



TOWN OF COLLINGWOOD

JUDICIAL INQUIRY

Before:

Associate Chief Justice Frank Marrocco

Held at:

Collingwood Town Hall

Council Chambers

97 Hurontario Street

Collingwood, Ontario

May 31st, 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) For Town of Collingwood

19 Ryan Breedon)

20

21 Patrick Gajos (np)) For Collus PowerStream

22) Corporation

23

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1 --- Upon commencing at 9:03 a.m.

2

3 THE REGISTRAR: Mr. Bentz, you
4 understand you're still under oath?

5 MR. BRIAN BENTZ: I do.

6

7 BRIAN BENTZ, Previously Sworn

8

9 CONTINUED EXAMINATION-IN-CHIEF BY MS. KATE MCGRANN:

10 MS. KATE MCGRANN: Good morning, Mr.
11 Bentz.

12 MR. BRIAN BENTZ: Good morning.

13 MS. KATE MCGRANN: We left off
14 yesterday -- we had been discussing the breakfast that
15 you had with Mr. Houghton at the end of November of
16 2010. Turn to paragraph 110 of the Foundation
17 Document, please.

18

19 (BRIEF PAUSE)

20

21 MS. KATE MCGRANN: So just to help
22 situate us in time, this paragraph describes that on
23 November 30th, 2010, Mr. Houghton followed up with you
24 and asked to meet in person. You then meet for
25 breakfast at the Sunset Grill in Vaughan on December

1 3rd, 2010.

2 Is this the -- the breakfast that we
3 were talking about yesterday?

4 MR. BRIAN BENTZ: Yes.

5 MS. KATE MCGRANN: I'm go back to your
6 notes, which are at ALE50195.

7

8 (BRIEF PAUSE)

9

10 MS. KATE MCGRANN: Scroll down so that
11 we can see all of the -- the items under the heading
12 history.

13 There is one (1) thing I wanted to ask
14 you about that we didn't discuss yesterday. It's the
15 sentence that says:

16 "Also in his role as executive
17 director of the Town of Collingwood,
18 basically runs municipal deputy
19 there; has a lot of clout."

20 Can you tell me what this note is
21 about?

22 MR. BRIAN BENTZ: I was familiar with
23 Ed's role at the Town of Collingwood, especially with
24 respect to the water operations and I had observed
25 what he had done -- I think it was during their

1 cryptosporidium incident and actually toured the
2 facility of -- I think they had a microfilter plant.
3 So I knew that he managed that situation. That's
4 really what I was referring to there.

5 MS. KATE MCGRANN: Did you remember --
6 do you remember whether you discussed his role as
7 executive director of the Town of Collingwood during
8 the breakfast?

9 MR. BRIAN BENTZ: No.

10 MS. KATE MCGRANN: I'm wondering if
11 the phrase "municipal deputy" there is with --
12 possible that that might be municipal department, any
13 maybe there was a --

14 MR. BRIAN BENTZ: Department, yes,
15 that's right.

16 MS. KATE MCGRANN: -- a typo in the
17 transcript?

18 MR. BRIAN BENTZ: Yes. That's
19 correct.

20 MS. KATE MCGRANN: Your note that he
21 has a lot of clout -- a lot of clout with who?

22 MR. BRIAN BENTZ: Just in the
23 community, that he had -- you know, he had run the
24 municipal works, and that he had a role in the
25 municipal works department; that was my understanding.

1 And thirty (30) years plus in the -- in the utility
2 business, that -- you know, he's a long-standing
3 person who had worked in the municipal sector with the
4 Town.

5 MS. KATE MCGRANN: And is that
6 information that he gave you at the breakfast meeting?

7 MR. BRIAN BENTZ: No. This was my
8 perception of him.

9 MS. KATE MCGRANN: Do you remember why
10 it was important to make a note that he had a lot of
11 clout when you were making these notes?

12 MR. BRIAN BENTZ: Just that he had --
13 you know, he had experience with the community, and
14 that -- and with infrastructure. He knew the
15 community, and he had worked in utility operations for
16 a long time.

17 MS. KATE MCGRANN: When I think of the
18 word 'clout', I think of more than just experience.
19 It suggests to me someone who's got some influence or
20 some -- some power within the community.

21 Is that accurate?

22 MR. BRIAN BENTZ: He would have
23 standing in the community, yes. I think that's
24 accurate.

25 MS. KATE MCGRANN: How did you leave

1 things with Mr. Houghton at the end of your breakfast
2 on December 3rd?

3 MR. BRIAN BENTZ: I told him that we -
4 - we may be interested in participating in the RFP,
5 should one -- should one occur, but that we -- we
6 would have to -- I would have to go back to my on --
7 finance committee, and there was no -- I didn't know
8 if the process was actually going to take place. This
9 was sort of speculative at this point.

10 So it was just an expression of
11 interest, and keep me posted, but if it did proceed, I
12 would have to go through the proper channels to get it
13 -- to get it approved.

14 MS. KATE MCGRANN: And when you left
15 the breakfast, were you understanding that -- that the
16 converta -- the conversation that you had had with him
17 was confidential on a go-forward basis?

18 MR. BRIAN BENTZ: Yes. The nature of
19 the -- of the -- the potential sale would be, yes.

20 MS. KATE MCGRANN: The concept that an
21 RFP may be issued, and things like that?

22 MR. BRIAN BENTZ: It was more general
23 in terms of the -- the notion of -- of the idea of --
24 of a potential sale, the concept of the transaction,
25 yes.

1 MS. KATE MCGRANN: And everything that
2 went along with it, I guess?

3 MR. BRIAN BENTZ: Sure.

4 MS. KATE MCGRANN: I'm going to turn
5 now to the initial contact that we see you receiving
6 from Paul Bonwick. Could we turn up ALE45, please.

7

8 (BRIEF PAUSE)

9

10 MS. KATE MCGRANN: You're looking at a
11 -- a meeting with the re: line meeting request from
12 Mr. Bonwick to you on January 10th, 2011.

13 Did you have any idea of who Mr.
14 Bonwick was when you received this email?

15 MR. BRIAN BENTZ: No.

16 MS. KATE MCGRANN: Do you remember
17 receiving this email?

18 MR. BRIAN BENTZ: Yes.

19 MS. KATE MCGRANN: So I'm going to ask
20 that we scroll down to the paragraph that starts with,
21 "Over the course of the last few years," and I
22 apologize, that it's kind of -- the paragraphs are a
23 little jammed together, but it's about halfway down
24 the page.

25 Mr. Bonwick writes:

1 "Over the course of the last few
2 years, and more specifically, the
3 last few weeks, I have followed with
4 interest the situation present --
5 presently being experienced by
6 Collingwood Council, more
7 specifically, their financial
8 situation and the need for
9 significant capital injection."

10 Now this -- when you had spoken to Mr.
11 Houghton earlier at breakfast or beforehand, had he
12 mentioned the need for a significant capital injection
13 for the Town?

14 MR. BRIAN BENTZ: No.

15 MS. KATE MCGRANN: Did he -- did he
16 give you any sense that the Town was -- was looking
17 for ways to bring money in?

18 MR. BRIAN BENTZ: Just that they had
19 fiscal challenges. I think they had high debt levels.
20 I think he mentioned \$20 million or something like
21 that.

22 MS. KATE MCGRANN: Okay. Mr. Bonwick
23 goes on:

24 "As I reviewed options that might
25 help Council address this need, I

1 remembered that during the time I
2 spent in elected office, the
3 potential sale of Collingwood's
4 utility services had been raised
5 with mixed emotions. It is possib -
6 - it is a result of that possibility
7 I would like to meet and discuss
8 PowerStream's level of interest in
9 pursuing such an option."

10 Now in just over a month, you've heard
11 from two (2) different people about the potential sale
12 of -- of Collus Power.

13 When you received this email, did you
14 ask yourself whether this message was in any way
15 connected to the conversation you had with Mr.
16 Houghton?

17 MR. BRIAN BENTZ: I thought there was
18 -- I thought there -- there were broader -- there
19 would be broader deliberations around this issue in
20 the community, so he would be aware of it through
21 that.

22 MS. KATE MCGRANN: But when you
23 received this email, did you specifically consider --

24 MR. BRIAN BENTZ: No.

25 MS. KATE MCGRANN: -- whether this was

1 connected to the conversation you had with Mr.
2 Houghton?

3 MR. BRIAN BENTZ: I didn't actually.

4 MS. KATE MCGRANN: So, when we -- when
5 we do this today, I will do my best not to speak over
6 you and I need you to do your best not to speak over
7 me, or we will both get in a lot of trouble.

8 MR. BRIAN BENTZ: Understood.

9 MS. KATE MCGRANN: So you receive this
10 -- it's the second time someone's brought up the sale
11 of this utility, but you didn't think there was a
12 connection between the two -- the two messages?

13 MR. BRIAN BENTZ: It didn't occur to
14 me at the time.

15 MS. KATE MCGRANN: So if we could turn
16 to -- what did you do in response to receiving this
17 email?

18 MR. BRIAN BENTZ: I -- I thought of
19 the conversation that I had with -- with Mr. Houghton
20 and the fact that he had said that the Utility was
21 considering its options, and -- but it was clear to
22 me, based on our conversation, that I didn't think the
23 Town was involved at the time.

24 And we were working on a lot of things.
25 We were working on a lot of transactions and a lot of

1 non-regulated type initiatives, wind, plasma
2 gasification plants, the FIT Program was coming into
3 place. We were looking at four (4) or five (5)
4 different mergers.

5 I had had experience before with -- in
6 a situation actually in Orangeville Hydro in 2007
7 where the Board and the Utility were not aligned. The
8 Board approached -- the Board and the management
9 approached us and said that they were very interested
10 in a transaction. We went a long ways down the road.
11 We put in an unsolicited bid. We did a valuation. I
12 wasted a lot of time on that transaction.

13 Here's someone who has experience as a
14 municipal councillor and a federal politician, who
15 likely would be familiar with the situation at the
16 Town and may provide insight into what was -- what was
17 the Town's deliberations on this, because I did not
18 want to waste time if the Town was not amenable to
19 such a transaction. That's what I thought.

20 MS. KATE MCGRANN: I just want to
21 understand one -- a couple of things you said there.

22 I think you said that when you received
23 this email, you thought that there had probably been
24 broader conversations in the community about this, and
25 you also said that you didn't think that Town Council

1 was involved.

2 So can you help me understand how those
3 two (2) concepts go together?

4 MR. BRIAN BENTZ: They're -- I mean, I
5 think that it was public that -- it -- it occurred to
6 me that there had been an election and a lot of the
7 election was -- was around the -- the debt levels in
8 the town, so it would be public knowledge that, you
9 know, this was an issue, and here's a former
10 politician who is thinking about things that he had
11 dealt with before, including the sale of the Utility.
12 And so, you know, it didn't -- it didn't surprise me
13 that, you know, he -- he might reach out, something
14 like that.

15 MS. KATE MCGRANN: Okay. So when you
16 said that you thought there had been broader
17 conversations about this in the community, you were
18 referring to the --

19 MR. BRIAN BENTZ: The debt level.

20 MS. KATE MCGRANN: -- the debt level--

21 MR. BRIAN BENTZ: Yes.

22 MS. KATE MCGRANN: -- not the
23 potential sale --

24 MR. BRIAN BENTZ: No.

25 MS. KATE MCGRANN: -- of the Utility?

1 MR. BRIAN BENTZ: No.

2 MS. KATE MCGRANN: Because the
3 conversation you had had with Mr. Houghton about that
4 was confidential, right?

5 MR. BRIAN BENTZ: Yes.

6 MS. KATE MCGRANN: Was it your
7 understanding from your conversations with Mr.
8 Houghton to this point that he hadn't spoken to Town
9 Council about the possibility of a sale yet?

10 MR. BRIAN BENTZ: That was my
11 assumption, yes.

12 MS. KATE MCGRANN: It's not something
13 you had discussed with him?

14 MR. BRIAN BENTZ: No.

15 MS. KATE MCGRANN: Not something he
16 had told you?

17 MR. BRIAN BENTZ: We -- well, we
18 talked about -- he said the Utility was considering
19 its options. It was clear to me -- I don't recall
20 exactly the -- the discussion. It was clear to me
21 that the Town was -- had not made a decision. I
22 didn't really know what -- what sort of state of
23 engagement had -- had happened with them, but they --
24 my impression was they -- they certainly weren't
25 supportive.

1 It sounded like it was the early stages
2 and that the Board was considering its options.
3 Whether they engaged the Town or not, I didn't know
4 but it -- certainly the Town -- it seemed the Town had
5 not made a decision with respect to that. It seemed
6 early days in the process.

7 MS. KATE MCGRANN: It seems to me,
8 based on what you're saying and based on the
9 experience with Orangeville that you've described to
10 us, that the question of whether there was buy-in from
11 the Town would be an important one for you to answer
12 before you took any further steps.

13 Given the importance of that question
14 to you, why didn't you asked Mr. Houghton about what
15 Town Council's view of -- was of what Utility was
16 considering?

17 MR. BRIAN BENTZ: That -- I figured
18 that was an issue for -- for him to manage. Did --
19 did I have the conversation? I -- I honestly -- I
20 don't recall if we specifically had that conversation.
21 I know I walked away with the impression that, you
22 know, the Town had -- had not -- it wasn't of the
23 opinion, yes, let's do this, and that's really what I
24 was concerned about.

25 MS. KATE MCGRANN: So I asked you what

1 you did in response to this email and you explained
2 why Mr. Bonwick with his prior experience in Town
3 Council might have -- might be someone that you'd want
4 to talk to you in light of your concerns about Town
5 Council's buy-in. Is that a fair summary?

6 MR. BRIAN BENTZ: Yes.

7 MS. KATE MCGRANN: If we could turn to
8 paragraph 118 of the Foundation Document.

9

10 (BRIEF PAUSE)

11

12 MS. KATE MCGRANN: This paragraph
13 describes that you and Mr. Bonwick met two (2) days
14 later, on January 12th, 2011, at the PowerStream
15 offices.

16 Do you recall attending this meeting?

17 MR. BRIAN BENTZ: Yes.

18 MS. KATE MCGRANN: What can you tell
19 us about -- who else attended this meeting?

20 MR. BRIAN BENTZ: It was just he and
21 I.

22 MS. KATE MCGRANN: Do you remember
23 what you discussed with him at that meeting?

24 MR. BRIAN BENTZ: Yes. He -- he -- he
25 talked to me about his background as a federal

1 politician and a municipal councillor, he talked to me
2 about the services that, you know, his firm provided,
3 and -- and I asked him about the situation at the Town
4 and -- and, you know, my -- my concern around what I
5 have described earlier in terms of the transaction
6 going forward and -- and having an understanding of
7 what Council's view would be with respect to that
8 transaction, that was important to me, and that
9 perhaps he could be of assistance.

10 I made it clear to him in that meeting
11 that there was no final decision with respect to
12 hiring his firm.

13 He indicated to me at that meeting, I
14 believe, that his relationship with the -- with the
15 Mayor, that he was a sibling of the Mayor, and I
16 believe he indicated that that was not a conflict
17 under the Municipal Conflict of Interest Act, which
18 caused me some concern in terms of, you know, the --
19 the real or perceived conflict that would exist there.
20 I didn't think necessarily it would be a -- a
21 showstopper in hiring him, but I thought it was
22 something that I -- I would need to look into further.

23 I told him that if -- if we did engage
24 his firm, it would have to go through the -- our Audit
25 and Finance Committee, have to be vetted through our

1 Audit and Finance Committee, and that if we did engage
2 his firm that it would require full disclosure because
3 of this potential conflict -- conflict issue.

4 And I also told him that I would like
5 him to advise Ed that we were considering hiring his
6 firm, because I had -- when I first got email from Mr.
7 Bonwick, I thought, who is this person, so logically I
8 -- I reached out to Mr. Houghton and said who is this,
9 and he said, you know, he -- he -- you know, stood up
10 for him, said he was a good guy and he could help us,
11 but it's your decision. So I told him that and -- and
12 -- and that's how we left it.

13 MS. KATE MCGRANN: Okay. I'm going to
14 ask you a couple of questions about the information --

15 MR. BRIAN BENTZ: Sure.

16 MS. KATE MCGRANN: -- you just gave me
17 there. So in response to receiving this email, you
18 gave Mr. Houghton a call?

19 MR. BRIAN BENTZ: Yes.

20 MS. KATE MCGRANN: To ask him about
21 whether or not he knew who Mr. Bonwick was?

22 MR. BRIAN BENTZ: (NO AUDIBLE
23 RESPONSE).

24 MS. KATE MCGRANN: Mr. Houghton told
25 you that Mr. Bonwick is a good guy. Did he give you

1 any information about why he had that opinion of Mr.
2 Bonwick?

3 MR. BRIAN BENTZ: He said he knew him,
4 that he had been a politician in the community for a
5 long time, and that he -- I think he ran -- ran a
6 local business and, you know, he had good standing in
7 the community. I don't think it was much more than
8 that.

