, yes.

22 MR. JOHN MATHER: Was one of the
23 potential champions that -- to use those words, but
24 was one of those individuals you were contemplating
25 the Mayor?

1 MR. DENNIS NOLAN: Not -- not
2 specifically, but obviously a -- you know, would fall
3 into that category, I guess.

4 MR. JOHN MATHER: Was there any
5 conversation at this time when the retainers being
6 drafted and finalized in considering what Mr. Bonwick
7 will be doing about delineating contacts or -- or
8 contacts he may make with members of Council and then
9 contacts he may make with the Mayor, identifying a
10 difference about how he should approach certain
11 individuals as opposed to his sister?

12 MR. DENNIS NOLAN: I certainly wasn't
13 privy to any such discussion.

14 MR. JOHN MATHER: So as far as you
15 were aware, that wasn't -- there was no consideration
16 --

17 MR. DENNIS NOLAN: I don't know if --
18 if that discussion was had with -- with others. I
19 wasn't the primary contact with Mr. Bonwick.

20 MR. JOHN MATHER: So if we scroll
21 down, the next heading, issue monitoring, and it says:
22 "CCI is in constant contact with the
23 Municipal government leaders, and as
24 such is able to monitor and report
25 and changes or opportunities that

1 may arise."

2 At the time the -- and engagement was
3 signed in June 2011, did you know which government
4 leaders Mr. Bonwick was in constant contact with?

5 MR. DENNIS NOLAN: No, I think it was
6 a -- a general statement as -- as to his, I guess
7 connections in -- in the community, not just
8 Collingwood.

9 MR. JOHN MATHER: Were there any
10 concerns at the time that Mr. Bonwick might be in
11 contact with his sister and the information he may get
12 from her could be confidential in nature?

13 MR. DENNIS NOLAN: No.

14 MR. JOHN MATHER: Do you remember any
15 conversations or were there any conversations about
16 potential concerns that Mr. Bonwick might have undue
17 influence over his sister, the mayor, if he -- in his
18 capacity as a PowerStream consultant?

19 MR. DENNIS NOLAN: No.

20 MR. JOHN MATHER: So, is it fair to
21 say that was just an area that wasn't considered by --
22 to your knowledge, by PowerStream?

23 MR. DENNIS NOLAN: Well, I -- I mean,
24 the assumption she -- she was the mayor then -- and --
25 and he wasn't. So, you know, she was elected as mayor

1 and -- and we gave her the due respect that she was --
2 deserved for having that position, so, no, I don't --
3 I don't think that was the focus.

4 MR. JOHN MATHER: You talked about
5 optics in terms of conflict of interest or perceived
6 conflict of interest. Other than -- other than that,
7 were there any other optic concerns you had with
8 respect to retaining Compenso and Mr. Bonwick?

9 MR. DENNIS NOLAN: Well, you know, I -
10 - I remained concerned about the -- the appearance of
11 conflict.

12 MR. JOHN MATHER: And you said that
13 was addressed by disclosure. And --

14 MR. DENNIS NOLAN: That's the way --
15 that's the way I -- I tried to address it. And that
16 was something that was certainly reinforced by -- by
17 our board of directors, in particular, the mayor and
18 my CEO.

19 MR. JOHN MATHER: Was it addressed in
20 any other way?

21 MR. DENNIS NOLAN: I'm not sure.

22 MR. JOHN MATHER: Well, other than the
23 disclosure requirements of the retainer, which we'll
24 get to, was there anything else done to, in your view,
25 address the po -- the pers -- potential perceived

1 conflict of interest?

2 MR. DENNIS NOLAN: No, other than what
3 I already said in terms of the further disclosure
4 beyond what was required in the contract.

5 MR. JOHN MATHER: And if we could
6 scroll down. So, the last heading under,
7 "Deliverables and methodology," is, "Tactical
8 recommendations," that says:

9 "Throughout the process, we will
10 provide PowerStream with an
11 identified contact list and detailed
12 verbal brief of tactics and
13 recommended approaches."

14 What did you understand a verbal brief
15 of tactics to mean?

16 MR. DENNIS NOLAN: That -- that he
17 would report regularly. I think it's essentially
18 that.

19 MR. JOHN MATHER: Well, was it -- was
20 your understanding that PowerStream wanted to receive
21 reports verbally as opposed to in writing?

22 MR. DENNIS NOLAN: I don't know that
23 that was -- anything was purposeful in -- in use of
24 verbal as opposed to in writing. I -- I don't know.

25 MR. JOHN MATHER: Going forward, did

1 you develop an understanding of whether Mr. Bonwick
2 delivered his reports verbally, as this contemplates?

3 MR. DENNIS NOLAN: I be -- I believe
4 there was -- there was probably lots of verbal
5 conversations with Mr. Bonwick as well as by -- by
6 email.

7 MR. JOHN MATHER: So, he communicated
8 both written and orally when --

9 MR. DENNIS NOLAN: Yeah, in the normal
10 way one might communicate when you're conducting an
11 engagement that's dynamic.

12 MR. JOHN MATHER: So, if we can scroll
13 down. The next section I want to ask you about is the
14 disclosure section.

15 MR. DENNIS NOLAN: Yes.

16 MR. JOHN MATHER: And I understand
17 from your earlier answers that parts of this retainer
18 letter you didn't draft or were other people's words.
19 This section -- did you draft the disclosure section?

20 MR. DENNIS NOLAN: Yes, with
21 assistance of outside counsel.

22 MR. FREDERICK CHENOWETH: I'm sorry, I
23 didn't hear that.

24 MR. JOHN MATHER: I believe he said
25 with assistance of outside counsel.

1 CONTINUED BY MR. JOHN MATHER:

2 MR. JOHN MATHER: So, it says:

3 "Bonwick agrees to make all
4 necessary and prudent disclosure of
5 his, CCI's, engagement with
6 PowerStream."

7 At a high level, what did you
8 understand, "necessary and prudent disclosures," to
9 be?

10

11 (BRIEF PAUSE)

12

13 MR. DENNIS NOLAN: Well, "necessary,"
14 you know, would be as required by law, even though it
15 doesn't -- and it goes on. I think we cover that off
16 later. "Prudent," where it's appropriate. And, you
17 know, he showed that he felt it appropriate to have
18 broader disclosure, so that was -- that was met.

19 For ex -- if it became -- if it became
20 an issue in a situation, then we would disclose.

21 MR. JOHN MATHER: Did you have
22 specific situations contemplated when you --

23 MR. DENNIS NOLAN: Well, it would be -
24 - remember this thing was not just about Collus. So,
25 it -- prudent, you know, disclosures, thi -- this is

1 meant to be responsive to a number of situations that
2 have not yet developed.

3 MR. JOHN MATHER: In your mind, whose
4 obligation was it to identify when it was necessary or
5 prudent to make disclosure?

6 MR. DENNIS NOLAN: It was his pri --
7 primary obligation to ensure that proper disclosures
8 have -- have been made. But, obviously, if -- if we
9 were -- there would be no -- I mean, when you loo --
10 when you look at outside of -- of Collingwood, if we
11 were looking at other, you know, acquisitions and he
12 was involved, obviously, the confli -- the appearance
13 of conflict of being the mayor's brother doesn't apply
14 whatsoever, but there may be other requirements in the
15 -- in the circumstances, and it may be because a
16 municipality has a requirement that anyone acting as a
17 consultant in this capacity has -- that has to be
18 disclosed.