9 MS. KATE MCGRANN: Did he tell you
10 that they were friends?

11 MR. BRIAN BENTZ: Yes.

12 MS. KATE MCGRANN: Did he give you any
13 details about their friendship?

14 MR. BRIAN BENTZ: No.

15 MS. KATE MCGRANN: Did he give you a
16 sense of whether they were kind of see each other in
17 passing once a year friends or closer --

18 MR. BRIAN BENTZ: No.

19 MS. KATE MCGRANN: -- than that? Did
20 you ask any questions about the nature of their
21 friendship?

22 MR. BRIAN BENTZ: No.

23 MS. KATE MCGRANN: Did Mr. Houghton
24 tell you that he had assisted Mr. Bonwick in -- in
25 reaching out to you?

1 MR. BRIAN BENTZ: No.

2 MS. KATE MCGRANN: If he had told you
3 that on that call, how would that have affected your
4 thinking about meeting with Mr. Bonwick?

5 MR. BRIAN BENTZ: I mean, it's hard to
6 say at this point. Going back in time, would it have
7 affected -- would it have influenced my judgment at
8 the time? I may have -- may have asked a question or
9 two.

10 MS. KATE MCGRANN: When Mr. Houghton
11 told you that Mr. Bonwick could help you, potentially,
12 did he give you any information about what he meant by
13 that?

14 MR. BRIAN BENTZ: It was -- so I had
15 indicated to him that the -- the assistance that, you
16 know, I was seeking was with respect to the
17 deliberations of Council, if any, regarding the sale
18 of the utility. And that if they proceeded with an
19 RFP, because he did mention that there would be an
20 RFP, Ed ment -- Ed mentioned there would be an RFP
21 that, you know, given his knowledge in the community,
22 he could assist us in responding to any RFP.

23 But I was more concerned about the
24 first, the -- where was Council with respect to this
25 decision.

1 MS. KATE MCGRANN: And in discussing
2 that with Mr. Houghton on that phone call, did he give
3 you any information about where -- where Council was?

4 MR. BRIAN BENTZ: No.

5 MS. KATE MCGRANN: You understood that
6 your conversations with Mr. Houghton, up to this
7 point, had been confidential.

8 Did you ask him any questions about
9 whether Mr. Bonwick was within that circle of
10 confidentiality that you and Mr. Houghton were in?

11 MR. BRIAN BENTZ: No.

12 MS. KATE MCGRANN: Did it seem strange
13 to you that a confidential conversation that you had
14 with Mr. Houghton was a topic that a third party would
15 suddenly introduce with you out of the blue?

16 MR. BRIAN BENTZ: I didn't occur to me
17 at the time.

18 MS. KATE MCGRANN: Anything else about
19 the phone call with Mr. Houghton that you can recall?

20 MR. BRIAN BENTZ: No.

21 MS. KATE MCGRANN: And coming back to
22 the January 12th meeting with -- with Mr. Bonwick, do
23 you recall how long your meeting was?

24 MR. BRIAN BENTZ: I believe it was
25 scheduled for an hour. I don't know if it took an

1 hour.

2 MS. KATE MCGRANN: You said you made
3 it clear to him that there was no final decision, but
4 did you express an interest in continuing the
5 conversation with him?

6 MR. BRIAN BENTZ: Yes.

7 MS. KATE MCGRANN: With respect to the
8 -- the fact -- the fact that Mr. Bonwick told you that
9 his sister was the Mayor, can you tell us what that
10 discussion looked like?

11 What do you remember about that?

12 MR. BRIAN BENTZ: He described his
13 relationship with the Mayor and that he was --
14 described or appreciated the fact that there could be
15 a perceived or perception of conflict.

16 But that, you know, I think I mentioned
17 to him that, you know, disclosure would be
18 foundational to any engagement that we had with his
19 firm going forward.

20 And he also indicated, as I mentioned
21 earlier that, you know, his -- his view was that it
22 was not a conflict under the Municipal Conflict of
23 Interest Act. I didn't know, I wasn't familiar with
24 those provisions.

25 MS. KATE MCGRANN: And even with that

1 conver -- even with that comfort from him or that
2 information, let's call it, from him, that it wasn't a
3 conflict under the Municipal Conflict of Interest Act.

4 You -- you had concerns about a
5 potential real or perceived conflict?

6 MR. BRIAN BENTZ: Yes.

7 MS. KATE MCGRANN: And you felt that
8 disclosure would be one way of addressing that?

9 MR. BRIAN BENTZ: Yes.

10 MS. KATE MCGRANN: At this point in
11 time, PowerStream has already worked with another
12 consulting firm, we've talked about Bridgepoint Group.

13 Did you give any consideration to
14 seeking out their help in -- in finding out what was
15 happening with the Town Council?

16 MR. BRIAN BENTZ: No.

17 MS. KATE MCGRANN: Why not?

18 MR. BRIAN BENTZ: I think that, you
19 know, Mr. Bonwick was in a -- a good position, knowing
20 the local community, being a former municipal
21 councillor and federal politician, he was in a good
22 position to -- to provide those services.

23 MS. KATE MCGRANN: In this meeting did
24 -- did Mr. Bonwick tell you or were you already aware
25 that his sister, the Mayor, was also one of three

1 directors on the Collus Power Board of Directors?

2 MR. BRIAN BENTZ: I don't recall if he
3 did or not.

4 MS. KATE MCGRANN: Do you recall that
5 you knew that at some point in time during 2011?

6 MR. BRIAN BENTZ: Yes.

7 MS. KATE MCGRANN: Do you remember
8 about when you found out?

9 MR. BRIAN BENTZ: No, I don't. It was
10 probably in the spring sometime, maybe.

11 MS. KATE MCGRANN: You've talked about
12 -- you started to talk about conflict of interest in
13 taking the potential retainer of Mr. Bonwick to the
14 audit and finance committee.

15 Do you recall whether the question of
16 Mayor Cooper's role on the Board of Collus Power and
17 potential conflicts arising from that role was
18 discussed at all?

19 MR. BRIAN BENTZ: No, I think it was
20 more the generically, her role as Mayor was probably
21 the -- the main concern.

22 Did we also indicate she was on the
23 Board? I -- I don't -- I don't recall.

24 MS. KATE MCGRANN: How did you leave
25 things with Mr. Bonwick at the end of your January

1 12th meeting?

2 MR. BRIAN BENTZ: So I -- I asked,
3 first of all I made it clear that this issue of -- of
4 perceived or real conflict was, you know, something I
5 thought we needed to address and, you know, as I said,
6 if we proceeded that it -- disclosure would be an
7 underpinning of the engagement.

8 I asked him to provide a draft
9 proposal, I asked him to reach out to Mr. Bon -- or
10 Mr. Houghton to advise him that we were considering
11 hiring him and -- and I asked him too if -- if there
12 was any sort of information that he could provide to
13 support this notion that the sibling does not
14 constitute a conflict under the Act or Guidelines,
15 that I would appreciate some form of correspondence in
16 that regard.

17 MS. KATE MCGRANN: Why did you want
18 Mr. Bonwick to answer the question about whether or
19 not the sibling relationship was a conflict under the
20 MCIA for you?

21 MR. BRIAN BENTZ: He had made the
22 representation to me, he said that -- I think he said
23 something about the -- I don't know if it was in this
24 meeting or a subsequent meeting where he said that the
25 -- the Town, I think he said the solicitor, but he

1 might have meant the City clerk, had an opinion with
2 respect to that. And -- and so, that's why.

3 MS. KATE MCGRANN: At that point in
4 time were you thinking that if he -- if he provided
5 some documentation that supported his assertion to
6 you, that the sibling relationship wasn't a conflict
7 under the MCIA, that would be sufficient?

8 MR. BRIAN BENTZ: No, I would want
9 some assurance internally as well.

10 And also -- and I also subsequently
11 reached out to the Mayors, in fact, almost immediately
12 after. We had an audit -- this meeting was on January
13 12th, we had an audit and finance committee meeting on
14 January 19th, so I thought you know, I'm not an expert
15 in the area, I'm a utility person. I'm not familiar
16 with these issues, but we have three mayors on our
17 Board.

18 And so it would be prudent to reach out
19 to them to seek their advice, because maybe they've
20 dealt with these kinds of issues in the past.

21 So I had a meeting scheduled on January
22 19th to talk to them about -- about their view on the
23 issue.

24 Subsequently, we also -- I also sought
25 internal legal counsel's view, who relied on external

1 counsel.

2 MS. KATE MCGRANN: When you asked Mr.
3 Bonwick to reach out to Mr. Houghton and let him know
4 that he was -- Mr. Bonwick was talking to you, what
5 was the purpose of that request?

6 MR. BRIAN BENTZ: I'm sorry, could you
7 repeat the question?

8 MS. KATE MCGRANN: Why did you want
9 Mr. Bonwick to tell Mr. Houghton that he was talking
10 to you about a potential RFP?

11 MR. BRIAN BENTZ: It was really to
12 close the loop, because I had reached out to Mr.
13 Houghton to say what's your opinion of this person.

14 So now I'm thinking of taking to the
15 next level, I think in terms of proper disclosure,
16 it's better to tell him than not to tell him --

17 MS. KATE MCGRANN: M-hm.

18 MR. BRIAN BENTZ: -- that we were
19 considering that.

20 MS. KATE MCGRANN: Did you have any
21 expectations about whether Mr. Bonwick would -- would
22 or would not talk to Mr. Houghton about his work for
23 you going forward?

24 MR. BRIAN BENTZ: Certainly around the
25 disclosure part of it, you know, that I think would be

1 appropriate.

2 So I didn't have any -- I didn't ask
3 him to review the proposal with him. I asked him to
4 advise him that we were considering engaging his firm.

5 MS. KATE MCGRANN: Did you have any
6 consideration about whether PowerStream would want Mr.
7 Bonwick to maintain more of an arms-length
8 relationship from the president CEO of the company
9 that it might be bidding on?

10 MR. BRIAN BENTZ: Well, naturally, I
11 mean, I wasn't -- wasn't -- at that point, wasn't sort
12 of thinking down the road. You know, I was sort of
13 trying to figure out whether we would actually engage
14 him or not and could we clear this conflict issue and
15 what was the value and could it be vetted.

16 I wasn't starting to think about and
17 what the relationship be, you know, six (6) months
18 down the road. But if he -- you know, if --
19 speculative. If he was our agent, then naturally
20 there would be interaction between our agent and, you
21 know, members of the Utility. I think that would be
22 in the normal course.

23

24 (BRIEF PAUSE)

25

1 MS. KATE MCGRANN: You say that you
2 asked Mr. Bonwick to provide you with a proposal. And
3 we see that he does that on January 20th, 2011. I'm
4 going to ask that you be shown ALE59.

5

6 (BRIEF PAUSE)

7

8 MS. KATE MCGRANN: This is the January
9 20th, 2011, email from Mr. Bonwick to you attaching a
10 document titled, Ca -- "Compenso PowerStream proposal
11 (3)." He writes:

12 "Hi, Brian. Apologies for taking a
13 few extra days to get back to you
14 with a proposal. I wanted to be
15 perfectly clear on my understanding
16 of the conflict gli -- guidelines
17 contained in the Municipal Act.
18 The Town's solicitor provided a
19 legal opinion to the deputy mayor
20 clarifying that there is no breach
21 of conflict of interest guidelines
22 in this situation."

23 So, was it your understanding that that
24 paragraph was written in response to your request that
25 he come back to you with some more information about

1 the Municipal Conflict of Interest Act and how it
2 might apply to his relationship with his sister?

3 MR. BRIAN BENTZ: Yes.

4 MS. KATE MCGRANN: Did you ask
5 yourself at the time why the deputy mayor was talking
6 to the Town solicitor to help Mr. Bonwick get this
7 information for you?

8 MR. BRIAN BENTZ: I thought that --
9 you know, that he knew the deputy mayor and that would
10 be a contact within the Town. So, that, you know,
11 seemed to be a logical sort of way of -- of asking
12 now. As the solicitor, I think he was referring to
13 the clerk, I think.

14 MS. KATE MCGRANN: And that's
15 something that you later discovered, this reference
16 was to the clerk?

17 MR. BRIAN BENTZ: Yes.

18 MS. KATE MCGRANN: So, is it your
19 understanding from reading this that the deputy mayor
20 was assisting Mr. Bonwick in answering your question?

21 MR. BRIAN BENTZ: Yes.

22 MS. KATE MCGRANN: Would you have
23 considered that an additional reason to -- to retain
24 Mr. Bonwick, if the deputy mayor is interested in
25 helping him get answers for you?

1 MR. BRIAN BENTZ: That didn't occur to
2 me at the time, no.

3 MS. KATE MCGRANN: More generally, the
4 fact that -- that he appears to be able to work well
5 with the deputy mayor, would that have been a benefit?

6 MR. BRIAN BENTZ: Sure.

7

8 (BRIEF PAUSE)

9

10 MS. KATE MCGRANN: And I take it from
11 your prior answers that this information was further
12 to a request that you made but it didn't satisfy your
13 concerns about a conflict and the Municipal Conflict
14 of Interest Act?

15 MR. BRIAN BENTZ: No.

16 MS. KATE MCGRANN: If you -- he
17 writes:

18 "I also wanted to provide some
19 background information."

20 I'm going to move down to the next
21 paragraph where he says:

22 "Ed and I have had detailed
23 discussions relating to the overall
24 proposal that I have prepared and
25 the context and involvement and

1 timing.

2 As a result of my assessment of the
3 situation, I have constructed the
4 proposal in a manner that addresses
5 any potential concerns."

6 What was your reaction to learning that
7 Mr. Bonwick and Mr. Houghton had had detailed
8 discussions about the proposal he was making to you?

9 MR. BRIAN BENTZ: Well, I did ask him
10 to speak to Mr. Houghton about the fact we were
11 looking to engage him. I assumed he was speaking to
12 him on the proposal with respect to, you know,
13 disclosure so he would understand what the potential
14 services would be.

15 I would have preferred if he had
16 brought the proposal to me first, before he discussed
17 it with Mr. Houghton, but I didn't necessarily have a
18 problem with him reviewing it with him.

19 MS. KATE MCGRANN: Why would you have
20 preferred that he bring it to you first?

21 MR. BRIAN BENTZ: I would like to have
22 seen the content of it before he discussed it with
23 anyone else.

24 MS. KATE MCGRANN: Why?

25 MR. BRIAN BENTZ: Just the nature of

1 the relationship between someone who, you know, you --
2 you're thinking of engaging. I would just prefer to
3 do it that way.

4 MS. KATE MCGRANN: He writes that he -
5 - he and Ed have had detailed discussions about the
6 proposal in the context of involvement and timing.
7 Did you ask Mr. Bonwick what he meant when he wrote
8 that you or about what they had discussed?

9 MR. BRIAN BENTZ: No. I assumed that
10 he was talking about the disclosure requirements.

11 MS. KATE MCGRANN: And he writes, as a
12 result of his assessment, he's constructed the
13 proposal in a manner that address any potential
14 concerns.

15 Do you know what potential concerns he
16 was referring to?

17 MR. BRIAN BENTZ: It would have to
18 relate to conflicts, the -- the conflict, the fact
19 that, you know, we were maybe engaging the mayor's
20 brother. That would be the concern because that was
21 the concern I expressed.

22

23 (BRIEF PAUSE)

24

25 MS. KATE MCGRANN: In the next

1 paragraph, he goes on to give a bit of information, I
2 think, about what he means when he says:

3 "I've constructed the proposal in a
4 manner that addresses any potential
5 concerns."

6 He knows that in your -- your meeting
7 you had discussed the best approach is to be complete
8 transparent and open should the business relationship
9 come forward in the public.

10 Do you know what he meant by that?

11 MR. BRIAN BENTZ: That if the -- if --
12 I assumed what he meant was that if, you know, our
13 hiring of Mr. Bonwick was in the public domain.

14 MS. KATE MCGRANN: Did you understand
15 him to be saying that it was important to be
16 transparent once the hiring, if it took place, became
17 public?

18 MR. BRIAN BENTZ: In any event, if it
19 became public.

20 MS. KATE MCGRANN: I'm just trying to
21 figure out whether there's a question of -- of at what
22 time it's important to be transparent. Was that
23 something that factored into your discussions?

24 MR. BRIAN BENTZ: It would be
25 important to be transparent at the time, in my view,

1 the engagement had been executed.

2 MS. KATE MCGRANN: He goes on to
3 write:

4 "In this regard, I would propose
5 PowerStream consider engaging my
6 company subject to a satisfactory
7 fee structure on a much broader
8 level, eliminating the potential
9 accusation that our business
10 relationship is somehow predicated
11 on family contacts."

12 Up until this point, had your
13 discussion with him been centred on Collus Power?

14 MR. BRIAN BENTZ: Primarily, yes.

15 MS. KATE MCGRANN: When he proposes
16 that the retainer be broadened beyond that utility,
17 did that address any concerns that you had about
18 perceived or actual conflict?

19 MR. BRIAN BENTZ: I was thinking it
20 more strategically because the -- the -- we knew that
21 Collus was a member of the CHEC group. And the Collus
22 transaction in itself did not provide a lot of value
23 for us in terms of its relative size and materiality.

24 Its customer base was less than 5
25 percent of our customer base. Its asset base was less

1 than 2 percent of our asset base. And so, I was more
2 interested, and I had spoken to Ed about this in the -
3 - in the December 3rd meeting, around the regional
4 consolidation strategy.

5 The regional consolidation strategy
6 with the CHEC group had -- had the most appeal in
7 value to me. As I said, our -- you know, the -- the
8 Collus transaction -- and ending up being 50 percent,
9 it was less than 1 percent of our balance, so it
10 really had no creative value largely to -- to our --
11 to our business.

12 But a broader -- a broader regional
13 consolidation strategy did have value. We -- we had a
14 regional presence in Simcoe County, in the north, in
15 the south, in the hub in Barrie. Collingwood is in
16 the -- in the northwest.

17 They -- excuse me -- they have -- they
18 have three (3) -- three (3) satellite service areas,
19 and we could broaden that. So, now we could have a
20 broad regional presence and we could increase the
21 value. That was something that was our -- part of our
22 strategy at PowerStream and it was something that the
23 government was encouraging.

24 The Provincial Government wanted
25 consolidation of the sector. I thought I could really

1 drive stra -- strategic value there. So, that was the
2 true appeal to me of this whole transaction. That
3 really made sense for me.

4 So, when he said that, and him being a
5 regional politician, I thought, okay, now this is
6 something that I think, you know, can provide a lot of
7 value to PowerStream.

8 MS. KATE MCGRANN: Okay. So, am I
9 correct in understanding that when he suggests let's
10 address the conflict concern by broadening my
11 retainer, your response was, actually, let's broaden
12 your retainer because what we actually want is to get
13 at the CHEC group?

14 MR. BRIAN BENTZ: Yes.

15 MS. KATE MCGRANN: Up until this
16 point, I think your focus had been on the value that
17 Mr. Bonwick would bring with respect to giving you
18 information about whether council is serious or not?

19 MR. BRIAN BENTZ: Right.

20 MS. KATE MCGRANN: Is it at this point
21 in time that your view of him changes?

22 MR. BRIAN BENTZ: Not really, no. I
23 mean, I -- I'm still thinking he can pro -- because,
24 you know, if Collus is a stepping stone to a broader
25 -- broader regional consolidation strategy, then if --

1 if council's not on side with the transaction, then
2 you're not going to have the -- the bridge into the --
3 into the CHEC group and a broader regional
4 consolidation strategy, so it's like a linchpin to --
5 to that, you know, unlocking that value of the
6 regional consolidation.

7 MS. KATE MCGRANN: At this point in
8 time, had you inquired into whether Mr. Bonwick had
9 any experience in the utility sector at all?

10 MR. BRIAN BENTZ: No. I presumed it
11 was mostly government relations side of it.

12 MS. KATE MCGRANN: Coming back to my
13 original question, did Mr. Bonwick's suggestion that
14 his retained be broadened address your concerns about
15 conflict?

16 MR. BRIAN BENTZ: No.

17 MS. KATE MCGRANN: Did you tell him
18 that?

19 MR. BRIAN BENTZ: I don't think I told
20 him that specifically. I mean, it was clear to him,
21 in my view, that this was an issue for us all along.

22 MS. KATE MCGRANN: Mr. Bonwick tells
23 you that Mr. Houghton and he had had detailed
24 discussions about the proposal he was going to give
25 you.

1 Do you remember if he told you that he
2 had also asked Mr. Houghton's wife to review his
3 proposal?

4 MR. BRIAN BENTZ: No, he did not.

5 MS. KATE MCGRANN: Did he tell you
6 that shortly after he asked Mr. Houghton's wife to
7 review that proposal, he offered her a job with him?

8 MR. BRIAN BENTZ: No, he did not.

9 MS. KATE MCGRANN: If you knew that
10 Mr. Houghton's wife was working for Mr. Bonwick, would
11 that have caused you any concern about conflicts or
12 optics or continuing to discuss retaining him?

13 MR. BRIAN BENTZ: Again, it's
14 difficult to go back on a hypothetical question. I
15 likely would have had questions. And -- yeah -- I
16 mean, I've seen the nature of the work. It seems
17 largely administrative in nature. But I would have
18 had -- I would have had questions, yes.

19 MS. KATE MCGRANN: Leaving the work
20 aside, just would you have had concerns about what
21 people outside looking in would think? The optics of
22 the whole --

23 MR. BRIAN BENTZ: I might have. I
24 might have. It's hard to say. Whether it would have
25 prevented us from hiring him, I -- you know, I don't

1 know.

2 MS. KATE MCGRANN: If we could go to
3 paragraph 129 of the Foundation Document.

4

5 (BRIEF PAUSE)

6

7 MS. KATE MCGRANN: This describes
8 the -- you and Mr. Bonwick scheduled a call on
9 January 25th to discuss the proposal.

10 Do you remember that call?

11 MR. BRIAN BENTZ: Yes.

12 MS. KATE MCGRANN: What did you
13 discuss on that call?

14 MR. BRIAN BENTZ: We reviewed the
15 contents of the proposal and walked through it, its
16 terms generally.

17 MS. KATE MCGRANN: Did you make any
18 commitments to Mr. Bonwick on that call?

19 MR. BRIAN BENTZ: No.

20 MS. KATE MCGRANN: Do you remember if
21 you provided him any feedback on his proposal?

22 MR. BRIAN BENTZ: Probably that it was
23 in line with what we had discussed, but I would have
24 to read -- I know that I told him -- I kept telling
25 him -- that it would have to be vetted through our

1 Audit and Finance Committee, and, you know, we'd still
2 have to consider the matter. And we necessarily
3 weren't in any rush to do this.

4 MS. KATE MCGRANN: If we could scroll
5 down to paragraph 130 which is right below here.

6 This describes that -- in the second
7 sentence on January 29th, Mr. Bonwick forwards you an
8 email writing:

9 "Here's a response the deputy mayor
10 received from the clerk's office.

11 The CAO is copied."

12 We're going to take a look at that
13 email while we're pulling it up. Do you remember
14 getting a copy of this email?

15 MR. BRIAN BENTZ: Yes.

16 MS. KATE MCGRANN:

17

18 (BRIEF PAUSE)

19

20 MS. KATE MCGRANN: Actually, could we
21 pull up TOC38001?

22

23 (BRIEF PAUSE)

24

25 MS. KATE MCGRANN: Down a little bit.

1 Down some -- this is perfect.

2 This is an email from Sara Almas to
3 Rick Lloyd, the deputy mayor of the Town of
4 Collingwood at the time. Was that your understanding?

5 MR. BRIAN BENTZ: Yes.

6 MS. KATE MCGRANN: Ms. Almas writes:

7 "Deputy Mayor Lloyd, you are correct
8 in that Municipal Conflict of
9 Interest Act clearly identifies that
10 a member is not deemed to be in
11 conflict if it's the interest
12 (direct or indirect) of a sibling."

13 That's the email that Mr. Bonwick
14 forwarded to you?

15 MR. BRIAN BENTZ: I believe so, yes.

16 MS. KATE MCGRANN: Scroll down
17 further. This is the email chain from which that
18 email is taken. The initiating email you can see here
19 is from Deputy Mayor Lloyd to Sara Almas, and he
20 writes:

21 "Hi, Sara. My brother is
22 considering again bidding on town
23 work but was worried about putting
24 me in a conflict. I'm not involved
25 in the business, and I told him I

1 will not have a conflict of
2 pecuniary interest as I'm not
3 involved in his business, and the
4 Municipal Conflict of Interest Act
5 clearly states I must declare an
6 interest if it's an spouse, sons, or
7 daughters or parents. I'm sending
8 this to you only to ask if this is
9 your understanding as well, and I do
10 realize you cannot give advice on
11 this matter."

12 Have you seen this email before?

13 MR. BRIAN BENTZ: No. I don't believe
14 I did.

15 MS. KATE MCGRANN: If you had been
16 advised that this was the context in which the clerk
17 gave the information that was passed on to you, what
18 would your reaction have been?

19 MR. BRIAN BENTZ: I believe the email
20 that -- that I received from Mr. Bonwick, one of them
21 said -- quoted the reference in this situation. There
22 was no conflict. I assumed that to be this specific
23 situation, meaning Mr. Bonwick with the mayor, not the
24 deputy mayor's brother. That's my recollection of how
25 I interpreted that phrase.

1 MS. KATE MCGRANN: And if you had been
2 advised that this was the context in which Ms. Almas,
3 the clerk, gave that information, what would your
4 reaction have been?

5 MR. BRIAN BENTZ: I would want -- I
6 would have wanted him to disclose. I would have
7 preferred that he disclosed this specific situation.

8 I mean, we were concerned about the
9 generic standing of whether a sibling was a conflict
10 or not. But I would have preferred that he had
11 disclosed this specific situation to her at that time.
12 And I -- and that's what I assumed happened.

13 MS. KATE MCGRANN: Would you have had
14 any questions for him about why he gave you that email
15 out of context?

16 MR. BRIAN BENTZ: I might have, yes.

17

18 (BRIEF PAUSE)

19

20 MS. KATE MCGRANN: I'd like to turn to
21 the proposal that Mr. Bonwick sent to you on
22 January 20th.

23 THE HONOURABLE FRANK MARROCCO: Just
24 before you do that, apart all together from the
25 Municipal Conflict of Interest Act, based on your

1 experience, did you have the suspicion that -- whether
2 there was a conflict or not was somewhat broader than
3 the Municipal Conflict of Interest Act alone?

4 MR. BRIAN BENTZ: I was -- I was
5 concerned about the -- I was more concerned about the
6 perception of the conflict beyond -- and, you know,
7 any other -- any other guidelines maybe that were
8 available.

9 But my main concern was if -- if there
10 was opinions -- legal opinions and otherwise -- that
11 there was no conflict under that Act, then my main
12 concern was well then, there's -- there's another
13 issue with respect to how is this perceived by third
14 parties in the community. Those are the two (2)
15 things I was trying to consider.

16 THE HONOURABLE FRANK MARROCCO: Thank
17 you.

18

19 CONTINUED BY MS. KATE MCGRANN:

20 MS. KATE MCGRANN: Turn to the
21 proposal that Mr. Bonwick sent you. It's at ALE60.

22

23 (BRIEF PAUSE)

24

25 MS. KATE MCGRANN: Do you recall

1 receiving this proposal?

2 MR. BRIAN BENTZ: Yes.

3 MS. KATE MCGRANN: If we could turn
4 down to page 3 and bring up the heading "proposed
5 scope of work."

6

7 (BRIEF PAUSE)

8

9 MS. KATE MCGRANN: I don't propose to
10 go through these items with you in detail right now.
11 But I'm going to give you the opportunity to just
12 review them quickly, and I'd like you to look at this
13 page and the next page.

14 And I'm going to suggest to you that
15 this description of the proposed scope of work was
16 essentially imported into the retainer agreement that
17 you signed with Mr. Bonwick or that PowerStream
18 executed with Mr. Bonwick in June of this year.

19 MR. BRIAN BENTZ: Yes.

20 MS. KATE MCGRANN: Are you able to --
21 can you agree with that?

22 MR. BRIAN BENTZ: Generally speaking,
23 yes. I believe it was.

24 MS. KATE MCGRANN: And scroll down and
25 look at the next page. With respect to the

1 methodology and deliverables again, I reviewed the two
2 (2) of them, and I'm going to suggest to you that are
3 set out here are substantially what is reproduced in
4 the -- in the retainer that Mr. Bonwick signs with
5 PowerStream. Fair enough?

6 MR. BRIAN BENTZ: Yes.

7 MS. KATE MCGRANN: Okay. And when you
8 reviewed this proposal, did this capture the kind of
9 work that you were looking to retain Mr. Bonwick to
10 do?

11 MR. BRIAN BENTZ: Generally, yes.

12 MS. KATE MCGRANN: If we could turn up
13 ALE71, please.

14

15 (BRIEF PAUSE)

16

17 MS. KATE MCGRANN: This is a
18 February 1st email from Mr. Bonwick to yourself. He
19 writes that he hopes the transition is going smoothly
20 with your new officials. And then he goes on to give
21 you some information.

22 I'll give you a second to take a look
23 at this email, and then my first question will be do
24 you remember receiving it?

25

1 (BRIEF PAUSE)

2

3 MR. BRIAN BENTZ: Yes.

4 MS. KATE MCGRANN: Starting the second
5 full sentence there, he writes:

6 "In the interests of time, I had to
7 initiate the beginning of the
8 process we discussed, unfortunately
9 the next committee meeting was not
10 scheduled for another two (2)
11 months, which would have caused some
12 timing challenges if the process was
13 not initiated this week. As a
14 result, the Chairperson and
15 Executive Director have now received
16 direction to commence evaluation of
17 the utility."

18 I'm going to stop there and ask you
19 some questions about what he's written so far.

20 Where he says "I had to initiate the
21 beginning of the process we discussed", do you know
22 what process he's talking about?

23 MR. BRIAN BENTZ: I assume he was
24 talking about the -- the conversation that we had on
25 the 12th and subsequent review of his proposal and --

1 and the whole idea of engaging him.

2 And so this would be around clearing
3 the issue with respect to the conflict, finalizing the
4 -- the draft proposal and -- and the process that I
5 said that I needed to complete from my end, which was
6 to have it approved through our audit and finance
7 committee and -- and ultimately it was approved
8 through the Board.

9 MS. KATE MCGRANN: The next sentence
10 he writes that there would have been timing challenges
11 if the process wasn't initiated this week because --
12 I'm paraphrasing here, the next committee meeting was
13 not scheduled for another two (2) months.

14 Do you know what committee meeting he's
15 talking about there?

16 MR. BRIAN BENTZ: No, I assume that he
17 was referring to either the -- the utilities process
18 with respect to moving through the -- moving through
19 the consideration or the Town's -- or the Town's
20 process with respect to the deliberations that were
21 happening. The deliberations were -- were moving
22 forward.

23 MS. KATE MCGRANN: Deliberations about
24 what?

25 MR. BRIAN BENTZ: The potential sale

1 of Collus.

2 They -- they were talking about an RFP
3 process, so -- so the -- the logical next step in an
4 RFP process would be a valuation of the utility.

5 MS. KATE MCGRANN: I need some help
6 understanding your answers.

7 Mr. Bonwick says in the interests of
8 time I had to initiate the beginning of the process we
9 discussed.

10 I understand you to be saying you
11 thought that process was him reaching out to you and
12 giving you a proposal, is that right?

13 MR. BRIAN BENTZ: Yes.

14 MS. KATE MCGRANN: Why -- so he's
15 already reached out to you, you've already met with
16 him and he's already given you a proposal, right, at
17 this point in time?

18 MR. BRIAN BENTZ: Right.

19 MS. KATE MCGRANN: So why would he be
20 writing you to let you know that he had to initiate
21 that process that you're already in the middle of?

22 MR. BRIAN BENTZ: We had talked before
23 about the -- the Town's deliberations, so they were
24 considering -- they were going through budget
25 deliberations and part of the budget deliberations

1 would have been a potential sale of the utility.

2 So if they had gone through their
3 budget deliberations and had not considered the sale
4 of the utility, it may not get done.

5 So that's how I interpret it.

6 MS. KATE MCGRANN: Okay, so when he
7 refers to the -- to what he initiated, am I right in
8 understanding that you understood him to be initiating
9 discussions about the sale of the utility within the
10 budget process of the Town?

11 MR. BRIAN BENTZ: Yes.

12 MS. KATE MCGRANN: And he goes on to
13 say:

14 "As a result, the Chairperson and
15 the Executive Director have now
16 received direction to commence a
17 valuation of the utility."

18 Did you understand him to be saying
19 that he initiated a process that resulted in a
20 direction to value the utility?

21 MR. BRIAN BENTZ: No.

22 MS. KATE MCGRANN: Okay, what did you
23 understand him to be saying when he said:

24 "As a result, the Chairperson and
25 Executive Director have now received

1 direction to commence a valuation of
2 the utility."

3 MR. BRIAN BENTZ: That the Town was
4 maybe considering its option with respect to the sale
5 of the utility.

6 MS. KATE MCGRANN: Okay. When he
7 writes "as a result", what did you think he was
8 talking about? As a result of what?

9 MR. BRIAN BENTZ: The -- the Town was
10 going through its budget deliberations and they were
11 considering potentially the sale of the utility and so
12 they had engaged the utility. They'd asked the
13 utility to begin a valuation, which would seem to be a
14 logical step if they were going to consider that in
15 their budget deliberations.

16 MS. KATE MCGRANN: So just so I am
17 sure that I understand, the process discussed there is
18 the process of getting the Town to talk about selling
19 the utility, right?

20 MR. BRIAN BENTZ: Yes.

21 MS. KATE MCGRANN: And you understood
22 him to be saying that he initiated that process?

23 MR. BRIAN BENTZ: No.

24 MS. KATE MCGRANN: When he said "I had
25 to initiate the beginning of the process", what did

1 you understand him to mean?

2 MR. BRIAN BENTZ: To initiate -- I
3 thought he was trying to accelerate us hiring him.
4 Trying to initiate the process to get you to hire us,
5 because the Town is delib -- is -- the -- the time
6 lines are accelerating, the Town is potentially
7 considering a sale of the utility in its
8 deliberations.