19 I -- I'm just making that up. But, you
20 know, it was -- it was meant to be more encompassing
21 than just dealing with the Collus situation.

22 MR. JOHN MATHER: Then the next
23 sentence says:

24 "Any such disclosure shall be
25 discussed and authorized by

1 PowerStream in advance."

2 MR. DENNIS NOLAN: M-hm.

3 MR. JOHN MATHER: What was meant by
4 that?

5 MR. DENNIS NOLAN: Exactly what it
6 says.

7 MR. JOHN MATHER: So -- and can you
8 walk me through what was being contemplated. Would
9 Mr. Bonwick have to come to PowerStream before he
10 could make any disclosures?

11 MR. DENNIS NOLAN: Well, we would want
12 to be informed of -- of what he was doing. And if he
13 thought disclosure needed to be made -- and -- and so
14 that we could have -- that we would have knowledge of
15 it.

16 We obviously didn't want a -- you know,
17 a consultant, you know, disclosing the contract that
18 you've entered into without being informed.

19 MR. JOHN MATHER: So, I appreciate
20 what you're saying there is that PowerStream wanted to
21 be informed if Mr. Bonwick --

22 MR. DENNIS NOLAN: Yeah.

23 MR. JOHN MATHER: -- was disclosing
24 the nature of his contract.

25 MR. DENNIS NOLAN: Right.

1 MR. JOHN MATHER: This says,
2 "Authorized." Could Mr. Bonwick disclose the nature
3 of his conflict -- sorry, his contract or his retainer
4 if -- unless -- if he didn't receive any form of
5 authorization from PowerStream?

6 Was that a condition precedent?

7 MR. DENNIS NOLAN: It contemplated
8 that we would know about it and agree to it.

9 MR. JOHN MATHER: Other than what's
10 set out in the retainer, do you recall having any
11 conversations with Mr. Bonwick about the terms on
12 which he could or could not disclose his retainer with
13 PowerStream?

14 MR. DENNIS NOLAN: I did not.

15 MR. JOHN MATHER: Are you aware of
16 anyone else at PowerStream having conversations with
17 him about that?

18 MR. DENNIS NOLAN: I'm not aware --

19 MR. JOHN MATHER: Okay.

20 MR. DENNIS NOLAN: -- other -- other
21 than as I said, the -- the broader disclosure beyond
22 the requirement here to -- to the mayor and clerk
23 through -- through the meeting that was arranged.

24 MR. JOHN MATHER: And I have -- that's
25 where my next set of questions are. So, this

1 contemplates that Mr. -- that disclosure will happen
2 going forward. But this specifically says:

3 "With respect to any authorized
4 activity on behalf of PowerStream
5 relating to Collus Power, Bonwick
6 represents and warns that he has
7 disclosed the scope of his services
8 and his retainer by PowerStream to
9 the mayor and clerk of Town of
10 Collingwood and shall provide
11 written evidence of such disclosure
12 to PowerStream
13 Further, with respect to Collus
14 Power, CCI shall, after consulting
15 with PowerStream, make any
16 additional disclosure or disclosures
17 that may be prudent or required by
18 applicable law during the course of
19 this engagement or any extension
20 thereof."

21 Do you recall why in the initial
22 retainer letter the mayor and the clerk were
23 identified of the -- as the individuals to whom Mr.
24 Bonwick needed to make disclosure?

25 MR. DENNIS NOLAN: It -- it seemed

1 appropriate. 1, the mayor, because of the fact that
2 she is the mayor, and -- and the clerk, that that
3 position is -- is one (1) that you would normally make
4 a disclosure to.

5 If -- it might have been different
6 if -- if there was a -- you know, another position.
7 But it just -- it seemed appropriate that it be not
8 just to the -- to the mayor but also to the -- to the
9 town clerk.

10 MR. JOHN MATHER: Do you know who
11 selected the mayor and the clerk as the individuals to
12 whom the disclosure would need to be made?

13 MR. DENNIS NOLAN: Like I said, it
14 seemed like the -- the appropriate disclosure to a
15 municipality that it be to the mayor and the clerk.

16 I don't know if those were my words or
17 words that arrived at with -- with Gowlings. It --
18 I -- you know, there's -- there's no one that told me.
19 Just, you know, make sure that it's the mayor and --
20 and the town clerk seems appropriate.

21 MR. JOHN MATHER: At the time this
22 retainer was entered into, did you know that
23 Mr. Bonwick had already spoken with the mayor and the
24 clerk about his potential retainer with PowerStream?

25 MR. DENNIS NOLAN: Sorry. When -- at

1 the time when --

2 MR. JOHN MATHER: Yeah.

3 MR. DENNIS NOLAN: -- we entered into?

4 Yes.

5 MR. JOHN MATHER: Okay. What did you
6 know about those conversations?

7 MR. DENNIS NOLAN: Well, at first
8 there was disclosure to -- I knew of disclosure to the
9 mayor. And -- and I -- I remember along the piece
10 before we finalized this that that wasn't the kind of
11 disclosure that -- that we talked about. It was also
12 to the town clerk and then became satisfied sometime
13 before we executed this.

14 I mean, we held off, I think, executing
15 this earlier because we weren't satisfied with the
16 disclosure had it -- had taken place yet to satisfy
17 this condition.

18 MR. JOHN MATHER: And you weren't
19 satisfied the disclosure had taken place to the mayor,
20 to the clerk, or to both of them?

21 MR. DENNIS NOLAN: I -- as best I -- I
22 can recollect, I think it was -- it was mainly the
23 clerk.

24 MR. JOHN MATHER: Can we pull up
25 ALE175? And before we pull that up, what do you

1 recall about the dissatisfaction in terms of
2 disclosure to the clerk?

3 MR. DENNIS NOLAN: No. I -- that I
4 just hadn't seen evidence of it. I wasn't -- I wasn't
5 going to -- I didn't think it had been satisfied yet
6 when we were initially, you know, basically had the
7 agreement.

8 I -- I understood that it -- my
9 understanding is that it was supposed to have happened
10 or going to happen, but I hadn't seen evidence of it.

11 MR. JOHN MATHER: So if we could pull
12 up -- and I take it, did you eventually see evidence
13 of that?

14 MR. DENNIS NOLAN: I was satisfied --
15 yes -- that that disclosure had been made to the
16 clerk, and it was represented to me that it had.

17 MR. JOHN MATHER: How was it
18 represented to you?

19 MR. DENNIS NOLAN: Through
20 communication from Mr. Bonwick.

21 MR. JOHN MATHER: Did he send you the
22 written evidence that's contemplated by the retainer
23 agreement?

24 MR. DENNIS NOLAN: There were emails
25 that I think are in -- in the -- in the documents

1 that -- where he confirms and copies Clerk Almas about
2 the disclosure and -- and represented to us that it
3 was complete disclosure.

4 MR. JOHN MATHER: So if we could pull
5 up ALE175.

6
7 (BRIEF PAUSE)

8
9 MR. JOHN MATHER: I appreciate you're
10 not copied on this email, Mr. Nolan, but is this the
11 email correspondence you were referring to?

12 MR. DENNIS NOLAN: Just give me a
13 moment, please.

14 MR. JOHN MATHER: Yeah.

15
16 (BRIEF PAUSE)

17
18 MR. DENNIS NOLAN: Yeah. I believe so.
19 I'm not sure if this was the only email where -- where
20 this was addressed.