9 MS. KATE MCGRANN: And it may be that
10 I'm just not going to be able to understand your
11 answer on this, but if the process is getting the Town
12 to talk about selling the utility, I think I
13 understand you there?

14 MR. BRIAN BENTZ: Yes.

15 MS. KATE MCGRANN: And he says "I had
16 to initiate the beginning of the process", what did
17 you think he meant?

18 MR. BRIAN BENTZ: I -- I didn't
19 interpret it that way. I interpreted -- it was the
20 process of us hiring him.

21

22 (BRIEF PAUSE)

23

24 MS. KATE MCGRANN: Tell me if, when
25 you read this email, and if you don't remember just

1 let me know, whether after reading this you understood
2 him to be claiming to have had any role in the
3 direction being given to value the utility.

4 MR. BRIAN BENTZ: That wasn't my
5 understanding at the time, no.

6 MS. KATE MCGRANN: Did you have any
7 discussion with him about the contents of his email to
8 try to understand what he was writing to you?

9 MR. BRIAN BENTZ: No.

10

11 (BRIEF PAUSE)

12

13 MS. KATE MCGRANN: Towards the end of
14 the email where he writes "I completely understand
15 that PowerStream will not be in a position to formally
16 consider my proposal until the end of February",
17 what's he referencing there?

18 MR. BRIAN BENTZ: I think I had told
19 him about our time lines with respect to meetings that
20 we were having in the audit and finance committee.
21 And so I said it would be a -- at earliest end of
22 February.

23 MS. KATE MCGRANN: Is that because he
24 didn't get his proposal to you until after the January
25 19th meeting that you had?

1 MR. BRIAN BENTZ: It was more our
2 schedule. Our board schedule would determine the
3 approval.

4 MS. KATE MCGRANN: Was the information
5 that Collus was commencing a valuation useful
6 information for you?

7 MR. BRIAN BENTZ: I just thought it
8 was a logical next step in the process. Was it
9 useful? I mean, it indicated to me the process was
10 moving forward, so that maybe it was more likely that
11 -- it doesn't necessarily mean it was going to happen,
12 it's just information that they would use in
13 considering whether it would happen.

14 MS. KATE MCGRANN: I'm going to ask us
15 to look at ALE4218 for a moment. I'm going to, just
16 as a warning, jump you ahead in time a little bit and
17 then we'll come back in time.

18 So this is a slide show titled Audit
19 and Finance Committee M&A Renewable Generation Update,
20 dated March 8th, 2011.

21 I'm just showing you the cover page
22 right now, but do you recognize this presentation?

23 MR. BRIAN BENTZ: Yes.

24 MS. KATE MCGRANN: Who would have
25 given this presentation?

1 MR. BRIAN BENTZ: It would be either
2 myself or our CFO, John Glicksman.

3 MS. KATE MCGRANN: If we could move to
4 slide 4 of the presentation. Bear with me one second
5 while I orient myself.

6

7 (BRIEF PAUSE)

8

9 MS. KATE MCGRANN: Slide 5, please.
10 This is a slide titled Collus Power and the first
11 bullet point says:

12 "We understand that Collus' audit
13 and finance committee has engaged a
14 consultant to value the utility in
15 case of a potential sale."

16 So, here we see either you or Mr.
17 Glicksman advising your audit and finance committee of
18 the fact that Collus is -- is doing a valuation. Why
19 are you sharing this information with the audit and
20 finance committee?

21 MR. BRIAN BENTZ: We were trying to
22 let them know the stage of deliberations with respect
23 to the -- to the Collus sale.

24 MS. KATE MCGRANN: So, this was a fact
25 that you thought would be useful in helping your audit

1 and finance committee where things were at with the
2 Utility?

3 MR. BRIAN BENTZ: They -- they would
4 approve -- they would ultimately approve these
5 transactions, so to give them a sense that this --
6 this may or not. I mean, we did this with a lot of
7 different M&A transactions, and I think there was some
8 included in here, so just the status report in terms
9 of -- the value of it is this may or may not happen,
10 so, you know, here's -- this -- this one (1) is moving
11 forward at -- at this pace, so a request may or may
12 not come forward sometime in the future for approval
13 with respect to the transaction.

14 MS. KATE MCGRANN: So, it's a useful
15 data point to help your committee understand --

16 MR. BRIAN BENTZ: Well --

17 MS. KATE MCGRANN: -- where they are
18 in the process?

19 MR. BRIAN BENTZ: -- yes.

20 MS. KATE MCGRANN: We've got to try
21 not to talk over each other, okay?

22 MR. BRIAN BENTZ: I apologize.

23 MS. KATE MCGRANN: I'm going to turn
24 now from those conversations to the -- the steps that
25 PowerStream took as it was considering retaining Mr.

1 Bonwick to -- to work for it, to provide consulting
2 services.

3 Generally, before we get into questions
4 about documents and things, what was your involvement
5 in PowerStream's consideration of whether to retain
6 Mr. Bonwick?

7 MR. BRIAN BENTZ: I would -- I would
8 make the recommendation generally with the support of
9 -- or consulting with the executive team, executive
10 operating committee, and -- and, in this case, also
11 sought the advice and counsel of the -- of the mayors
12 with respect to that recommendation.

13 MS. KATE MCGRANN: Up until this
14 point, it appears that you've been Mr. Bonwick's main
15 contact in -- in initial discussions. We can see from
16 the documents that PowerStream goes about asking some
17 questions and collecting some information, making
18 requests of Mr. Bonwick.

19 We you involved in the day-to-day back
20 and forth in terms of doing due diligence and
21 collecting information to inform PowerStream's
22 decision?

23 MR. BRIAN BENTZ: I delegated some of
24 that. I might have done that myself, but I probably
25 delegated some of that, as well.

1 MS. KATE MCGRANN: Who did you
2 delegate it to?

3 MR. BRIAN BENTZ: It would likely be
4 Mr. Glicksman or Mr. Nolan, our chief financial
5 officer and our -- and our general counsel.

6 MS. KATE MCGRANN: Other than those
7 two (2) gentlemen, anybody else who would have had a
8 material involvement in -- in looking at this
9 question?

10 MR. BRIAN BENTZ: I believe Mr. Nolan
11 reached out to external counsel, as well.

12 MS. KATE MCGRANN: And we -- we had
13 this conversation with Mr. Nolan, but I'll have it
14 with you now. None of the questions that I ask you
15 here today are seeking to elicit any -- any questions
16 you asked seeking legal advice or any legal advice
17 that was given to you.

18 So, your counsel I know will help me if
19 I get close to asking a question that puts us in
20 danger of -- of going there. But if you sense that I
21 am doing that, you please let me know, as well, okay?

22 I'm going to ask that we go to
23 paragraph 133 of the Foundation Document.

24

25 (BRIEF PAUSE)

1 MS. KATE MCGRANN: This paragraph
2 describes that on February 13th, 2011, Mr. Bonwick
3 emails you advising you that he had requested
4 reference letters from representatives of three (3)
5 clients.

6 He also provides you with a letter from
7 Mr. Houghton dated 2005. Do you remember receiving
8 correspondence like this from Mr. Bonwick?

9 MR. BRIAN BENTZ: Yes.

10 MS. KATE MCGRANN: With respect to the
11 reference letter from Mr. Houghton from 2005, Mr.
12 Bonwick explained to you:

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

19 Do you remember Mr. Bonwick explaining
20 that to you?

21 MR. BRIAN BENTZ: Yes.

22 MS. KATE MCGRANN: Did you understand
23 what conflict situation he was concerned about with
24 respect to getting a current reference letter from Mr.
25 Houghton?

1 MR. BRIAN BENTZ: No.

2 MS. KATE MCGRANN: Was that a concern
3 that you had shared with Mr. Bonwick?

4 MR. BRIAN BENTZ: No.

5 MS. KATE MCGRANN: Would you agree
6 with me that, if getting a current reference letter
7 from Mr. Houghton would pose a problem, then having
8 detailed discussions with Mr. Houghton about the
9 proposal would pose a problem, too?

10 MR. BRIAN BENTZ: I didn't think there
11 was any problem with him providing a reference letter.

12 MS. KATE MCGRANN: I understand that
13 you didn't share this concern. I'd like you to go a
14 little bit further with me. If him providing a
15 reference letter would cause a problem, would Mr.
16 Houghton's review of Mr. Bonwick's proposal cause the
17 same kind of problem?

18 MR. BRIAN BENTZ: From my perspective,
19 it didn't.

20 MS. KATE MCGRANN: Understood.

21 MR. BRIAN BENTZ: But from -- no, I --
22 I can't see the -- the correlation there.

23 MS. KATE MCGRANN: You don't see the -
24 - the correlation between --

25 MR. BRIAN BENTZ: Yes.

1 MS. KATE MCGRANN: -- writing a
2 reference letter and reviewing a proposal to assist in
3 making the proposal to PowerStream?

4 MR. BRIAN BENTZ: If I was -- from --
5 form my perspective, if -- if I didn't have
6 necessarily a problem with him reviewing the proposal,
7 I didn't have a problem with him providing a reference
8 letter either.

9 MS. KATE MCGRANN: My question is a
10 little bit different than that. So, now I'm not
11 asking about whether you had a concern at the time. I
12 guess what I'm asking is, did it strike you as strange
13 that Mr. Bonwick was prepared to have detailed
14 discussions with Mr. Houghton about the proposal that
15 he was making to PowerStream, but he felt he couldn't
16 ask Mr. Houghton for a reference letter?

17 MR. BRIAN BENTZ: In hindsight,
18 perhaps, yes.

19 MS. KATE MCGRANN: Okay. So, we're
20 going to go back to the -- the slide show that we were
21 just looking at actually, the March 8th audit finance
22 committee slide show. It's at ALE4218.

23

24 (BRIEF PAUSE)

25

1 MS. KATE MCGRANN: We'll just stay
2 here while I get my slide references correct. But
3 while we do that, was this the first time that you had
4 made a presentation or given information to the audit
5 and finance committee about a possible opportunity
6 with Collus Power or do you remember?

7 MR. BRIAN BENTZ: I believe, yes.

8

9 (BRIEF PAUSE)

10

11 MS. KATE MCGRANN: So, if we can go
12 back to slide 5. We've already talked about the first
13 bullet point. Now I'd like to talk about the second
14 one (1) where it says:

15 "Through informal discussions with
16 senior employees of Collus it was
17 suggested that PowerStream explore
18 the potential of hiring Paul Bonwick
19 as a consultant."

20 Do you know who the senior employees of
21 Collus Power are -- there are? Who's that referring
22 to?

23 MR. BRIAN BENTZ: Mu -- it would be Ed
24 Houghton.

25 MS. KATE MCGRANN: It says, "Senior

1 employees," plural. Do you know if there was anybody
2 else at Collus Power that PowerStream had been talking
3 to?

4 MR. BRIAN BENTZ: No.

5 MS. KATE MCGRANN: Was there any
6 reason why you wouldn't identify the audit and finance
7 committee that it was the president and CEO of the
8 company that had suggested exploring this retainer?

9 MR. BRIAN BENTZ: We likely did
10 verbally.

11 MS. KATE MCGRANN: Do you remember at
12 any point in time if -- if the members of your audit
13 finance committee raised any concern about the fact
14 that the president and CEO of Collus Power had -- had
15 suggested that you hire Mr. Bonwick?

16 MR. BRIAN BENTZ: This would have been
17 described in the context of the call that I had with -
18 - with Ed. I believe that's what that's referring to,
19 that original call that I had with Ed who's -- who's
20 saying that, you know, he vouched for him.

21 MS. KATE MCGRANN: Okay. And do you
22 remember the members of the audit and finance
23 committee having any concerns about the fact that the
24 president and CEO of the -- of Collus Power is
25 vouching for a consultant that you're looking at

1 retaining?

2 MR. BRIAN BENTZ: No.

3 MS. KATE MCGRANN: Do you remember if
4 -- if you or anyone else at PowerStream advised the
5 audit and finance committee that beyond vouching for
6 Mr. Bonwick, Mr. Houghton and Mr. Bonwick are friends?

7 MR. BRIAN BENTZ: No.

8 MS. KATE MCGRANN: Do you know if
9 anyone advised the audit and finance committee that
10 Mr. Bonwick and Mr. Houghton had, up until this point
11 at least, been involved in detailed discussions about
12 Mr. Bonwick's proposal to PowerStream?

13 MR. BRIAN BENTZ: I don't recall if
14 that was discussed with the -- with the committee.
15 Like I said, I think -- generally, I don't think
16 anyone thought anything of the relationship given Mr.
17 Houghton's longstanding career at the utility and the
18 fact that Mr. Bonwick was a former politician in the
19 community.

20 MS. KATE MCGRANN: Is it fair to say
21 that for them to have informed thoughts or
22 considerations about the relationship, they would have
23 to have the information about the relationship to do
24 it?

25 MR. BRIAN BENTZ: It seemed plausible

1 and reasonable that a, like, utility leader would know
2 -- would know a politician.

3 MS. KATE MCGRANN: Talking about more
4 than just knowing a politician, I'm trying to
5 understand how much information the audit and finance
6 committee had about Mr. Houghton's involvement with
7 Mr. Bonwick and the proposal that he was making to
8 PowerStream.

9 MR. BRIAN BENTZ: I don't think it --
10 it occurred to us that there was, you know, a
11 relationship here other than they knew each other as
12 acquaintances and their paths had crossed in their
13 careers.

14 MS. KATE MCGRANN: Mr. Bonwick had
15 written to you in an email before this that me and --
16 he and Mr. Houghton had had detailed discussions about
17 his proposal to you.

18 Now, I understand you'd been saying
19 that your information was not shared with the Audit
20 and Finance Committee. Have I got that right?

21 MR. BRIAN BENTZ: I don't recall if
22 we -- if we talked to them about that or not. I would
23 have likely discussed that with the mayors at the
24 January 19th meeting.

25 MS. KATE MCGRANN: Do you have a

1 specific recollection of discussing that with them?

2 MR. BRIAN BENTZ: I would have given
3 them a full briefing of -- of how this evolved. And
4 I -- I believe I told them that I had checked with
5 Mr. Houghton with respect to the relationship with --
6 or getting a -- an opinion as to -- as to Mr. Bonwick.

7 MS. KATE MCGRANN: Do you have a
8 specific recollection of telling the mayors that
9 Mr. Bonwick and Mr. Houghton had been involved in
10 detailed discussions about Mr. Bonwick's proposal to
11 PowerStream?

12 MR. BRIAN BENTZ: I don't recall.

13 MS. KATE MCGRANN: If we an scroll
14 down the slide a little bit. Here's a bullet point in
15 which it's described that:

16 "Mr. Bonwick would assist
17 PowerStream in navigating and
18 advising PowerStream on how best to
19 work with the Town of Collingwood's
20 Council if an acquisition to
21 opportunity were to arise."

22 And then you go on to say Mr. Bonwick
23 is the brother of the current mayor of Collingwood.
24 To your best recollection, is this when you brought
25 the potential issue of Mr. Bonwick's sibling

1 relationship with the mayor to the Audit and Finance
2 Committee?

3 MR. BRIAN BENTZ: Yes.

4 MS. KATE MCGRANN: Do you recall what
5 discussion resulted from this presentation on that
6 committee?

7 MR. BRIAN BENTZ: There would have
8 been a discussion with respect to the deliberations
9 that the mayors had had at the January 19th meeting
10 and -- and their conclusion that if Mr. Bonwick could
11 assist us in the manner that we had described.

12 And -- and the fact that from their
13 perspective, subject to further due diligence, that if
14 the conflict did not exist and if we were very
15 transparent about disclosure, that we should consider
16 hiring Mr. Bonwick.

17 MS. KATE MCGRANN: With respect to the
18 conclusions that the mayors drew at the end of the
19 January 19th meeting, what -- did they talk about what
20 specifically would need to be disclosed?

21 MR. BRIAN BENTZ: They talked about it
22 more generically. We would have to have full and
23 transparent disclosure.

24 MS. KATE MCGRANN: Okay. So you
25 didn't get into the details of what specific things

1 would need to be disclosed?

2 MR. BRIAN BENTZ: No.

3 MS. KATE MCGRANN: Do you remember if
4 they came to a conclusion about who disclosure would
5 need to be made to?

6 MR. BRIAN BENTZ: The mayor for sure,
7 but that was their main concern, I think.

8 MS. KATE MCGRANN: What specific
9 concern would disclosure to the mayor address? Do you
10 remember them talking about that?

11 MR. BRIAN BENTZ: That then she would
12 be apprised of the -- of the engagement and the
13 potential conflict. And she would have to make a
14 determination as to whether this constituted a
15 conflict, real or perceived, and whether she should
16 recuse herself in that situation.

17 MS. KATE MCGRANN: Okay. So the
18 notion was by making disclosure, the mayor is then in
19 a position to determine how to deal with it on her
20 end.

21 What about the concerns that
22 PowerStream had about the optics of retaining the
23 mayor's brother? How would that address things?

24 MR. BRIAN BENTZ: That we felt that if
25 we had -- if we had full disclosure with the Town and

1 that we were very transparent if there were any
2 discussion around the perceived conflict that we would
3 be open and transparent about it, that -- I can't
4 remember if that was the point where we said, you
5 know, we would reach out to the Town directly and
6 advise them of this relationship beyond just the
7 mayor. But those kinds of things.

8 MS. KATE MCGRANN: Okay. And I think
9 the conversation with the Audit and Finance Committee
10 continued after January 19th, so we'll just keep
11 talking about it as we go here.

12 Could we look at ALE4220, please. And
13 then after this, I think it might be an opportune time
14 to take a break if that works.

15 THE HONOURABLE FRANK MARROCCO: That's
16 fine.

17 MS. KATE MCGRANN: Okay.

18

19 (BRIEF PAUSE)

20

21 CONTINUED BY MS. KATE MCGRANN:

22 MS. KATE MCGRANN: So if we could
23 scroll down a little bit. It starts with -- scroll
24 all the way down just so we can -- that's the end?
25 Okay. Back up to the top of this email.

1 So this email chain starts with a
2 March 9th email from Jeff Lehman to you. It's our
3 understanding that Jeff Lehman is the mayor of Barrie,
4 as his signature indicates, and he's involved in
5 PowerStream. What was his role?

6 MR. BRIAN BENTZ: He was the -- on the
7 Audit and Finance Committee and the director of
8 PowerStream.

9 MS. KATE MCGRANN: On March 9th, he
10 writes to you:

11 "Brian, did you want me to set up a
12 meeting with Sandra Cooper for
13 Friday afternoon, or did you want to
14 speak with Ed Houghton first?"

15 And if we could scroll up to see your
16 response. You write back:

17 "I was planning on speaking with Ed
18 first. I was also thinking after
19 our meeting that he may be somewhat
20 sensitive to me seeing the mayor
21 before this process gets off the
22 ground. I know he wants to maintain
23 control of the process to the extent
24 possible."

25 Why were you thinking on speaking with

1 Ed first?

2 MR. BRIAN BENTZ: I just wanted to be
3 respectful of the fact that, you know, he was leading
4 the process and that -- when we got to a point where
5 we were prepared to -- closer to preparing to engage
6 Mr. Bonwick, that would be more of an appropriate time
7 for Mayor Lehman to speak out -- speak with
8 Mayor Cooper.

9 MS. KATE MCGRANN: And when you write
10 "I know he wants to maintain control of the process to
11 the extent possible," what were you referring to
12 there?

13 MR. BRIAN BENTZ: The RFP process, and
14 this would be in the normal course. If you were going
15 to do this, you would want, you know, your Board and
16 your executive to control the RFP process and how it's
17 being managed.

18 MS. KATE MCGRANN: What was the
19 purpose of an informal one-on-one meeting between
20 Lehman and Mayor Cooper?

21 MR. BRIAN BENTZ: As I recall,
22 Mayor Lehman offered to speak with Mayor Cooper.
23 They're both mayors in Simcoe County, so they knew
24 each other through regional government, that sort of
25 thing, even though I think City of Barrie was a

1 separate city, the lower tier municipality.

2 But he really wanted to talk to her
3 about his recent experience with PowerStream. They'd
4 just completed the merger with Barrie Hydro in 2009 to
5 say, it was really -- if you are considering this --
6 this option that -- just to speak to her about his
7 experience with -- with PowerStream.

8 MS. KATE MCGRANN: Was it contemplated
9 that he would discuss at all the potential retainer of
10 Paul Bonwick at this meeting?

11 MR. BRIAN BENTZ: Yes.

12 MS. KATE MCGRANN: Did mayor -- do you
13 know if the meeting took place?

14 MR. BRIAN BENTZ: Eventually, it took
15 place, I believe, in May sometime.

16 MS. KATE MCGRANN: And did
17 Mayor Lehman report back to you after the meeting he
18 had with Mr. (sic) Cooper?

19 MR. BRIAN BENTZ: Yes.

20 MS. KATE MCGRANN: Mayor Cooper. I
21 apologize. Yes, he did? What did he tell you about
22 the meeting?

23 MR. BRIAN BENTZ: That it went well,
24 that he had spoken to her about his experience with
25 PowerStream, and our considering hiring Mr. Bonwick,

1 his (sic) brother.

2 MS. KATE MCGRANN: What did he tell
3 you about his discussion with Mayor Cooper about
4 PowerStream's considering hiring her brother?

5 MR. BRIAN BENTZ: He didn't go into a
6 lot of detail, other than he just identified that we
7 were considering doing it, and he wanted to apprise
8 her of that.

9 MS. KATE MCGRANN: Do you remember
10 what he told you about that?

11 MR. BRIAN BENTZ: Not specifically,
12 no.

13 MS. KATE MCGRANN: But you do have a
14 specific recollection that he told you that that
15 discussion had happened?

16 MR. BRIAN BENTZ: Yes.

17 MS. KATE MCGRANN: Do you remember did
18 he tell you that he specifically referenced any
19 response PowerStream may make to an RFP?

20 MR. BRIAN BENTZ: No.

21 THE HONOURABLE FRANK MARROCCO: We'll
22 take ten (10) minutes.

23

24 --- Upon recessing at 10:19 a.m.

25 --- Upon resuming at 10:30 a.m.

1 CONTINUED BY MS. KATE MCGRANN:

2 MS. KATE MCGRANN: I'm going to ask
3 you some questions about the -- it looks like there
4 was a -- a meeting with the audit and finance
5 committee on April 13th. Could we look at paragraph
6 137 of the Foundation Document, please.

7

8 (BRIEF PAUSE)

9

10 MS. KATE MCGRANN: This paragraph
11 describes that on April 13th, 2011, a presentation
12 titled 'M&A, a New Business Update' was provided to
13 PowerStream's audit and finance committee.

14 Do you remember this presentation being
15 made?

16 MR. BRIAN BENTZ: Yes.

17 MS. KATE MCGRANN: Were you involved
18 in making that presentation?

19 MR. BRIAN BENTZ: Yes.

20 MS. KATE MCGRANN: The presentation
21 stated that:

22 "Based upon discussions with
23 representatives from Collus Power,
24 it's our understanding that utility
25 is planning to move ahead with a

1 potential sale."

2 The representatives from Collus Power
3 referred to -- who is -- who is that, the
4 representatives from Col --

5 MR. BRIAN BENTZ: Mr. Houghton.

6 MS. KATE MCGRANN: Okay. What
7 discussions are referenced there?

8 MR. BRIAN BENTZ: Likely referring to
9 my original discussion with him on December 3rd.

10 MS. KATE MCGRANN: And I think we've
11 heard from you that you spoke to him on December 3rd,
12 and then you spoke with him after you got the email
13 from Mr. Bonwick. Had you had any other discussions
14 with Mr. Houghton between those conversations in and
15 this April 13th presentation?

16 MR. BRIAN BENTZ: I don't believe so,
17 no.

18 MS. KATE MCGRANN: You go on to say:

19 "A meeting has been arranged for
20 April 13th with yourself, the mayors
21 of Vaughan, Markham, and Barrie, as
22 well as Paul Bonwick, to discuss --
23 to further discuss the potential
24 sale of Collus."

25 What was the purpose of that meeting?

1 MR. BRIAN BENTZ: It really came as a
2 result of the meeting I had with him on the 19th,
3 where I sought their advice with respect to the
4 conflict issue, and the whole idea of whether we
5 should engage Mr. Bonwick.

6 And as I mentioned, we went through
7 some deliberations around that in terms of the
8 conflict issue, the value he could provide, and their
9 conclusion being subject to disclosure, subject to
10 him, you know, validating that he could provide value,
11 that they would recommend that we -- we hire him, but
12 they also thought -- and I agreed -- that it would be
13 a good idea if they met with him, sort of an informal
14 interview to get to know him, and -- and, you know,
15 see him in person.

16 MS. KATE MCGRANN: I understand that
17 at the end of the January 19th meeting with the
18 mayors, and that's the 19th meeting you're referring
19 to, right?

20 MR. BRIAN BENTZ: Yes.

21 MS. KATE MCGRANN: At the end of the
22 January 19th meeting, where things were left was that
23 generally, disclosure was seen as -- as necessary, but
24 you didn't talk about specifically what needed to be
25 disclosed?

1 MR. BRIAN BENTZ: No. It was generic
2 disclosure, yes.

3 MS. KATE MCGRANN: And you had gotten
4 as far as discussing that disclosure to the Mayor was
5 going to be required, but you hadn't talked about
6 disclosure to anyone else?

7 MR. BRIAN BENTZ: Not as I recall, no.

8 MS. KATE MCGRANN: With respect to the
9 value that Mr. Bonwick could provide, since that
10 January 19th meeting, you'd received a proposal from
11 him and some letters of reference.

12 Is that right?

13 MR. BRIAN BENTZ: Yes.

14 MS. KATE MCGRANN: Had you received
15 any other information from Mr. Bonwick about the value
16 that he could provide to PowerStream?

17 MR. BRIAN BENTZ: I don't recall
18 offhand, no.

19 MS. KATE MCGRANN: I suppose he had
20 also advised you that the valuation had been
21 commenced?

22 MR. BRIAN BENTZ: Yes.

23 MS. KATE MCGRANN: Other than those
24 three (3) things?

25

1 (BRIEF PAUSE)

2

3 THE HONOURABLE FRANK MARROCCO: I
4 think your answer was you couldn't recall.

5 MR. BRIAN BENTZ: Yes, that's correct.

6

7 CONTINUED BY MS. KATE MCGRANN:

8 MS. KATE MCGRANN: Sorry, I -- I
9 thought you were -- I thought you were thinking.

10 Take a look at the -- the sides from
11 this meeting. So it's ALE30995.001.

12

13 (BRIEF PAUSE)

14

15 MS. KATE MCGRANN: Actually, you know
16 what, don't worry about that. We can just skip ahead.

17 The April 13th meeting with yourself,
18 Mr. Bonwick, and the mayors, do you remember attending
19 that meeting?

20 MR. BRIAN BENTZ: Yes.

21 MS. KATE MCGRANN: What was discussed
22 with respect to the disclosure that would be required
23 if PowerStream was going to retain Mr. Bonwick?

24 MR. BRIAN BENTZ: I just remember the
25 -- the mayors unanimously underscoring strongly that -

1 - that disclosure was something that, you know, we --
2 we're concerned with -- that is done very -- in a very
3 transparent way, that, you know, we -- we have a -- a
4 reputation in terms of how we do mergers and
5 acquisitions. We think we have a, you know, a good
6 reputation in that regard. And that, you know, full
7 disclosure is -- is something that is very important
8 to us. That's what I recall.

9 MS. KATE MCGRANN: Okay. Was it
10 discussed whether PowerStream wanted Mr. Bonwick to
11 disclose the fees that he would be earning from the
12 work he was doing for PowerStream?

13 MR. BRIAN BENTZ: No.

14 MS. KATE MCGRANN: Was it discussed
15 that PowerStream wanted Mr. Bonwick to explicitly
16 disclose the kinds of services that he would be
17 providing in his work?

18 MR. BRIAN BENTZ: It may have. It may
19 have. I don't specifically recall.

20 MS. KATE MCGRANN: Was it discussed
21 that PowerStream wanted Mr. Bonwick to explicitly
22 disclose that he would be involved in responding to
23 any RFP that Collus Power issued?

24 MR. BRIAN BENTZ: It's likely that the
25 -- the scope of services was -- was discussed, the

1 nature of the services would certainly have been
2 discussed. Was the nature of the services connected
3 to, you know, the requirement, the emphasis on
4 disclosure? It -- it may have. I -- I don't remember
5 specifically.

6 MS. KATE MCGRANN: At the time of the
7 April 13th meeting, what did PowerStream want Mr.
8 Bonwick to disclose?

9 MR. BRIAN BENTZ: The nature of the
10 relationship of -- of his relationship to the Town --
11 or sorry, to the mayor, and convey that to the Town.
12 Did -- specifically, did we say, and it had to be, you
13 know, the clerk, and it had to be the may -- no, we
14 didn't say that.

15 MS. KATE MCGRANN: If I understand you
16 correctly, you said you -- you wanted Mr. Bonwick to
17 tell the Town that he was the mayor's sister (sic)?

18 MR. BRIAN BENTZ: No, that --

19 THE HONOURABLE FRANK MARROCCO: That
20 would be an odd thing for Mr. Bonwick to tell anybody.

21 MS. KATE MCGRANN: And I'm just -- I'm
22 just trying to understand your answer.

23 THE HONOURABLE FRANK MARROCCO: I
24 think the mayor's brother was probably --

25

1 CONTINUED BY MS. KATE MCGRANN:

2 MS. KATE MCGRANN: Thank you. Do you
3 -- wanted him to tell the Town about their sibling --
4 oh my gosh.

5 Let me try this again. I'm trying to
6 understand what you wanted people on the receiving end
7 of this disclosure to know. What did you want him to
8 tell people?

9 MR. BRIAN BENTZ: That PowerStream had
10 hired him with respect to a potential RFP -- potential
11 RFP -- for the sale of Collus, and to apprise the
12 appropriate people at the Town of Collingwood of that
13 fact.

14 MS. KATE MCGRANN: To your
15 recollection, was that explained to Mr. Bonwick at
16 this April 13th meeting?

17 MR. BRIAN BENTZ: I believe so, yes.

18 MS. KATE MCGRANN: When you said,
19 "appropriate people," you did the air quote thing with
20 your fingers. I'm saying it out loud because that
21 doesn't show up on the transcript.

22 Did you or the mayors identify from Mr.
23 Bonwick who the appropriate people were?

24 MR. BRIAN BENTZ: The mayor was
25 certainly identified. Was the clerk, I don't recall,

1 or anyone else, I don't recall.

2 MS. KATE MCGRANN: Do you recall
3 whether there was discussion about disclosure to
4 anyone else?

5 MR. BRIAN BENTZ: No, I don't recall.

6 MS. KATE MCGRANN: Just as between the
7 mayors and yourself, do you remember if you discussed
8 who -- who disclosure would need to be made to in
9 order for you to be satisfied?

10 MR. BRIAN BENTZ: Not at the time.

11 MS. KATE MCGRANN: At a later time?

12 MR. BRIAN BENTZ: During the contract
13 negotiations, yes.

14 MS. KATE MCGRANN: And when you say,
15 "contract negotiations" you're talking about Mr.
16 Bonwick's retainer?

17 MR. BRIAN BENTZ: Yes.

18 MS. KATE MCGRANN: With respect to the
19 value that Mr. Bonwick was going to provide the
20 PowerStream, what do you remember was discussed at
21 that meeting about that?

22 MR. BRIAN BENTZ: It would be the
23 deliberations of Council with respect to whether they
24 would consider a sale or not, and given Mr. Bonwick's
25 knowledge of the community, his assistance in

1 preparing a response to any RFP that would
2 subsequently occur.

3 MS. KATE MCGRANN: A couple of things
4 about that. First of all, you said it would be the
5 deliberations of Council. Do you specifically recall
6 discussing that Mr. Bonwick would give you information
7 about the deliberations of Council?

8

9 (BRIEF PAUSE)

10

11 MR. BRIAN BENTZ: An understanding of
12 where information with respect to where the Council
13 was with respect to whether they were considering the
14 sale or -- or not within their budget deliberations.

15 MS. KATE MCGRANN: Do you specifically
16 recall that being discussed at that meeting?

17 MR. BRIAN BENTZ: Yes. That issue was
18 discussed at the meeting.

19 MS. KATE MCGRANN: And you said within
20 their budget deliberations. Did -- were you expecting
21 Mr. Bonwick to just bring you information about what
22 Council was talking about with respect to the
23 potential sale?

24 MR. BRIAN BENTZ: Yes.

25 MS. KATE MCGRANN: Did you expect him

1 to be able to bring you information beyond what was
2 disclosed in the minutes of Council meetings?

3 MR. BRIAN BENTZ: Maybe.

4 MS. KATE MCGRANN: You have people in-
5 house who could read the minutes of Council meetings,
6 right?

7 MR. BRIAN BENTZ: Right.

8 MS. KATE MCGRANN: So you were
9 retaining him to do --

10 MR. BRIAN BENTZ: Yes.

11 MS. KATE MCGRANN: -- more than what
12 you can do in-house?

13 MR. BRIAN BENTZ: M-hm.

14 MS. KATE MCGRANN: What did you think
15 he was going to be able to do for you?

16 MR. BRIAN BENTZ: Understand what the
17 deliberations of Council were. What -- what factors
18 they might be considering, to interpret that, to say,
19 you know, what -- what is important to the Town. He
20 would be in a position to say, you know, what would be
21 important to the Town. He would -- might understand
22 their fiscal situation better. He could provide some
23 perspective with respect to their deliberations.

24 MS. KATE MCGRANN: Did you expect him
25 to speak to members of Council and get their views and

1 bring them back to you?

2 MR. BRIAN BENTZ: Potentially.

3 MS. KATE MCGRANN: Did you expect him
4 to -- to use his relationships in the community to get
5 information and bring that back to you?

6 MR. BRIAN BENTZ: Potentially.

7 MS. KATE MCGRANN: Other than the
8 information about disclosure that we've talked about
9 and value that we've talked about, anything else
10 discussed January -- June -- oh my goodness, April
11 13th meeting that you remember?