21 MR. JOHN MATHER: This is -- as we
22 understand it, there was previous forwarding of
23 certain communications with the clerk, but this is, as
24 we understand it, the last communication that's sent
25 to Mr. Bentz and Mr. Glicksman in terms of

1 communications with the clerk.

2 Are you aware of any communications
3 after this that were provided for the purposes of the
4 retainer?

5 MR. DENNIS NOLAN: So you say that
6 there was communications along this line before.

7 MR. JOHN MATHER: The documents
8 reflect that there was -- that Mr. Bonwick was in
9 contact with the clerk as -- in January and up until
10 June 2011 with respect to the Municipal Conflict of
11 Interest Act. This is dated June 2nd, 2011.

12 Are you aware of any written evidence
13 that Mr. Bonwick provided you after this date in
14 relation to disclosure to the clerk of the Town of
15 Collingwood about his retainer?

16 MR. DENNIS NOLAN: I just -- sorry --
17 I just want to be careful because I don't have a -- as
18 much as I've -- I've reviewed numerous documents, I
19 don't have a photographic memory about the date
20 sequence of -- of those.

21 But I do recall seeing other emails,
22 and I'm not sure if they predated or were after this
23 that reinforced the -- the essence of the same message
24 as contained in this email.

25 MR. JOHN MATHER: Okay. So I take it

1 then that you don't have an independent recollection
2 of whether there was another communication after this.

3 MR. DENNIS NOLAN: Not without look --
4 review -- reviewing the -- the documents, no.

5 MR. JOHN MATHER: Well, just looking
6 at this email for right now, it says, "Hi, Brian and
7 John" who were at PowerStream:

8 "I had the opportunity to meet with
9 the clerk of Town of Collingwood,
10 Ms. Sara Almas, this morning.
11 During this meeting, I described the
12 services my company would be
13 providing to PowerStream throughout
14 the region, as well as specific to
15 Collingwood."

16 And then it goes on to say:

17 "Ms. Almas was kind enough to offer
18 her interpretation (opinion) of the
19 provincial Conflict of Interest
20 Act."

21 And it goes on from there.

22 MR. DENNIS NOLAN: M-hm.

23 MR. JOHN MATHER: It wasn't clear to
24 me. Do you recall at the time being provided with a
25 copy of this email?

1 MR. DENNIS NOLAN: I'm -- I'm pretty
2 sure that I was in terms of the green light for us
3 entering into the agreement. I -- I recall other --
4 seeing other correspondence, and it might have been
5 from -- from Glicksman telling Mr. Bonwick.

6 And -- and so this is where I'm having
7 a little difficulty -- sorry -- remembering the exact
8 time sequences. So I'll just describe that
9 communication because I have reviewed that, and I do
10 remember that because I remember telling
11 Mr. Glicksman --

12 MR. JOHN MATHER: Oh, just tell me
13 what you recall in --

14 MR. DENNIS NOLAN: -- before -- before
15 this that that disclosure was inadequate. Okay?

16 And then after that, Mr. Glicksman,
17 with -- after that, he sent a communication to
18 Mr. Bonwick basically reinforcing that the disclosure
19 wasn't adequate. So I assume this came after that.

20 MR. JOHN MATHER: So our
21 understanding, this did come after that.

22 MR. DENNIS NOLAN: Okay. Then
23 after -- sorry -- to answer -- sorry to take so long.
24 So to answer your question, am I aware of anything
25 after this? No, other than the disclosure that took

1 place -- that I understood took place in a -- in a
2 subsequent meeting.

3 MR. JOHN MATHER: Is that the
4 June 29th --

5 MR. DENNIS NOLAN: Correct.

6 MR. JOHN MATHER: -- meeting with --

7 MR. DENNIS NOLAN: I'm sorry. Yeah.

8 MR. JOHN MATHER: -- the CAO and
9 Mr. Bentz?

10 MR. DENNIS NOLAN: Yes.

11 MR. JOHN MATHER: And just for the
12 benefit of the court reporter, just wait till I'm
13 finished saying my questions before you answer,
14 otherwise it gets cross talk.

15 MR. DENNIS NOLAN: I -- I apologize.
16 Yes.

17 MR. JOHN MATHER: So I take it then
18 from your answer that you understood this disclosure
19 to be adequate?

20 MR. DENNIS NOLAN: Yes. Yes. And --
21 and I think -- at the time also, I was aware that this
22 other meeting was supposed to be taking place.

23 MR. JOHN MATHER: The retainer that we
24 were looking at contemplated written evidence of
25 disclosure. In your mind, did this satisfy the

1 written evidence that was required by the retainer
2 letter?

3 MR. DENNIS NOLAN: It wasn't perfect,
4 but since she -- Clerk Almas was copied on it and --
5 and there was no -- you know, no indication that --
6 you know, that there was anything untoward with what
7 was -- what was said here that it was inaccurate.

8 And the fact that Mr. Bonwick had
9 actually recommended a further meeting, that meeting
10 on the -- on the 29th -- he put that all together, and
11 then we were satisfied.

12 MR. JOHN MATHER: So it's my
13 understanding that the meeting on the 29th occurred
14 after the retainer letter was signed, so I take --

15 MR. DENNIS NOLAN: That's correct.

16 MR. JOHN MATHER: -- I take it this
17 was satisfactory for -- to proceed with the retainer
18 letter.

19 MR. DENNIS NOLAN: That's correct,
20 yeah.

21 MR. JOHN MATHER: And you said this
22 wasn't perfect. What wasn't perfect about it?

23 MR. DENNIS NOLAN: Well, I -- I think
24 it -- I think it was adequate. I mean, is it -- yeah.

25 MR. JOHN MATHER: What -- is there

1 anything that you see lacking in this email?

2 MR. DENNIS NOLAN: Well, you know, of
3 course, you -- you could have had, you know, a written
4 confirmation, you know, by Almas that -- that
5 confirmed the -- the full scope of services or
6 something like that.

7 But this represented to us that
8 Mr. Bonwick described his -- the -- the services that
9 he would be providing, and he had an obligation to do
10 that under the disclosure provision, so it was
11 adequate.

12 MR. JOHN MATHER: This email
13 contemplates that Mr. Bonwick described the services
14 he was providing to Ms. Almas. Do you know what
15 Mr. Bonwick said about those services in his meeting
16 with Ms. Almas?

17 MR. DENNIS NOLAN: I wasn't there. So
18 no, I have no knowledge of that.

19 MR. JOHN MATHER: Did Mr. Bonwick
20 provide you or anyone with Power -- or anyone at
21 PowerStream with more detail than what's reflected in
22 his email about what was disclosed to Ms. Almas?

23 MR. DENNIS NOLAN: Not to me.

24 MR. JOHN MATHER: Did you or anyone at
25 PowerStream, to your knowledge, follow up with

1 Mr. Bonwick about what was disclosed?

2 MR. DENNIS NOLAN: I -- I really --

3 I -- I can't say.

4 MR. JOHN MATHER: If you could pull up
5 paragraph 197 of the Foundation Document.

6

7 (BRIEF PAUSE)

8

9 MR. JOHN MATHER: So this paragraph
10 describes a letter that Mayor Cooper sent Brian Bentz
11 on June 2nd, 2011. Were you aware that Mr. Bentz
12 received this letter on or about that date?

13 MR. DENNIS NOLAN: Yes.

14 MR. JOHN MATHER: Was this letter the
15 written evidence that is contemplated in the retainer
16 agreement about Mr. Bonwick providing written evidence
17 of disclosures to the mayor of his potential retainer
18 with PowerStream?

19 MR. DENNIS NOLAN: Yes.

20 MR. JOHN MATHER: Is there any other
21 written evidence that you are aware of for the
22 purposes of that part of the retainer letter?

23 MR. DENNIS NOLAN: No.

24 MR. JOHN MATHER: So in this letter
25 Mayor Cooper writes:

1 "My brother Paul Bonwick recently
2 brought -- brought to my attention
3 that he has submitted a proposal to
4 provide services to PowerStream.
5 Paul has described the potential
6 services his company will be
7 providing to include, but not
8 limited to, strategic advice in
9 matters related to public relations,
10 strategic planning, acquisitions and
11 media relations."

12 Are you aware -- other than what's set
13 out in the letter, are you aware of what Mr. Bonwick
14 described to Ms. Cooper about the services he'd be
15 providing to PowerStream?

16 MR. DENNIS NOLAN: No. No but, you
17 know, it says -- it -- I mean, it's fairly broadly
18 described: public relations, strategic planning,
19 acquisitions which was certainly what we're talking
20 about and also highlights that it could relate to the
21 Town of Collingwood.

22 MR. JOHN MATHER: So I take it from
23 your answer at the time you thought this -- the
24 language in this letter was a fair representation
25 about what was contemplated Mr. Bonwick would be doing

1 for PowerStream?

2 MR. DENNIS NOLAN: Yes. I mean, it
3 highlights that it could relate to -- to, you know, in
4 his words, certain conditions unfolding in the coming
5 months. I think that was obviously a reference to --
6 to the RFP without stating that in the letter.

7 MR. JOHN MATHER: So that was your
8 understanding of certain conditions unfolding in the
9 com -- coming months?

10 MR. DENNIS NOLAN: Well, I look at it
11 now, yes.

12 MR. JOHN MATHER: Do you remember what
13 your understanding was at the time?

14 MR. DENNIS NOLAN: Yes. I'm -- I -- I
15 -- I believe so. I mean, I was satisfied that she
16 understood the nature of the retainer.

17 MR. JOHN MATHER: Other than the
18 sentence that says:

19 "...the circumstances unfolding in
20 the coming months."

21 Are you aware of Mr. Bonwick at any
22 other point in time advising Mayor Cooper that he
23 might be involved in an RFP if one proceeds, or he
24 will be assisting in the RFP if one proceeds?

25 MR. DENNIS NOLAN: No. There's no

1 reason that I would know that, but it doesn't mean
2 that -- I -- you know, that may have happened but no,
3 I -- I don't have any personal knowledge, so.

4 MR. JOHN MATHER: Were you concerned
5 at all that the language of certain conditions
6 unfolding in the coming months was not very clear as
7 to what Mayor Cooper meant?

8 MR. DENNIS NOLAN: No. I wasn't
9 concerned at the time.

10 MR. JOHN MATHER: The Foundation
11 Document reflects that Mr. Bonwick did the first draft
12 of this letter.

13 Were you aware of that at the time?

14 MR. DENNIS NOLAN: I don't believe so.
15 I -- I've seen that in reviewing the documents but I
16 can't say at the time. I don't think so. I remember
17 seeing the -- the letter from the Mayor. That's what
18 I remember.

19 MR. JOHN MATHER: So some of the
20 details that we saw in the retainer letter about what
21 Mr. Bonwick would be doing. So, for instance, you
22 know, ensuring key decision-makers have access to
23 clear and relevant information, you know, seeking out
24 of government champions, internal government
25 champions, being in constant contact with municipal

1 and government leaders. That's not reflected in this
2 letter.

3 Did that cause you any concern at the
4 time?

5 MR. DENNIS NOLAN: No. It was -- did
6 not occur to me to be a concern at the time.

7 MR. JOHN MATHER: Why not?

8 MR. DENNIS NOLAN: It's easy to go
9 pick apart this, you know, years and years later and
10 to say why didn't you think of this, why didn't you
11 think of that. I did not think of that at the time.

12 MR. JOHN MATHER: Were you comforted
13 that Mayor Cooper understood that Ms. -- that the
14 retainer letter contemplated Mr. Bonwick being in
15 contact with municipal leaders respecting a potential
16 sale of Collus on behalf of a potential partner or
17 acquirer?

18 MR. DENNIS NOLAN: I apologize. Could
19 you repeat that?

20 MR. JOHN MATHER: Let me put it this
21 way: I -- I take it from your answers that you were
22 satisfied that -- you said one of your primary
23 concerns was disclosure, including to the Mayor.

24 I take from your answers you were
25 satisfied that this adequately -- this adequately

1 reflected that the Mayor knew --

2 MR. DENNIS NOLAN: Right.

3 MR. JOHN MATHER: -- to a level of
4 specificity what Mr. Bonwick was doing?

5 MR. DENNIS NOLAN: Right. And your
6 point is that it didn't disclose everything that was
7 in the contract because the contract wasn't attached
8 to this, saying I agree that my -- you know, that this
9 is the nature of the engagement. It attempts to
10 paraphrase, I think fairly well, the nature of the
11 engagement.

12 MR. JOHN MATHER: One of -- we've
13 heard evidence that the enquiry from Ms. Almas and
14 Mayor Cooper regarding what they understood at the
15 time about what Mr. Bonwick would be doing for
16 PowerStream in connection with the correspondence
17 we've been looking at --

18 Ms. Almas' recollection was that at the
19 meeting Mr. Bonwick disclosed to her that he was going
20 to be doing public relations and community outreach,
21 and she specifically said she did not understand that
22 Mr. Bonwick would have a role in mergers -- any
23 potential mergers and acquisitions.

24 Similarly, Ms. Cooper said her
25 understanding was that Mr. Bonwick would be doing

1 public relations and communications advice and that
2 she did not understand acquisitions in the letter --
3 she didn't understand what that meant.

4 Do you have any reaction to that?

5 MR. DENNIS NOLAN: My -- my reaction
6 is that we -- we were led to believe that he provided
7 full disclosure, including what -- in particular,
8 definitely the -- the work with respect to
9 acquisitions, and that there could be work related to
10 a possible RFP, in particular that he made that
11 disclosure to the clerk. That was my understanding at
12 the time.

13 MR. JOHN MATHER: So you understood at
14 the time that he had made -- specifically disclosed to
15 --

16 MR. DENNIS NOLAN: That's the way it
17 was represented to us. I had no reason to believe
18 otherwise.

19 MR. JOHN MATHER: Who represented that
20 to you?

21 MR. DENNIS NOLAN: Mr. Bonwick.

22 MR. JOHN MATHER: And other than the
23 email and the letter we looked at, did he represent it
24 to you in any other way?

25 MR. DENNIS NOLAN: No, not that I can

1 recall.

2 MR. JOHN MATHER: So, if we could go
3 back to ALE192.

4

5 (BRIEF PAUSE)

6

7 MR. JOHN MATHER: And I think it's the
8 third or fourth page, but back to the disclosures
9 provision.

10

11 (BRIEF PAUSE)

12

13 MR. JOHN MATHER: We've already looked
14 at this, but it specifically contemplates disclosure
15 to the Mayor and to the Clerk.

16 MR. DENNIS NOLAN: M-hm.

17 MR. JOHN MATHER: And then it says:

18 "Further with respect to Collus
19 Power, CCI shall, after consulting
20 with PowerStream, make additional
21 disclosures that may be prudent or
22 required by applicable law during
23 the course of this engagement."