12 MR. BRIAN BENTZ: No.

13 MS. KATE MCGRANN: I'm going to turn
14 from that meeting to a May 18th, 2011, email, ALE135.

15

16 (BRIEF PAUSE)

17

18 MS. KATE MCGRANN: So this is a May
19 18th, 2011, email from Mr. Bonwick to you. Sandra
20 DiPonio, who's that?

21 MR. BRIAN BENTZ: That's my executive
22 assistant.

23 MS. KATE MCGRANN: The Re line of this
24 letter is "Mayor Cooper Letter."

25 And it attaches a document titled

1 "PowerStream letter." Mr. Bonwick writes to you:

2 "Hi Brian: Here is a draft letter as
3 per our discussion. Please review
4 and let me know if the content is
5 satisfactory."

6 Do you remember getting this email?

7 MR. BRIAN BENTZ: Yes.

8 MS. KATE MCGRANN: I now ask that the
9 attachment be shown to you. It's ALE136.

10

11 (BRIEF PAUSE)

12

13 MS. KATE MCGRANN: So this is a letter
14 -- go all the way down -- that is to come from -- from
15 Mayor Cooper. Do you remember Mr. Bonwick providing
16 you with this draft?

17 MR. BRIAN BENTZ: Yes.

18 MS. KATE MCGRANN: At the time did you
19 have any concerns that Mr. Bonwick was providing you
20 with a draft letter that will ultimately be coming
21 from Mayor Cooper, or that's supposed to come from
22 Mayor Cooper?

23 MR. BRIAN BENTZ: Not really, no.

24 MS. KATE MCGRANN: Why not?

25 MR. BRIAN BENTZ: We had, from the

1 beginning, made it clear to him that we wanted
2 disclosure and specifically from the Mayor. Our
3 mayors conveyed that to him. It's not unreasonable
4 that, you know, he would draft a letter on her behalf,
5 she would have to review and approve it, and -- and it
6 would convey what -- what we have talked to him about.

7 MS. KATE MCGRANN: Is one of the --
8 one of the things that you'd be concerned about in a
9 situation where there's a potential conflict of
10 interest, concerns about influence that -- that one
11 person could wield over the other?

12 MR. BRIAN BENTZ: The perception of
13 influence.

14 MS. KATE MCGRANN: Or the perception
15 of a willingness of one person to assist the other, as
16 a result of the relationship they have.

17 MR. BRIAN BENTZ: Yes.

18 MS. KATE MCGRANN: Did -- was that
19 concern at all -- did it at all come into your mind
20 when you saw Mr. Bonwick drafting a letter for his
21 sister here?

22 MR. BRIAN BENTZ: No. I was -- you
23 know, the -- the Mayor would review this letter. I
24 don't believe I had met her at that point. And the
25 Mayor would amend it as necessary and make a

1 determination for her own purposes as to whether the
2 letter was appropriate or not.

3 MS. KATE MCGRANN: Looking at the
4 contents of the letter -- could we scroll up a little
5 bit just so we can see the whole body of it? Yeah.
6 And down a little bit. There -- there we go.

7 This letter, Mr. Bonwick has written
8 that:

9 "My brother, Paul Bonwick, recently
10 brought to my attention that he
11 submitted a proposal to provide
12 services to PowerStream."

13 He goes on to -- or the letter goes on
14 to say:

15 "The potential services will
16 include, but not be limited to,
17 strategic advice on matters related
18 to public relations, strategic
19 planning, acquisitions, media
20 relations."

21 Also stated that:

22 "Those responsibilities could
23 potentially incorporate advice
24 related to the Town of Collingwood,
25 subject to certain conditions

1 unfolding in the coming months."

2 Now, I understood that you and the
3 mayors on the Audit and Finance Committee wanted Mr.
4 Bonwick to disclose that he was being retained to
5 assist in responding to a potential Collus Power RFP.

6 Was this letter sufficient disclosure
7 in your mind of that?

8 MR. BRIAN BENTZ: It -- it was
9 disclosure. It probably could have been more explicit
10 with respect to the last sentence, the RFP, but I
11 think it referred -- I think the Mayor would know what
12 that meant, that it was the -- the potential sale of -
13 - of Collus.

14 MS. KATE MCGRANN: So, am I right in
15 understanding you to be saying that the -- the
16 reference to "certain conditions unfolding in the
17 coming months" in the Town of Collingwood is a
18 reference to the RFP?

19 MR. BRIAN BENTZ: The whole notion of
20 the Town considering the sale, yes.

21 MS. KATE MCGRANN: At the time, did
22 you consider whether the reference to the potential
23 RFP maybe should be a bit more specific than this?

24 MR. BRIAN BENTZ: I didn't think that
25 at the time, but in retrospect, maybe, yes.

1 MS. KATE MCGRANN: This letter goes on
2 to say:

3 "Should these conditions come into
4 play, Paul has suggested that a
5 meeting be scheduled with relevant
6 parties to more formally clarify
7 Paul's role with PowerStream."

8 Am I right in understanding that what
9 this meant was -- or what you took it to mean was, if
10 there's going to be an RFP, we should have a meeting?

11 MR. BRIAN BENTZ: Or if we are going
12 to engage Mr. Bonwick, we should have a meeting, and
13 an RFP. I would think both of those things.

14 MS. KATE MCGRANN: Okay. Did you
15 understand her to be suggesting that there should be a
16 meeting before a retainer is entered into with Mr.
17 Bonwick?

18 MR. BRIAN BENTZ: No.

19 MS. KATE MCGRANN: And at the time you
20 were satisfied that this was sufficient disclosure and
21 met the requirements of the Audit and Finance
22 Committee of PowerStream?

23 MR. BRIAN BENTZ: Yes.

24 MS. KATE MCGRANN: Could we look at
25 ALE139, please?

1 (BRIEF PAUSE)

2

3 MS. KATE MCGRANN: This is a May 19th,
4 2011, email from Mr. Bonwick to Mr. Bentz. That's
5 you. He writes:

6 "Mayor Cooper called this morning
7 and offered to call Mayor Lehman, if
8 he would still like that to take
9 place. I am available if you wish
10 to call me at some point this
11 afternoon."

12 Do you remember receiving this email?

13 MR. BRIAN BENTZ: Yes.

14 MS. KATE MCGRANN: Do you know what
15 the call between Mayor Cooper and Mayor Lehman was
16 about?

17 MR. BRIAN BENTZ: It's likely the --
18 the call I described earlier, were Mayor Lehman wanted
19 to reach out to Mayor Cooper.

20 MS. KATE MCGRANN: And do you remember
21 if you spoke to Mr. Bonwick that afternoon?

22 MR. BRIAN BENTZ: I do not.

23 MS. KATE MCGRANN: Turning now to the
24 draft retainer that PowerStream provided to Mr.
25 Bonwick. Could we look at ALE159?

1 (BRIEF PAUSE)

2

3 MS. KATE MCGRANN: So this is a May
4 31st, 2011, email from Mr. Glicksman to Paul Bonwick
5 with a copy to yourself and Mr. Nolan.

6 Mr. Glicksman writes:

7 "Attached please find for your
8 review a copy of the draft
9 consulting agreement and
10 confidentiality agreements we've
11 developed."

12 He says:

13 "We've attempted to build in as much
14 of your proposal as we deemed
15 relevant at this time, along with
16 providing you with our normal
17 confidentiality agreement."

18 And he asks for Mr. Bonwick to get back
19 to him with questions or comments. And expresses
20 that:

21 "We look forward to executing the
22 documents and -- and starting your
23 engagement."

24 Do you remember this email
25 correspondence?

1 MR. BRIAN BENTZ: Yes.

2 MS. KATE MCGRANN: Did you have the
3 opportunity to review the -- the draft retainer
4 agreement and confidentiality agreement before they
5 went over to Mr. Bonwick?

6 MR. BRIAN BENTZ: Yes.

7 MS. KATE MCGRANN: Okay. I can turn
8 you to the NDA, if you like, but I'm just going to
9 tell you what my questions are and you can let me know
10 if you want to take a look at it or not.

11 Basically what I would like to know is
12 what information PowerStream was intending to protect
13 with the NDA, and more specifically, was the NDA
14 intended to restrain Mr. Bonwick from providing
15 disclosure about the nature of the work he was doing
16 for your company?

17 MR. BRIAN BENTZ: I think it was a
18 standard NDA and we -- my impression would be if we
19 had any proprietary or sensitive information that was
20 competitive in nature, that we would -- we would want
21 -- we would not want him disclosing that -- that
22 information to other parties.

23 MS. KATE MCGRANN: Was the NDA
24 intended, from your perspective, to restrain Mr.
25 Bonwick from advising people that he had been retained

1 by PowerStream to work on the RFP?

2 MR. BRIAN BENTZ: No.

3 MS. KATE MCGRANN: If we turn to
4 ALE163, please. It's the June 1st email from Mr.
5 Glicksman to Mr. Bonwick and he's -- you're copied, so
6 is Mr. Nolan.

7 Mr. Glicksman writes, starting the
8 second sentence:

9 "There still seems to be some
10 apparent 'misunderstanding' of the
11 disclosures Brian thought you had
12 made to date to him with respect to
13 both the Mayor and the City clerk.
14 He was under the impression that you
15 had made disclosure to and received
16 clearance from the City clerk that
17 under the Municipal Act there was no
18 conflict for you to do work with us,
19 lead to or on a potential RFP and
20 you'd received written confirmation
21 of the same from the City clerk."

22 First of all, do you remember receiving
23 this email?

24 MR. BRIAN BENTZ: Yes.

25 MS. KATE MCGRANN: Second of all, is

1 the written confirmation that Mr. Glicksman is
2 referring to there the email from Clerk Almas that Mr.
3 Bonwick forwarded to you that we looked at earlier
4 this morning?

5 MR. BRIAN BENTZ: Yes.

6 MS. KATE MCGRANN: Mr. Glicksman goes
7 on to write:

8 "Given that you had direct
9 discussion with Brian regarding
10 this, it may be best for you to give
11 him a quick call so that we can sort
12 the wording out and get on with you
13 supporting us on this exciting
14 project."

15 He thanks him for his cooperation.

16 Do you remember if you had a call with
17 Mr. Bonwick after Mr. Glicksman sent this email?

18 MR. BRIAN BENTZ: No, I don't.

19 MS. KATE MCGRANN: Do you remember
20 whether this email -- do you remember what happened
21 after this email was sent with respect to the signing
22 of the retainer agreement?

23 MR. BRIAN BENTZ: I believe this was a
24 pre-condition to us signing the agreement, that he had
25 made representation and warranted that he had

1 disclosed the -- the scope of the work to the Mayor
2 and the Town clerk.

3 And he came back and said he had not
4 disclosed to the Town clerk. So I had assumed he had,
5 because of the language in this situation, in that --
6 in that letter, and so he's -- he's I think circled
7 back to the -- the clerk and subsequently disclosed
8 the -- the relationship to her.

9 MS. KATE MCGRANN: So at some point
10 between the April 13th meeting with Mr. Bonwick,
11 yourself, and the Mayors, and May 31st when this draft
12 goes out, PowerStream comes to the conclusion that it
13 would like disclosure of Mr. Bonwick's work to be made
14 to both the Mayor, which we've already discussed, and
15 the City clerk.

16 I don't want to hear about any legal
17 advice you got with respect to this. Did you
18 personally consider or did you have any thoughts about
19 whether disclosure ought to be made to a broader
20 audience than the Mayor and the City clerk?

21 MR. BRIAN BENTZ: It could be, but we
22 thought as a minimum requirement that -- that would be
23 the starting point so that's what was included in the
24 -- in the document.

25 MS. KATE MCGRANN: Did you have any

1 discussions with Mr. Bonwick about the notion that
2 disclosure to the Mayor and the City clerk was a
3 minimum requirement for PowerStream?

4 MR. BRIAN BENTZ: I don't know if we
5 had specific conversations in that regard. Certainly
6 my expectation, yes.

7 MS. KATE MCGRANN: If we could look at
8 paragraph 192 of the Foundation Document, please.

9 THE HONOURABLE FRANK MARROCCO: Just
10 before you leave that, did you view this as a
11 misunderstanding or something else?

12 MR. BRIAN BENTZ: I viewed it as a
13 misunderstanding. That was my impression, yes.

14 I mean, I don't know if I -- if I
15 really considered that in -- in retrospect. You know,
16 in the moment it was sort of okay, he said that he
17 made the represent -- or interpreted that he made the
18 representation to the -- through the Deputy Mayor and
19 that it was conveyed properly.

20 Maybe it got misinterpreted in
21 translation because it went through an intermediary.
22 That's maybe what I thought at the time.

23

24 CONTINUED BY MS. KATE MCGRANN

25 MS. KATE MCGRANN: Could we turn up

1 ALE176, please?

2

3 (BRIEF PAUSE)

4

5 MS. KATE MCGRANN: Scroll down so we
6 can see this email, we're looking at a June 2nd email
7 from Mr. Bonwick to Sara Almas and he writes:

8 "Thanks for taking the time to chat
9 this morning regarding my
10 forthcoming opportunity with
11 PowerStream."

12 He describes PowerStream as dynamic and
13 progress --I think he means progressive. He says he
14 looks very much forward to working with your team.

15 And if you can scroll up, we can see
16 that he has forwarded this email to yourself and Mr.
17 Glicksman.

18 Was it your understanding that he was
19 forwarding you this email as evidence of the
20 disclosure he had made to the City clerk?

21 MR. BRIAN BENTZ: Yes.

22 MS. KATE MCGRANN: In your view, was
23 this sufficient evidence that he had disclosed what he
24 would be doing with PowerStream to the clerk?

25 MR. BRIAN BENTZ: Yes, I interpreted

1 it that way.

2 MS. KATE MCGRANN: You'll agree with
3 me that this email doesn't make any reference to work
4 on a potential RFP, right?

5 MR. BRIAN BENTZ: Right.

6 MS. KATE MCGRANN: And I understand
7 that disclosure of the work on the RFP was an
8 important requirement for PowerStream before it
9 retained Mr. Bonwick, is that correct?

10 MR. BRIAN BENTZ: Yes.

11 MS. KATE MCGRANN: Why was this
12 satisfactory to you?

13 MR. BRIAN BENTZ: I'd assumed that he
14 had described the scope of services to her.

15 MS. KATE MCGRANN: Do you know if you
16 -- did you reach out and ask and -- to confirm that?

17 MR. BRIAN BENTZ: No, I did not.

18 MS. KATE MCGRANN: Do you know if
19 anyone at PowerStream reached out to ask --

20 MR. BRIAN BENTZ: I don't.

21 MS. KATE MCGRANN: Were you to report
22 back to the audit and finance committee on this
23 efficiency of the disclosure that Mr. Bonwick made, or
24 was that decision ultimately up to you and Mr.
25 Glicksman?

1 MR. BRIAN BENTZ: No, we -- in -- in
2 the normal course we would not -- we would not report
3 back to the audit and finance committee on something
4 like that.

5 MS. KATE MCGRANN: So -- so who was to
6 make the decision about whether the disclosure had
7 been sufficient to enter into the retainer agreement?

8 MR. BRIAN BENTZ: I mean, collectively
9 I assume it would be the executive team, which would
10 include Mr. Glicksman, Mr. Nolan, and myself.

11 MS. KATE MCGRANN: If we can look at
12 ALE175, please? This is another email from Mr.
13 Bonwick to yourself and Mr. Glicksman with a copy to
14 the clerk sent on June 2nd, 2011.

15 In this email he provides a bit more
16 information about the disclosure he made to the clerk,
17 he says "During the meeting", he's referencing a
18 meeting with the clerk:

19 "I described the services my company
20 would be providing to PowerStream
21 throughout the region, as well as
22 specific to Collingwood."

23 He goes on to say:

24 "Ms. Almas was kind enough to offer
25 an interpretation (opinion) of the

1 Provincial Conflict of Interest Act
2 as it relates to my sister being a
3 member of Municipal Council. Ms.
4 Almas was quite clear there is no
5 conflict of interest based on my
6 company's relationship with
7 PowerStream."

8 He indicates that she agreed to be
9 copied on this message.

10 Do you remember receiving this email?

11 MR. BRIAN BENTZ: yes.

12 MS. KATE MCGRANN: This is additional
13 disclosure Mr. Bonwick is providing to you about the
14 disclosure he made to the clerk, yes?

15 MR. BRIAN BENTZ: (NO AUDIBLE
16 RESPONSE).

17 MS. KATE MCGRANN: Once again, there's
18 no reference to an RFP in this email at all.

19 Did you consider going back and -- and
20 asking for clarification about what specifically Mr.
21 Bonwick had disclosed to the clerk?

22 MR. BRIAN BENTZ: He said he described
23 the services of his company, that they would be
24 providing to PowerStream. I assumed that meant
25 providing advice on the RFP process.

1 MS. KATE MCGRANN: I understand that
2 you made an assumption. Did you consider or did
3 anyone at PowerStream actually go back for
4 clarification about whether Mr. Bonwick had fulfilled
5 his obligation to disclose the fact that he'd be
6 working on an RFP if one was issued?

7 MR. BRIAN BENTZ: No.

8 MS. KATE MCGRANN: Starting from the
9 disclosure Mr. Bonwick made to the clerk, I'd like to
10 look at the letter that you received from the Mayor on
11 June 2nd, 2011. That's at TOC48811.