24 You've mentioned already the meeting on
25 June 29th with the CAO, the Deputy Mayor, Mr. Bentz,

1 and others, and it's my understanding you were not at
2 that meeting.

3 MR. DENNIS NOLAN: That's correct.

4 MR. JOHN MATHER: Other than that
5 meeting, are you aware of any other additional
6 disclosures that were -- were undertaken or that were
7 done after June 29th, 2011?

8 MR. DENNIS NOLAN: I'm not aware.

9 MR. JOHN MATHER: Do you recall if
10 there was any -- ever any discussions within
11 PowerStream about whether or not additional
12 disclosures would be prudent or necessary at any point
13 in time?

14 MR. DENNIS NOLAN: I'm not aware of
15 any other discussions.

16 MR. JOHN MATHER: Were you aware of
17 any discussions with Mr. Bonwick about whether, as the
18 RFP progressed or the -- the contemplation of an RFP
19 progressed, whether further disclosures needed to be
20 made?

21 MR. DENNIS NOLAN: No, I'm not aware
22 of any.

23 MR. JOHN MATHER: So, if we can keep
24 scrolling down in the retainer agreement. Keep
25 scrolling down.

1 So this is -- and I can take you back
2 if you need to see it, but there's a section of the
3 retainer agreement that talks about confidentiality,
4 and it says -- and it refers to this non-disclosure
5 agreement.

6 Do you recall why this non-disclosure
7 agreement was con -- contained as part of the retainer
8 agreement?

9 MR. DENNIS NOLAN: Yeah. It was --
10 simply normal practice if you -- there was nothing --
11 this was, you know, a -- a fairly simple non-
12 disclosure agreement, and it was, you know, -- it was
13 customary for us, and I think other companies, when
14 engaging a consultant, and it may be, you know,
15 someone like -- even like, say KPMG if they were doing
16 non-audit work, if they were working on a -- on a
17 project, they would enter into a NDA.

18 It was -- it was something that we did
19 all the time, and so if he was going to be privy to
20 any confidential or strategic discussions, and that
21 was the purpose of -- of appending this and having
22 execute.

23 MR. JOHN MATHER: What sorts of
24 information did you understand the NDA to cover?

25 MR. DENNIS NOLAN: It -- as I said, it

1 was put there as a matter of course. I mean, it
2 wasn't -- you know, it could be financial information.
3 I mean, it was not there thinking, well, you know, I
4 know he's going to be exposed to X, Y, Z particularly,
5 but it was just put there as -- as a prudent thing to
6 do, and it wasn't done there, in particular because of
7 Mr. Bonwick's engagement. This was more or less
8 normal practice.

9 MR. JOHN MATHER: So you said
10 financial information. Whose financial information?

11 MR. DENNIS NOLAN: Powerstream's.

12 MR. JOHN MATHER: Is it -- is it fair
13 to say that the information that's being contemplated
14 here is proprietary or sensitive PowerStream
15 information?

16 MR. DENNIS NOLAN: That would
17 certainly fall into that category of confidential
18 information.

19 MR. JOHN MATHER: Did you understand
20 this to contemplate any information that wasn't
21 PowerStream's information?

22 MR. DENNIS NOLAN: No. I don't think
23 that was the purpose.

24 MR. JOHN MATHER: As you understood
25 it, was there anything in the non-disclosure agreement

1 that would limit what Mr. Bonwick could disclose about
2 his retainer with PowerStream to anyone?

3 MR. DENNIS NOLAN: No. Other -- no.
4 I think that that -- the only limit on that was the
5 language that you've already taken me through in the -
6 - in the disclosure section of the agreement.

7 MR. JOHN MATHER: And that's the
8 language we saw about, prior to --

9 MR. DENNIS NOLAN: Right.

10 MR. JOHN MATHER: -- disclosing his
11 retainer.

12 MR. DENNIS NOLAN: Being -- being
13 consulted and -- and being -- having it approved.

14 MR. JOHN MATHER: Are you aware at any
15 point after this retainer letter was signed, up until
16 the closing of the transaction on July 31st, 2012,
17 that Mr. Bonwick approached PowerStream requesting to
18 make disclosure of his retainer to anyone?

19 MR. DENNIS NOLAN: Sorry. After --

20 MR. JOHN MATHER: So after the
21 retainer was signed on June 7th, 2011, until the
22 closing of the transaction in July 2012, so a year and
23 a bit later, during that whole time period of the RFP,
24 the negotiations, things of that nature.

25 MR. DENNIS NOLAN: Did it -- with the

1 exception of the disclosure that took place on the
2 June 29th meeting --

3 MR. JOHN MATHER: Yes. With the
4 exception of the disclose that took place on June
5 29th.

6 MR. DENNIS NOLAN: No.

7 MR. JOHN MATHER: Okay. As you were
8 contemplating the retainer and the disclosure
9 requirements and other, you know, generally
10 considering conflict of issue concerns, did you at any
11 point consider what was the implication of Mr. Bonwick
12 being the brother of a director of Collus, and his
13 sister had both those roles?

14 MR. DENNIS NOLAN: To be honest, no.
15 I'm not sure that was front and centre for me at the -
16 - at the time.

17 MR. JOHN MATHER: Fair enough. And a
18 question I should have asked is whether or not you
19 knew that Mayor Cooper was also a director of Collus
20 at the time.

21 MR. DENNIS NOLAN: No, but I'm not
22 overly surprised that -- that -- that she may be, so.

23 MR. JOHN MATHER: Do you know why that
24 wasn't something you considered? I appreciate that's
25 a bit of a strange question, but --

1 MR. DENNIS NOLAN: No, it isn't -- it
2 isn't a strange question. I think it's a perfectly
3 reasonable question.

4 I just -- I think, you know, that the
5 main concern was of disclosure to Council. I mean,
6 this is -- this is an entity that's owned 100 percent
7 by the Municipality, so that's -- that's probably why
8 there wasn't, you know, a -- a focus -- a separate
9 focus.

10 MR. JOHN MATHER: You think there -- I
11 mean, and I'm asking a question in retrospect but do
12 you think that there would have been another level of
13 disclosure that might have been appropriate with
14 respect to anyone on the Collus Board about Mr.
15 Bonwick's retainer?

16 MR. DENNIS NOLAN: Yeah, in hindsight
17 it could have been appropriate.

18 MR. JOHN MATHER: If we could go to
19 paragraph 204 of the Foundation Document.

20 I'm moving on to another section. I'm
21 happy to continue but I just thought I would flag that
22 for you.

23 THE HONOURABLE FRANK MARROCCO:
24 Continue for a little while longer but maybe we'll
25 take ten (10) minutes, give everybody a break.

1

2 --- Upon recessing at 5:28 p.m.

3 --- Upon resuming at 5:37 p.m.

4

5 CONTINUED BY MR. JOHN MATHER

6 MR. JOHN MATHER: So this paragraph
7 contemplates a -- a meeting -- Mr. Bonwick arranging
8 an introductory and exploratory meeting between
9 PowerStream executive team and Mr. Houghton and the
10 PowerStream boardroom.

11 It looks like the -- a meeting was
12 scheduled for June 15th, 2011. Do you recall
13 attending a meeting with Mr. Houghton in or around
14 that date?