12

13 (BRIEF PAUSE)

14

15 MS. KATE MCGRANN: This is an email
16 dated June 2nd, 2011, from Shelley Fuhre, who's
17 identified as the executive assistant to the mayor, to
18 yourself. She writes:

19 "At the request of Mayor Cooper, I'm
20 forwarding you correspondence from
21 the office of the mayor for your
22 consideration."

23 And if we could open the letter itself.
24 It's at TOC48812.

25

1 (BRIEF PAUSE)

2

3 MS. KATE MCGRANN: Here's the letter
4 on the mayor's letterhead dated June 2nd, 2011, to
5 you. Scroll down a little bit further. Do you
6 remember receiving this correspondence?

7 MR. BRIAN BENTZ: Yes.

8 MS. KATE MCGRANN: I see that the
9 language is substantially the same as the draft that
10 we looked at that Mr. Bonwick provided to you back in
11 May?

12 MR. BRIAN BENTZ: Yes.

13 MS. KATE MCGRANN: A question for you
14 about the third paragraph where it says:

15 "Should these conditions come into
16 play, Paul has suggested that a
17 meeting be scheduled with relevant
18 parties to more formally clarify
19 Paul's role with PowerStream."

20 Whose idea was the concept of that
21 meeting?

22 MR. BRIAN BENTZ: That was Mr.
23 Bonwick's in response to our, you know, emphasis on
24 disclosure.

25 MS. KATE MCGRANN: Had you had any

1 discussions with him up until this point about who the
2 relevant parties would be?

3 MR. BRIAN BENTZ: I don't recall, no.
4 It would -- yeah, I -- I don't recall.

5 MS. KATE MCGRANN: I understand -- the
6 way that the letter is worded, this meeting is going
7 to happen is certain conditions come into play, just
8 to be clear, is that -- is -- is that -- is what's
9 contemplated here your understanding that there will
10 be a meeting if -- if the Town intends to proceed with
11 an RFP?

12 MR. BRIAN BENTZ: I interpret it more
13 -- well, maybe -- maybe twofold, if they -- if they
14 proceed with an RFP and when we engage Mr. -- Mr.
15 Bonwick's firm.

16 MS. KATE MCGRANN: But irrespective of
17 whether or not there's going to be an RFP, it's
18 contemplated that PowerStream's going to meet with Mr.
19 Bonwick?

20 MR. BRIAN BENTZ: Yes.

21 MS. KATE MCGRANN: If there isn't
22 going to be an RFP, what interests would PowerStream
23 have in -- in retaining Mr. Bonwick?

24

25 (BRIEF PAUSE)

1 MR. BRIAN BENTZ: Very little. I
2 mean, I guess he could still help us with the regional
3 consolidation strategy. But Collus, as we saw, was
4 sort of the -- the entry point into that regional
5 consolidation strategy, so likely not.

6

7 (BRIEF PAUSE)

8

9 MS. KATE MCGRANN: Did you have any
10 discussions with Mr. Bonwick about what he had said to
11 his sister or what he had disclosed to her in advance
12 of her signing this letter?

13 MR. BRIAN BENTZ: I may have, yes.

14 MS. KATE MCGRANN: I'm -- I'm taking
15 from your response that you may have, that you're not
16 going to have anything specific that you recall, but
17 I'll ask anyways. Do you remember what you -- what
18 you discussed with him about that?

19 MR. BRIAN BENTZ: The language likely
20 would have been I've -- I've fully briefed the mayor
21 on this matter, something like that.

22 MS. KATE MCGRANN: Sitting here today,
23 do you have a recollection of Mr. Bonwick explicitly
24 telling you that he had advised anyone in the Town up
25 to this point that he was going to be working on an

1 RFP for you if Collus Power issued one (1)?

2 MR. BRIAN BENTZ: I assumed he did. I
3 assumed he did.

4 MS. KATE MCGRANN: And I do understand
5 that. My question is a little bit different.

6 Do you remember him telling you that he
7 had specifically told people at the Town, anyone at
8 the Town, I'll be working on an RFP if there is one?

9 MR. BRIAN BENTZ: It likely would have
10 been language I have fully briefed. And I'm assuming
11 that that means that he had conveyed to them that he
12 would be working with us on an RFP.

13

14 (BRIEF PAUSE)

15

16 MS. KATE MCGRANN: I'm going to use
17 the retainer letter as a reference to assist in some
18 dis -- some questions I want to ask you about what Mr.
19 Bonwick did for PowerStream. So, could we pull up
20 ALE192, please?

21

22 (BRIEF PAUSE)

23

24 MS. KATE MCGRANN: So, this is a copy
25 of a PowerStream letter to Mr. Bonwick dated June 7th,

1 2011. We'll just scroll down to the bottom so that
2 you can see that it's a signed copy signed by Mr.
3 Nolan. It's not yet signed by Mr. Bonwick. We can
4 scroll up to the top.

5 And if we could scroll down to -- oh,
6 I'm -- you can just take a look at this, that's fine.
7 Do you recognize this as the retainer letter that Mr.
8 Bonwick signed with PowerStream?

9 MR. BRIAN BENTZ: Yes.

10 MS. KATE MCGRANN: Under, "Scope of
11 work," the first bullet point says:

12 "Identify potential opportunities
13 for the purchase, merger, or other
14 business combinations with LDCs
15 primarily with PowerStream's
16 geographic footprint or outside of
17 the geographic as specifically
18 authorized by PowerStream."

19 Now, I understand from our discussions
20 yesterday that PowerStream already had in-house
21 capabilities or an in-house -- and has ability to look
22 at and that you were actively looking at merger and
23 acquisition, other business opportunities.

24 What were you expecting Mr. Bonwick to
25 do beyond what PowerStream was already doing?

1 MR. BRIAN BENTZ: Intelligence
2 gathering with respect to what primarily municipal
3 councils were considering with respect to the sale of
4 their utility so that, you know, it would help us --
5 assist us in the execution of a regional consolidation
6 plan.

7 MS. KATE MCGRANN: And there is
8 discussion of intelligence gathering below
9 specifically with respect to identifying potential
10 opportunities.

11 Other than gathering intelligence from
12 municipal councils, was there anything else you
13 expected him to do in furtherance of the -- this first
14 bullet point here?

15 MR. BRIAN BENTZ: I was focussed
16 mostly on the regional consolidation play, if you want
17 to call it that.

18 MS. KATE MCGRANN: With respect to
19 identifying potential opportunities for the purchase,
20 merger, or other business combinations, what did Mr.
21 Bonwick do for you?

22 MR. BRIAN BENTZ: And the other ones,
23 with respect to the other...

24 MS. KATE MCGRANN: I -- I just want to
25 -- you know, PowerStream retained him. This is a

1 description of the work that he was going to do for
2 you. I'd like to understand what he did.

3 So, with respect to the -- the work
4 that's identified in this first bullet point, what did
5 he --

6 MR. BRIAN BENTZ: Yes.

7 MS. KATE MCGRANN: -- do after you
8 retained him?

9 MR. BRIAN BENTZ: The -- the focus was
10 -- was primarily on Collus, so it was working with us
11 in that regard. And if we completed that, then we
12 would -- we would expand beyond that.

13 So, initially, the -- I mean, maybe
14 getting an initial sense of where the CHEC group was,
15 CHEC group members were with respect to their appetite
16 for a sale maybe.

17 And then, you know, it would be more of
18 a -- it would be concurrent, the initial phase, mostly
19 focussed on Collus. A phase 2 would be very much
20 focussed on a broader approach.

21 MS. KATE MCGRANN: Did he do that?

22 MR. BRIAN BENTZ: To a certain extent,
23 yes.

24 MS. KATE MCGRANN: Did you find his
25 work valuable?

1 MR. BRIAN BENTZ: I found value in it,
2 yes.

3 MS. KATE MCGRANN: What value did you
4 find in it?

5 MR. BRIAN BENTZ: Looking to -- you
6 know, in terms of the -- the other alternatives, I
7 mean, there was an awareness. I could see that he was
8 -- he was trying to source different decision-makers,
9 beginning to source different decision-makers within
10 the CHEC group and understand the dynamics of it.

11 But that wasn't the main focus because,
12 obviously, the -- the Collus RFP was the main focus.

13 MS. KATE MCGRANN: Moving to the next
14 bullet point which describes:

15 "Prepared detailed briefings
16 identifying key decision-makers
17 related to a particular
18 opportunity."

19 What detailed briefings did he provide
20 to PowerStream further to this retainer?

21 MR. BRIAN BENTZ: This was probably
22 meant more for the -- for the rollout strategy. At
23 least that's how I interpret it. Mr. Bonwick drafted
24 this agreement. But the -- the key decision-makers
25 would relate to opportunities beyond the Collus

1 transaction and identify who the decision-makers might
2 be in those -- in those municipalities.

3 MS. KATE MCGRANN: At any point in
4 time while Mr. Bonwick was working with PowerStream
5 pursuant to this retainer letter or the one (1) that's
6 subsequently signed in the fall, do you recall him
7 preparing any detailed briefings identifying key
8 decision-makers related to opportunities?

9 MR. BRIAN BENTZ: Well, if it related
10 to phase 2, then, you know, probably not. I mean,
11 there were -- there were updates as to what was
12 happening with respect to the Collus transaction.
13 Were those detailed briefings? I don't know.

14 There was correspondence with respect
15 to what it was doing.

16 MS. KATE MCGRANN: And with respect to
17 phase 1, did he provide detailed briefings with
18 respect to key decision-makers for Collus Power?

19 MR. BRIAN BENTZ: He -- he kept us up
20 to date on what he was doing.

21 MS. KATE MCGRANN: Who were the key
22 decision-makers that he briefed you about?

23 MR. BRIAN BENTZ: With respect to the
24 Collus transaction?

25 MS. KATE MCGRANN: Yeah, we can start

1 there.

2 MR. BRIAN BENTZ: I would say that we
3 assumed the he was speaking with Mr. Houghton on, you
4 know, the interactions with -- with respect to the
5 Collus RFP --

6 MS. KATE MCGRANN: Did he provide --

7 MR. BRIAN BENTZ: -- and perhaps
8 others. Sorry.

9 MS. KATE MCGRANN: And perhaps
10 other -- who else?

11 MR. BRIAN BENTZ: Maybe the deputy
12 mayor, other members of the Task Team.

13 MS. KATE MCGRANN: The mayor?

14 MR. BRIAN BENTZ: Mayor potentially,
15 yes.

16 MS. KATE MCGRANN: Can we scroll down
17 to the next page, please.

18 The retainer provides that Mr. Bonwick
19 will assist in the preparation of any proposal that
20 PowerStream intends to submit.

21 What did Mr. Bonwick do to assist
22 PowerStream with the proposal referenced here?

23 MR. BRIAN BENTZ: He would review the
24 proposal that -- as I recall that when -- moving
25 forward now to the preparation of the response to the

1 RFP -- at this point, the anticipation is that he
2 would provide input if there was an RFP. We would
3 likely draft it, and he would provide input into the
4 response to the RFP.

5 MS. KATE MCGRANN: And just -- I want
6 to make sure that I've been clear -- I'm using this
7 document as a tool to assist us both because this is
8 what you and Mr. Bonwick -- PowerStream and
9 Mr. Bonwick agreed that he would do.

10 With respect to each point that I take
11 you to, I want you to let me know what he actually
12 did.

13 MR. BRIAN BENTZ: M-hm.

14 MS. KATE MCGRANN: So what did he
15 actually do with respect to -- well, let's start here.
16 What proposals did Mr. Bonwick assist PowerStream
17 with?

18 MR. BRIAN BENTZ: He would have
19 provided some input into the September 19th proposal
20 that we made to the Strategic Partnership Task Team
21 and to the RFP that was issued in October.

22 MS. KATE MCGRANN: With respect to the
23 September 19th presentation to the Strategic Task
24 Team, what did he do?

25 MR. BRIAN BENTZ: In terms of the -- I

1 think there was something in there about the rooftop
2 solar attic vent. There was a slide in there on that.
3 And just, you know, make sure to emphasize community.
4 Community is very important. And that was -- that was
5 probably the main things on that -- on that slide.

6 MS. KATE MCGRANN: Did you find
7 Mr. Bonwick's assistance with respect to the
8 proposal -- or sorry -- the presentation on
9 September 19th useful?

10 MR. BRIAN BENTZ: There was some value
11 in it. I think, you know, I -- I probably prepared
12 most of it.

13 MS. KATE MCGRANN: Did you need him to
14 get it done?

15 MR. BRIAN BENTZ: I could have done it
16 probably without but yes.

17 MS. KATE MCGRANN: And with respect to
18 the response to the Collus Power RFP, what did he do?

19 MS. KATE MCGRANN: He reviewed the
20 proposal, and he talked about, you know, the -- the
21 areas that we should consider emphasis. Again,
22 community, community giving, those kinds of things.

23 MS. KATE MCGRANN: Is it fair to say
24 that the -- the work that he did to assist PowerStream
25 with its proposals was to review the work product and

1 provide some advice on what he thought should be
2 included?

3 MR. BRIAN BENTZ: Yes.

4 MS. KATE MCGRANN: He's not providing
5 you with written product. He's not drafting it.

6 MR. BRIAN BENTZ: No.

7 MS. KATE MCGRANN: Scroll down to
8 methodology and deliverables. The first grouping is
9 "build the case and enhance profile."

10 What did Mr. Bonwick do to build the
11 case and enhance profile for PowerStream?

12 MR. BRIAN BENTZ: Really what -- what
13 I was talking about was -- I would say the primary
14 would be to emphasize areas that would be of interest
15 to the Town in terms of -- of our presentations and
16 responses to RFPs.

17 MS. KATE MCGRANN: The first bullet
18 point envisions that Mr. Bonwick will provide
19 information and reports outlining the history.

20 Did he ever provide you with reports
21 like that?

22 MR. BRIAN BENTZ: No.

23 MS. KATE MCGRANN: It says that he'll:

24 "Ensure that key decision makers
25 have clear access to relevant

1 information to move forward in a
2 positive manner."

3 What did he do on that front?

4 MR. BRIAN BENTZ: I don't know if we
5 can, you know, sort of correlate his proposal item by
6 item in terms of what he did.

7 He would -- he would access key
8 decision makers and, you know, ensure that they had
9 the information with respect to PowerStream's
10 proposal, and -- and act as our agent through the
11 process.

12 MS. KATE MCGRANN: Okay. We've
13 already started talking a little bit about the key
14 decision makers. What key decision makers was
15 Mr. Bonwick accessing, pursuant to this contract?

16 MR. BRIAN BENTZ: I assume he was
17 talking with -- with members of the -- the leadership
18 at Collus.

19 MS. KATE MCGRANN: So Mr. Houghton?

20 MR. BRIAN BENTZ: Yes.

21 MS. KATE MCGRANN: Anybody else?

22 MR. BRIAN BENTZ: It -- it could be
23 others. Like I said, other members of the Strategic
24 Partnership Task Team, but I would say primarily
25 Mr. Houghton.

1 MS. KATE MCGRANN: Let's do it this
2 way. Who did you -- which key decision makers did you
3 know he was talking to?

4 MR. BRIAN BENTZ: I didn't know
5 specifically which key decision makers he was -- he
6 was talking to.

7 MS. KATE MCGRANN: Did you ever ask
8 him?

9 MR. BRIAN BENTZ: No.

10 MS. KATE MCGRANN: Why not?

11 MR. BRIAN BENTZ: The process was
12 unfolding. I had delegated a lot of that sort of
13 management to it to Mr. Glicksman, and I assumed that
14 he was in contact with primarily Mr. Houghton and
15 others on the team.

16 MS. KATE MCGRANN: Do you recall if
17 Mr. Glicksman reported back to you on conversations
18 Mr. Bonwick was having with key decision makers?

19 MR. BRIAN BENTZ: No.

20 MS. KATE MCGRANN: The third bullet
21 point under -- under this heading is:

22 "Recommend and develop appropriate
23 positioning depending on the
24 audience and objective."

25 It's our understanding that Mr. Bonwick

1 introduced PowerStream to the opportunity to partner
2 with Collus Power on a solar attic vent pilot project.
3 Is that fair? Is that accurate?

4 MR. BRIAN BENTZ: Yes.

5 MS. KATE MCGRANN: Okay. Would that
6 be an example of Mr. Bonwick helping PowerStream to
7 build its case and enhance its profile in Collingwood?

8 MR. BRIAN BENTZ: Yes.

9 MS. KATE MCGRANN: Did he do anything
10 else like that?

11 MR. BRIAN BENTZ: I think we did a
12 billboard in the community, some branding and
13 profiling. We did some advertisements.

14 MS. KATE MCGRANN: That was all in
15 relation to the solar attic vent?

16 MR. BRIAN BENTZ: Yes, I believe so.

17 MS. KATE MCGRANN: Did you find the
18 work that he's -- that you've described to me with
19 respect to this obligation under the contract
20 valuable?