15 MR. DENNIS NOLAN: I do, yes.

16 MR. JOHN MATHER: What do you recall
17 about that meeting?

18 MR. DENNIS NOLAN: Not terribly much.
19 It -- I re -- all I -- I try to think about, because I
20 saw the reference to the meeting, the best I can
21 recollect that it was truly introductory and
22 exploratory, I think there was maybe some general
23 discussion about -- about the possibility of -- of
24 what was happ -- basically what was happening in the
25 industry and that.

1 I -- I don't remember hardly any
2 specifics about it. I don't think it was very long.
3 I -- I don't know if anyone went to dinner, I did not.

4 I do recall -- because I think Mark
5 Henderson was there, who was our executive vice
6 president and chief operating officer, I recall that
7 Houghton -- Mr. Houghton hadn't been -- this is our
8 relatively new head office and we had a new control
9 room at that office with the -- the latest and
10 greatest and I think he -- part of it was to give him
11 a tour of the control room, in particular.

12 But in terms of the content and you
13 know, any detailed content of -- of that meeting, you
14 know, it was pretty much a -- that I can remember in
15 terms of my participation, a bit of a meet and greet.
16 I don't even know if I stayed for the whole meeting.

17 MR. JOHN MATHER: Do you recall any
18 discussion about plans for an RFP or a potential sale
19 at that meeting?

20 MR. DENNIS NOLAN: I don't remember
21 specifically. There may have been a reference to --
22 to it, but I -- you know, I don't recall any -- any
23 detailed discussion.

24 MR. JOHN MATHER: Do you recall ever
25 attending a meeting with Mr. Houghton prior to the

1 issuance of the RFP, discussing the RFP or a potential
2 RFP?

3 MR. DENNIS NOLAN: Prior to issuance
4 of the RFP?

5 MR. JOHN MATHER: October 4th, 2011.

6 MR. DENNIS NOLAN: Not that I can
7 recall any meeting with Mr. Houghton.

8 MR. JOHN MATHER: Do you recall at the
9 meeting that's contemplated here in June 2011 whether
10 the solar attic vent initiative was discussed or
11 anything about the solar attic vents?

12 MR. DENNIS NOLAN: I -- I'm not
13 positive, but I think that comes -- that came later.

14 So that's initially when I -- when I
15 looked at this I thought maybe that was one of the
16 subjects, but I -- I'm not positive, but I don't
17 believe it was discussed at that meeting.

18 MR. JOHN MATHER: So if we go to
19 paragraph 207 of the Foundation Document. So this
20 paragraph contemplates the meeting we've already been
21 discussing on June 29th, 2011.

22 In attendance from PowerStream, at
23 least as it appears, was Mr. Bentz and Mayor Lehman.

24 Did either of them speak to you about
25 what happened at this meeting?

1 MR. DENNIS NOLAN: I think I would
2 have maybe received some general feedback, that the
3 meeting went well and generally who -- who was there.
4 I know I felt better about it because it was
5 additional disclosure of -- of Mr. Bonwick's retainer.

6 MR. JOHN MATHER: When you say it was
7 additional disclosure of Mr. Bonwick's retainer --

8 MR. DENNIS NOLAN: Over and above what
9 -- sorry.

10 MR. JOHN MATHER: Fair enough. What I
11 meant is is that what you understood the meeting to be
12 about before it happened?

13 MR. DENNIS NOLAN: I understood that
14 was at least the primary purpose of the meeting.

15 MR. JOHN MATHER: And do you know how
16 you formed that understanding?

17 MR. DENNIS NOLAN: Because I -- I knew
18 that there -- there was a meeting contemplated, and
19 like I said, there was, you know, certainly on my part
20 still some unease about the -- the -- you know, about
21 the -- or -- there -- there was certainly antici --
22 this meeting was mentioned to me. I knew of those
23 possibility of -- of this meeting and I was hoping
24 that it would take place because of the additional
25 disclosure.

1 I don't know if that was the entire,
2 you know, purpose of the meeting, but my understanding
3 it was sort of the -- the primary purpose of the
4 meeting, or at least one of the key purposes

5 MR. JOHN MATHER: You said that you
6 believe or you think you were told after the meeting
7 that it went well, do you recall the specific
8 discussion with either Mr. Lehman or Mr. Bentz?

9 MR. DENNIS NOLAN: Not -- no. I mean,
10 no. My memory is not that good to remember a specific
11 discussion other than I'm -- I'm quite sure that I got
12 some -- some feedback to the effect that, you know,
13 the meeting went well and who -- and who was there and
14 about the disclosure.

15 I think maybe also, you know, that --
16 that the opportunity was, you know, was used to
17 explain what PowerStream was about.

18 MR. JOHN MATHER: I now want to ask
19 you some questions about the solar attic vent
20 initiative.

21 MR. DENNIS NOLAN: Okay.

22 MR. JOHN MATHER: When did you first
23 become aware of the solar attic vent project?

24 MR. DENNIS NOLAN: I can't recall the
25 specific date. I think it was fairly shortly after

1 that -- that June meeting. I -- I don't know if it
2 was July or -- I don't -- I don't have a specific date
3 in mind, but you know, it was in that July-August time
4 frame I think.

5 MR. JOHN MATHER: And what was your
6 involvement in the project?

7 MR. DENNIS NOLAN: It was -- I became
8 involved because one of the directors who reported to
9 me was Eric Fagen, who was our director of
10 communications.

11 And so he became involved in terms of -
12 - of the -- of coordinating from in terms of both
13 communications and just sort of a coordination role.

14 MR. JOHN MATHER: So it sounds like
15 you would be receiving reports from him about what was
16 going on? You would seek approval?

17 MR. DENNIS NOLAN: I didn't -- I
18 wasn't as -- as in -- I wasn't intimately involved in
19 the -- in the details. He came to me, we -- Eric and
20 I would talk regularly and he did come to me with, you
21 know, with -- with reports in -- in terms of how the
22 communication was going to be.

23 One conversation at least about whether
24 this would qualify as a -- as a conservation
25 initiative that -- that might be recoverable in -- in

1 rate was certainly an area that -- that we discussed,
2 at least on one occasion.

3 MR. JOHN MATHER: And just pausing on
4 that, it's my understanding that around this time
5 period the Green Energy Act had just come in -- come
6 into force and one of the elements of that was the
7 utilities such as PowerStream and Collus could --
8 actually, maybe I'll get you to explain it, but there
9 was an opportunity to recover costs of certain
10 projects if they were for the purposes of
11 conservation?

12 MR. DENNIS NOLAN: We were mandated to
13 carry out conservation, but there were specific
14 programs. There was the possibility of -- of an --
15 PowerStream was a real leader in -- in the
16 conservation framework and there was -- there was the
17 possibility of -- of coming, you'd have to get it
18 approved by the Ontario Energy Board for unique
19 initiatives, but I believe there was feedback, I
20 didn't know if it was recoverable my -- myself, but I
21 believe that there was feedback from Mr. MacDonald,
22 who was our -- the vice president of regulatory that
23 this would not be recoverable. I'm not sure the exact
24 reason, but it wasn't something that, you know,
25 would -- you know, out of hand you -- you would

1 conclude that.

2 But I think there was some
3 consideration and conversation and we had to assume
4 that, in all likelihood, it would not be recoverable.
5 And I believe that -- that initially there was a
6 thought that -- that it might be able to be recovered.

7 MR. JOHN MATHER: And -- and just
8 explain for someone who might not understand. What do
9 you mean by, "Recoverable"?

10 MR. DENNIS NOLAN: Sorry, recoverable
11 in -- in rates, so that the -- if PowerStream, for
12 example, invested, as I think we did, some --
13 somewhere around two hundred thousand dollars
14 (\$200,000) in this initiative, that -- that you would
15 get eventual recovery of that along with other moneys
16 spent for conservation.

17 For example, con -- the -- these
18 programs would include things like light -- lighting
19 initiatives, conversion from incandescent bulbs to
20 LEDs and things like that for businesses.

21 So, that was a recognized program. So,
22 the expenditures on that, and the incentives that the
23 -- that the utilities put out for that, you would
24 eventually get recovered. And you would be able to
25 recover that ultimately in rates because that's how --

1 how the -- the utility makes -- makes a return.

2 MR. JOHN MATHER: So, certain -- if
3 you applied to the OEB certain conversation programs,
4 if they were approved by the OEB, you could go into
5 your rate application and what you would charge in --

6 MR. DENNIS NOLAN: Right.

7 MR. JOHN MATHER: -- in terms of
8 recovery from the customers?

9 MR. DENNIS NOLAN: There was an
10 existing -- I'm not the expert on this, but there was
11 an existing sort of number of programs that you knew
12 were sort of green lighted for -- for execution and
13 that you could spend money on and you -- and -- and
14 then it could be recovered.

15 Then there was the possibility of
16 coming up with -- and PowerStream did. There was a
17 small business refrigeration program that we
18 ultimately got approved by the OEB.

19 So, my impression was that when this
20 was first looked at by Mr. Houghton and by whoever was
21 looking at it at -- at PowerStream and others thought
22 this might be recoverable, but our conclusion was,
23 with our regulatory group, that it likely would not
24 be.

25 MR. JOHN MATHER: And if it wasn't

1 recoverable, it meant the two hundred thousand dollar
2 (\$200,000) investment couldn't be applied to -- in
3 rates to the cu -- consumer?

4 MR. DENNIS NOLAN: No.

5 MR. JOHN MATHER: PowerStream would
6 otherwise have to --

7 MR. DENNIS NOLAN: Absorb that cost.

8 MR. JOHN MATHER: -- absorb that cost,
9 okay.

10 MR. DENNIS NOLAN: Right.

11 MR. JOHN MATHER: Can we pull up
12 paragraph 209 of the Foundation Document?

13 THE HONOURABLE FRANK MARROCCO: Just
14 on that question, if it's recoverable in rates, it --
15 it goes into the bundle of costs that you can claim
16 that you spent and should, therefore, be given a rate
17 increase?

18 MR. DENNIS NOLAN: Well, and it
19 wouldn't be necessarily a rate increase. There was --
20 there was moneys allocated for conservation that it
21 would be reimbursable. It wasn't like an asset. When
22 -- when you talk about reco -- and I may be mis --
23 misspeaking. I apol -- I apologize for -- if I don't
24 have it exactly right, the jargon, but the -- that it
25 was recoverable.

1 When I say -- and probably am
2 misspeaking. My boss won't be too proud. The -- when
3 you say 'recoverable in rates', it means that you're
4 earning a rate of return on it.

5 In this case, it just means
6 recoverable. I probably should just say recoverable.

7 THE HONOURABLE FRANK MARROCCO: So,
8 you would apply to the OEB. Had it been -- had it
9 been qualified --

10 MR. DENNIS NOLAN: Yes.

11 THE HONOURABLE FRANK MARROCCO: -- you
12 would apply -- prove what your expenses were, and you
13 would recover that money?

14 MR. DENNIS NOLAN: That's correct.

15 THE HONOURABLE FRANK MARROCCO: And --
16 and if -- and if that's the case, then it's mu -- it's
17 much more dynamic tha -- than if you can't --

18 MR. DENNIS NOLAN: Yes.

19 THE HONOURABLE FRANK MARROCCO: -- in
20 -- in terms of it being an -- an initiative that you
21 would be enthusiastic about?

22 MR. DENNIS NOLAN: Correct.

23

24 CONTINUED BY MR. JOHN MATHER:

25 MR. JOHN MATHER: If you'd pull up

1 paragraph 219 of the Foundation Document.

2

3 (BRIEF PAUSE)

4

5 MR. JOHN MATHER: So, this is an email
6 dated July 11th, 2011. It's with respect to the solar
7 vent initiative that -- that PowerStream is
8 considering.

9 So, Mr. Fagen is forwarding an email
10 chain to you about the initiative. And you respond.
11 You forward that email chain to Mr. Howar -- Mr.
12 Henderson at PowerStream and Brian Bentz. And you
13 write:

14 "Well, I agree with the need to
15 proceed with this pilot. We need to
16 revisit the numbers. Our
17 preliminary estimate, based upon the
18 -- these numbers, is approximately
19 two hundred thousand (200,000).
20 Apparently, that is of the
21 understanding that the cost is
22 recoverable under CDM. And we are
23 not of the same view."

24 I think you've explained now the second
25 sentence when you were talking about cost recovery.

1 Is that correct?

2 MR. DENNIS NOLAN: Yes.

3 MR. JOHN MATHER: So, with that in
4 mind, what did you mean when you said:

5 "I agree we will -- I agree with the
6 need to proceed with this pilot."

7 MR. DENNIS NOLAN: The need or that it
8 was appropriate. I -- I think it was a good
9 initiative that was worth pursuing from -- from what
10 I'd been told.

11 1) It -- it showed PowerStream being
12 involved in something that was -- was creative and
13 reaching out -- liked the idea that there was
14 cooperation with -- with other LDCs, especially
15 smaller LDCs.

16 It -- it could potentially showcase the
17 -- the kind of other benefits that could be found by -
18 - by associating with -- with PowerStream and -- and
19 it just showed cooperation with -- within the sector.

20 And -- and that seemed to me to be a
21 good thing. And I think that was, you know, part of
22 the rationale for the investment.

23 MR. JOHN MATHER: Were there any other
24 rationales for the investment?

25 MR. DENNIS NOLAN: To -- to -- as --

1 as I said, to, you know, well, I guess raise -- raise
2 our profile in -- in certain communities, including
3 Collus, that we were partnering with.

4 MR. JOHN MATHER: So, profile raising,
5 opportunity to show, you know, willingness to partner
6 with -- with utilities on creative ideas. Was there
7 any other rationales that were provided or that you
8 understood with respect to the project?

9 MR. DENNIS NOLAN: I mean, I think
10 that was principally it. I can't think of any off the
11 top of my head.

12 MR. JOHN MATHER: You said when you
13 originally answered that it was a good initiative from
14 what you've been told. Do you remember who told you
15 about the initiative and why it was good?

16 MR. DENNIS NOLAN: I mean, not
17 specifically who told me what. You know, I became
18 aware of it. The only concern I had was the
19 assumption that -- that, you know, it would be
20 recoverable once I understood that it may not be, but
21 no -- nothing from someone that would allow me to
22 specifically answer your question.

23 MR. JOHN MATHER: Did the possibility
24 that the costs would not be recoverable change how
25 PowerStream decided to participate in the initiative?

1 MR. DENNIS NOLAN: Well, I think it
2 was, you know, then treated as -- as a pilot. If it
3 had been recoverable and -- and successful, then, you
4 know, we might have broadened, you know, the
5 participation and you might have had, also, other LDCs
6 joining in.

7 MR. JOHN MATHER: Did the po -- did
8 the potential -- or did -- at this point in time, it's
9 our under -- at this point in time, a potential Collus
10 RFP was on the radar for PowerStream. Is that fair?

11 MR. DENNIS NOLAN: That's correct.

12 MR. JOHN MATHER: Did that potential
13 play a role in PowerStream's decision to participate
14 in the solar attic vent initiative with Collus?

15 MR. DENNIS NOLAN: Well, I -- I think
16 it probably was -- was a factor that would encourage
17 us to do this because we thought it was a great
18 example and, you know, not, again, just for -- for
19 Collus but for members of the CHEC group and other
20 LDCs to show what we could do on a cooperative basis,
21 that we were good partners.

22 MR. JOHN MATHER: Did you understand
23 that participating in the project may or -- might give
24 you an advantage in an RFP if -- if one (1) was
25 issued?

1 MR. DENNIS NOLAN: Sure, in terms of,
2 you know, potential profile and -- and, you know, a
3 positive profile of PowerStream, certainly.

4 MR. JOHN MATHER: And would that be
5 something you -- you expected at the time that you
6 could highlight in a response to an RFP?

7 MR. DENNIS NOLAN: Well, I don't know
8 that I was thinking that far ahead, but it certainly,
9 you know, was something I think we did highlight, so.

10 MR. JOHN MATHER: Do you know if
11 anyone or -- within PowerStream was thinking that far
12 ahead or said anything, that we should participate
13 because we think an RFP's coming and this would be a
14 leg up in the RFP?

15 MR. DENNIS NOLAN: It wouldn't
16 surprise me if someone concluded that -- that this --
17 that this would be a great example that we can cite.

18 But I -- I can't -- I'm speculating as
19 to, you know, whether someone connected the dots right
20 then. But it was certainly part of the rationale was
21 a conscious decision to raise -- to raise our profile
22 in a positive way.

23 MR. JOHN MATHER: Did you have any
24 understanding at this period of time -- so July 2011
25 when PowerStream is getting involved -- who else

1 Collus had approached to participate in the solar
2 attic initiative?

3 MR. DENNIS NOLAN: I have a -- this is
4 what gets difficult because I -- I know now who was
5 also involved.

6 MR. JOHN MATHER: Fair enough. So --

7 MR. DENNIS NOLAN: So I -- I --

8 MR. JOHN MATHER: -- and I -- and I
9 appreciate it's a -- it can be difficult --

10 MR. DENNIS NOLAN: Well, I --

11 THE HONOURABLE FRANK MARROCCO: Excuse
12 me. Your witness wasn't finished.

13 MR. DENNIS NOLAN: Sorry. So I did
14 understand that -- that there was potential for other
15 involvement. That'd be as far as I'd -- I would go
16 at -- at the time.

17 Did I know that Horizon was approached
18 and -- and other specifics? I wasn't that involved
19 other than on -- on some of the specific communication
20 issues brought to me by -- by Eric.

21

22 CONTINUED BY MR. JOHN MATHER:

23 MR. JOHN MATHER: Speaking of
24 Mr. Fagen if we scroll up a bit, we see in this
25 paragraph it's reflected that Mr. Fagen is

1 communicating with Mr. Bonwick and Mr. Houghton about
2 the solar attic vent initiative, and we see in this
3 period of time leading up to the RFP that Mr. Fagen is
4 communicating with Mr. Houghton about the solar attic
5 vent initiative.

6 As this was ongoing, did you have any
7 concerns about Mr. Fagen or anyone at PowerStream
8 having regular contact with the CEO of a utility that
9 may be going -- may be issuing an RFP?

10 MR. DENNIS NOLAN: No.

11 MR. JOHN MATHER: Why not?

12 MR. DENNIS NOLAN: I don't think
13 there's a -- because some -- a CEO of an LDC is in the
14 process of contemplating an RFP or -- or if that's --
15 I didn't know that was a blackout period for
16 communication.

17 I mean, it -- this is -- I just -- I
18 fail to see the reason why there would be any -- any
19 problem with that communication, especially in the
20 context of doing something like this.

21 MR. JOHN MATHER: Were you involved or
22 consulted at all on the decision to have PowerStream's
23 logo incorporated on a billboard about the solar attic
24 vent initiative?

25 MR. DENNIS NOLAN: I think Mr. Fagen

1 made me aware of it. It wasn't my -- my decision or
2 anything. But I think he made me aware of it.

3 MR. JOHN MATHER: Do you recall why
4 PowerStream was interested in having its logo on the
5 billboard?

6 MR. DENNIS NOLAN: I'm sure for the
7 same reasons that I've said about trying to -- to
8 raise our profile.

9 MR. JOHN MATHER: It was extension of
10 the purposes of entering the pilot in the first place.

11 MR. DENNIS NOLAN: Absolutely.

12 MR. JOHN MATHER: So if we go to
13 paragraph 267 of the Foundation Document.

14 THE HONOURABLE FRANK MARROCCO: When
15 you're finished this particular --

16 MR. JOHN MATHER: Yeah. I'm very,
17 very close to being finished, Your Honour.

18

19 CONTINUED BY MR. JOHN MATHER:

20 MR. JOHN MATHER: So this is an email
21 from -- or a discussion in an email chain involving
22 you and Mr. Fagen about the billboards. And Mr. Fagen
23 writes in the email:

24 "Although this primarily purports
25 the solar power attic vent program

1 for Collus Power, the fact that the
2 billboard is also co-branded with
3 PowerStream logo, we'll have to
4 build our brand awareness in the
5 area."

6 And then it says:

7 "The start date of September 19th
8 coincides well with our presentation
9 to the Collingwood Council on that
10 date."

11 And we see from the documents that on
12 September 19th, 2011, PowerStream did make a
13 presentation to the review -- the Strategic Task Team
14 about the potential RFP.

15 Do you recall any conversations about
16 the timing of the billboards with the presentation to
17 the Strategic Task Team?

18 MR. DENNIS NOLAN: No. I knew -- I
19 knew that -- that -- obviously, it's indicated here.
20 I -- I knew about the -- the timing and, you know,
21 again, as said before, it wasn't, you know, lost on us
22 that this -- the timing was turning out to be good in
23 terms of our profile and the anticipation of -- of a
24 possible RFP.

25 MR. JOHN MATHER: Could you turn your

1 mind at this point in time as to whether anyone else
2 who might be participating in the RFP was offered
3 these same opportunities or seeking these same
4 opportunities?

5 MR. DENNIS NOLAN: No.

6 MR. JOHN MATHER: I think we can stop
7 there then.

8 THE HONOURABLE FRANK MARROCCO:

9 Tomorrow -- we'll start tomorrow at 9:30. But we have
10 three (3) witnesses that we're going to hear all at
11 once. So I think the best way to -- the three (3)
12 other bidders.

13 So I think the best way to do this
14 is -- rather than Mr. Nolan coming at 9:30 is after
15 we've dealt with all three (3) of them, and then we'll
16 complete your evidence.

17 And we can work out the -- you can work
18 out the timing with Mr. Watson so that you're not --
19 you're not here when you could be doing something
20 else.

21 All right. Thank you, all. 9:30
22 tomorrow.

23 MR. DENNIS NOLAN: Thank you.

24

25 (WITNESS RETIRES)

1 --- Upon adjourning at 6:04 p.m.

2

3

4 Certified Correct,

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7 _____

8 Wendy Woodworth, Ms.

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