21 MR. BRIAN BENTZ: There was some value
22 in it.

23 MS. KATE MCGRANN: What value was
24 there?

25 MR. BRIAN BENTZ: I think it

1 introduced PowerStream to the community and allowed us
2 to do an event -- a conservation event -- with other
3 utilities. So it demonstrated that, you know, we were
4 partnering with other utilities and, you know, showing
5 initiative with respect to conservation.

6 MS. KATE MCGRANN: Other than the
7 solar attic vent project that Mr. Bonwick introduced
8 you to, did he add any other value as far as building
9 PowerStream's case and enhancing its profile?

10 MR. BRIAN BENTZ: Not that I recall.

11 MS. KATE MCGRANN: Under the next
12 heading "develop a personalized contact program," it
13 says that:

14 "This will ensure PowerStream
15 appropriately targets its messaging.
16 The purpose will be to obtain,
17 maintain, and enhance political and
18 bureaucratic relationships related
19 to this file."

20 What relationships did Mr. Bonwick
21 obtain, maintain, and enhance for PowerStream?

22 MR. BRIAN BENTZ: I mean, he -- he
23 knew the deputy mayor. He knew -- obviously, he was
24 the mayor's brother. And he knew Mr. Houghton. Those
25 would be probably the primary relationships, so the

1 CEO of the utility and the mayor and deputy mayor.

2 MS. KATE MCGRANN: Okay. Anybody
3 else?

4 MR. BRIAN BENTZ: Likely, the -- the
5 chair of the utility, Board members on the utility,
6 members of the Strategic Partnership Task Team.

7 MS. KATE MCGRANN: To your knowledge,
8 I guess, fair to say that it was your expectation that
9 he may also try to build, maintain, or enhance
10 relationships with Chair Muncaster and the memberships
11 of the Strategic Task Team?

12 MR. BRIAN BENTZ: Yes.

13 MS. KATE MCGRANN: Did you consider
14 whether that might cause any issues for PowerStream
15 within the context of an RFP process?

16 MR. BRIAN BENTZ: No.

17 MS. KATE MCGRANN: To your knowledge,
18 did he establish or enhance relationships with the
19 Chair or the strategic task team for PowerStream?

20 MR. BRIAN BENTZ: Yes, I think he
21 reached out to Mr. Muncaster and Mr. Houghton. There
22 was a meeting that was arranged, those sorts of
23 things.

24 MS. KATE MCGRANN: Are you referring
25 to a meeting that you attended with Mr. Muncaster, Mr.

1 Houghton in July?

2 MR. BRIAN BENTZ: That would be one.

3 MS. KATE MCGRANN: Were there other
4 meetings that you were aware of that Mr. Bonwick had
5 with Mr. Muncaster?

6 MR. BRIAN BENTZ: There may have been
7 a -- there may have been other correspondence and
8 contact.

9 MS. KATE MCGRANN: To your knowledge
10 was there?

11 MR. BRIAN BENTZ: No.

12 MS. KATE MCGRANN: The second bullet
13 point under "Develop a Personalized Contact Program"
14 says:

15 "Seek out internal government
16 champions to help position and
17 advocate for the initiative."

18 Did Mr. Bonwick find internal
19 government champions for PowerStream?

20 MR. BRIAN BENTZ: No.

21 MS. KATE MCGRANN: Did the work that
22 he did with respect to this particular contractual
23 obligation, under Developing a Personalized Contact
24 Program, was that valuable work for PowerStream?

25 MR. BRIAN BENTZ: There was some value

1 there.

2 MS. KATE MCGRANN: What value was
3 there?

4 MR. BRIAN BENTZ: Acting as our agent
5 and, you know, maintaining the relationship as the RFP
6 process unfolded.

7 MS. KATE MCGRANN: Is it fair to say
8 that the value that he brought was the relationships
9 that he already had with Mr. Houghton, the Mayor, and
10 the Deputy Mayor?

11 MR. BRIAN BENTZ: And I -- I assume
12 the broader team as well.

13 MS. KATE MCGRANN: Under the next
14 bullet point: "Access Key Decision Makers".

15 Other than what you've already
16 described to me, what did Mr. Houghton do -- or sorry,
17 what did Mr. Bonwick do to access key decision makers
18 for PowerStream under this contract?

19 MR. BRIAN BENTZ: I don't -- I'm not
20 sure he did much. Again, I think that one would
21 probably relate more to the broader scope of the
22 agreement.

23 MS. KATE MCGRANN: Okay. What did he
24 do beyond what -- what did he do under the broader
25 scope of the agreement, under this heading?

1 MR. BRIAN BENTZ: As I mentioned
2 earlier, we were focused primarily on the Collus
3 transaction. There was some -- I'd say initial work
4 done in terms of what are the dynamics of the check
5 group and, you know, sort of what is the current
6 situation there, laying some groundwork.

7 MS. KATE MCGRANN: This -- your
8 relationship with Mr. Bonwick under this engagement
9 letter and the one that you signed in the fall
10 proceeds beyond the closing of the Collus Power
11 transaction. So, I'm trying to understand what he did
12 all the way through the piece.

13 What did he do with respect to the
14 check group?

15 MR. BRIAN BENTZ: Well, I think that
16 the -- well, the initial thing that he did was -- and
17 it wasn't -- I don't know if it was the check group
18 specifically, but there was the three additional
19 partners who were involved in the rooftop solar attic
20 vent initiative. I think it was Orangeville. St.
21 Thomas and Wasaga Beach. Wasaga Beach would have been
22 of interest, for sure.

23 And so, you know, they were brought in
24 as part of this initiative, so I think there's value
25 in that.

1 MS. KATE MCGRANN: What initiative?

2 MR. BRIAN BENTZ: Rooftop solar attic
3 vent initiative.

4 MS. KATE MCGRANN: Beyond Mr.
5 Bonwick's work on the rooftop solar attic vent
6 initiative, did he do anything else for PowerStream
7 pursuant to his contractual obligations with you and
8 his retainer until it was over, to access key decision
9 makers?

10 MR. BRIAN BENTZ: No, not that I'm
11 aware of.

12 MS. KATE MCGRANN: Under issue
13 monitoring, the contract says that:

14 "CCI is in constant contact with
15 municipal government leaders and is
16 able to monitor and report any
17 changes or opportunities that may
18 arise. As your early warning
19 system, or intelligence gathering
20 will help prepare you to respond to
21 any potential critical challenges
22 brought forward regarding this
23 approach."

24 Other than the people that you've
25 already identified, so the Mayor, the Deputy Mayor,

1 what other municipal government leaders was Mr.
2 Bonwick in contact with pursuant to his retainer with
3 PowerStream?

4 MR. BRIAN BENTZ: Those are the main
5 ones that I would be aware of.

6 MS. KATE MCGRANN: Were you aware of
7 anybody else?

8 MR. BRIAN BENTZ: No.

9 MS. KATE MCGRANN: Did he act as
10 PowerStream's early warning system while he was
11 retained by PowerStream?

12 MR. BRIAN BENTZ: Issue
13 identification? I can't recall a specific instance
14 where I could say that happened.

15 MS. KATE MCGRANN: Did Mr. Bonwick
16 provide value to PowerStream with respect to the work
17 that's described here?

18 MR. BRIAN BENTZ: In terms of acting,
19 again, as our agent to the RFP process and doing an --
20 initial work, you know, modest, albeit initial work in
21 terms of intelligence gathering with respect to the
22 check group, that would be the value that he would
23 provide.

24 MS. KATE MCGRANN: Anything else?

25 MR. BRIAN BENTZ: No.

1 MS. KATE MCGRANN: Okay. Scroll down
2 to the next page, Tactical Recommendations.

3 "Through this process we will
4 provide PowerStream with an
5 identified contact list and detailed
6 verbal brief of tactics and
7 recommended approaches for
8 proceeding."

9 Did Mr. Bonwick provide PowerStream
10 with a contact list?

11 MR. BRIAN BENTZ: No.

12 MS. KATE MCGRANN: Why did PowerStream
13 require Mr. Bonwick to provide verbal briefs of
14 tactics?

15 MR. BRIAN BENTZ: Well, again, Mr.
16 Bonwick drafted this language, we agreed to it. But
17 we did want to know what he was doing and, you know,
18 how he was acting on our behalf.

19 MS. KATE MCGRANN: Why verbal briefs?

20 MR. BRIAN BENTZ: Probably for
21 expediency.

22 MS. KATE MCGRANN: Did Mr. Bonwick
23 provide verbal briefs to PowerStream, pursuant to this
24 -- as described here, I guess I should say?

25 MR. BRIAN BENTZ: There was -- there

1 was correspondence and communication with respect to
2 the activities he was undertaking.

3 MS. KATE MCGRANN: Who did Mr. Bonwick
4 brief?

5 MR. BRIAN BENTZ: Primarily it would
6 be John Glicksman, that was who I sort of -- because I
7 was working on -- you know, I had four or five other
8 different merger and acquisition activities, I was
9 just -- became a director of the Electrical Safety
10 Authority, I was -- I had a whole host of things.

11 So once this contract was signed, I
12 wanted to really delegate it to the executive
13 operating committee to manage it.

14 And so that was the main point of
15 contact, although Mr. Bonwick reached out to me on a
16 number of occasions. So that's -- that's how it
17 worked.

18 MS. KATE MCGRANN: So fair to say he's
19 primarily reporting to you, Mr. Glicksman, he also
20 briefs you from time to time?

21 MR. BRIAN BENTZ: Yes.

22 MS. KATE MCGRANN: Anybody else?

23 MR. BRIAN BENTZ: Members of our
24 executive team, anyone who was on the executive team
25 or the management team, I think they're Mr. Henderson,

1 our Chief Operating Officer, Mr. Nolan probably had
2 interaction with Colin MacDonald, who was in our
3 regulatory area, Eric Fagen, our communications
4 person. Those kinds of people.

5 MS. KATE MCGRANN: And we've heard
6 from Mr. Nolan, we're going to hear from Mr.
7 Glicksman.

8 Can you help us with how frequently Mr.
9 Bonwick was in contact with the other members or
10 people that you described there?

11 MR. BRIAN BENTZ: I mean I -- I don't
12 -- I don't know. I would just -- I kind of, as I
13 said, delegated it once -- once it came to the point
14 that the contract was executed, I wanted oversight of
15 it, but I didn't want to manage it on a day-to-day
16 basis.

17 MS. KATE MCGRANN: With respect to the
18 briefings that Mr. Bonwick provided to you, we've seen
19 some emails where he emails you to schedule a call.
20 Would he also just sometimes pick up the phone and
21 call you without scheduling?

22 MR. BRIAN BENTZ: Sometimes. But John
23 was his -- Mr. Glicksman was his primary contact.

24 MS. KATE MCGRANN: Did PowerStream
25 find that the briefings of tactics and recommended

1 approaches for proceeding that Mr. Bonwick provided
2 were valuable and useful?

3 MR. BRIAN BENTZ: There was some
4 value.

5 MS. KATE MCGRANN: What value was
6 there?

7 MR. BRIAN BENTZ: Just in terms of
8 understanding the -- how the process was unfolding.
9 It -- through the summer, you know, what was happening
10 in terms of -- more the process itself.

11 MS. KATE MCGRANN: After the RFP
12 document was issued, which described the RFP process
13 going forward, what value did -- did Mr. Bonwick
14 provide with respect to tactical recommendations after
15 that?

16 MR. BRIAN BENTZ: He provided input
17 into our RFP response, and as I said, and they -- and
18 the -- and the interview, I think they called it
19 interviews that they had or the presentations that
20 were had and that they had -- we had on September
21 19th.

22 MS. KATE MCGRANN: Could you tell me a
23 little bit more about that, please?

24 MR. BRIAN BENTZ: In terms of?

25 MS. KATE MCGRANN: What -- what was he

1 doing with respect to the interviews?

2 MR. BRIAN BENTZ: Just in terms of my
3 slide presentation, what I described earlier, so
4 putting together that slide presentation to the -- to
5 the task team and providing some input into that.

6 MS. KATE MCGRANN: Did he come back to
7 you with -- with information about any of the other
8 presentations?

9 MR. BRIAN BENTZ: Not that I recall
10 specifically on the -- on the -- on the task team
11 presentations, the September 12th ones that were made.

12 MS. KATE MCGRANN: I'm just not sure
13 that I understand your answer.

14 What happened with respect to the
15 September 12th presentations?

16 MR. BRIAN BENTZ: Well, you -- you
17 were saying did they -- did he provide any information
18 on the other presentations. Not that I recall.

19 MS. KATE MCGRANN: Possible that he
20 did and you just don't know that?

21 MR. BRIAN BENTZ: It's possible that
22 he did, yes.

23 MS. KATE MCGRANN: This retainer
24 agreement contemplates a 90-day term. Why was a 90-
25 day term included here?

1 MR. BRIAN BENTZ: It seemed like a
2 reasonable period to test the relationship, see if
3 there was value there and -- and you know, a
4 checkpoint as to when we should reevaluate to
5 continue.

6 MS. KATE MCGRANN: I'm about to move
7 on to another area of questioning, just looking at the
8 clock.

9 THE HONOURABLE FRANK MARROCCO: We'll
10 take ten (10) minutes then.

11

12 --- Upon recessing at 11:30 a.m.

13 --- Upon resuming at 11:40 a.m.

14

15 MR. WILLIAM MCDOWELL: Commissioner,
16 just before we resume, I -- I just wanted to ask about
17 your plans for timing for today because I have a
18 family engagement tonight. And I suggested to my
19 spouse that we might be sitting as late at 6:00, and
20 there followed what at Foreign Affairs they call a
21 full and frank exchange of views.

22 So, I just wanted to get some sense of
23 that.

24 THE HONOURABLE FRANK MARROCCO: What -
25 - what time would have toned down the full and frank

1 exchange of views?

2 MR. WILLIAM MCDOWELL: I think five
3 o'clock might salvage things.

4 THE HONOURABLE FRANK MARROCCO: I'm
5 sympathetic to the plight that you're in and I'll do
6 my best to stop around that time.

7 MR. WILLIAM MCDOWELL: I appreciate
8 it, Commissioner.

9 MR. MICHAEL WATSON: You're Honour,
10 we'll -- we'll actually all take some benefit from
11 that, too.

12 THE HONOURABLE FRANK MARROCCO: Well,
13 I -- I appreciate we've been at this by what I guess
14 in -- in ancient terms they would have said forced
15 marches. I'm -- I'm not trying to set any records
16 here, but I -- I am trying to finish according to the
17 schedule we set.

18 And I appreciate all of your
19 cooperation in doing that. I -- I cou -- I have no
20 hope of finishing on time without your help, and I
21 know you've been putting up with scheduling, and I
22 appreciate it. So, we'll plan on that. Carry on.

23

24 CONTINUED BY MS. KATE MCGRANN:

25 MS. KATE MCGRANN: Can we turn up

1 ALE196, please?

2

3 (BRIEF PAUSE)

4

5 MS. KATE MCGRANN: It's the June 10th,

6 2011, email from Paul Bonwick to yourself, Mr.

7 Glicksman, Mr. Nolan, Mr. Henderson, and Mr. Fagen.

8 He writes:

9 "Please be advised I have confirmed
10 a date, time, and location for an
11 introductory and exploratory meeting
12 with Ed Houghton. It's to take
13 place at 3:30 p.m. June 15th in the
14 PowerStream boardroom."

15 He says:

16 "It's then our intention to take Ed
17 out for an early dinner."

18 He says:

19 "Dennis has confirmed participation
20 of all parties this morning."

21 Do you remember whether you attended
22 the meeting contemplated in this email?

23 MR. BRIAN BENTZ: Actually, no, I
24 don't.

25 MS. KATE MCGRANN: Do you have any

1 knowledge of whether -- whether it happened?

2 MR. BRIAN BENTZ: I don't recall.

3 MS. KATE MCGRANN: Do you know what
4 the purpose of this meeting was?

5 MR. BRIAN BENTZ: I assume it was an
6 introductory meeting of Mr. Bonwick with our executive
7 team to -- now that the contract had been signed, to
8 talk to us about expectations and -- and the like.

9 MS. KATE MCGRANN: Do you know if a
10 meeting to achieve that purpose happened at any point?

11 MR. BRIAN BENTZ: It may have. I -- I
12 don't recall.

13 MS. KATE MCGRANN: Can we turn to
14 paragraph 205 of the Foundation Document?

15

16 (BRIEF PAUSE)

17

18 MS. KATE MCGRANN: This paragraph
19 describes that on June 16th and 17th PowerStream had
20 an offsite meeting. Do you recall that?

21 MR. BRIAN BENTZ: Yes.

22 MS. KATE MCGRANN: I'm going to turn
23 to a slide presentation that we understand was made at
24 that meeting. It's at ALE218.

25

1 (BRIEF PAUSE)

2

3 MS. KATE MCGRANN: Just looking at the
4 -- the cover slide here, it's an M&A update at the
5 board strategic rete -- board strategic retreat. It's
6 marked, "Private and confidential," and the dates are
7 June 16th and 17th, 2011.

8 I'm happy to let you flip through this,
9 but does this -- are you familiar with this slide
10 presentation?

11 MR. BRIAN BENTZ: Yes.

12 MS. KATE MCGRANN: Okay. Do you know
13 who would have delivered this slide presentation?

14 MR. BRIAN BENTZ: It would have been
15 me or John Glicksman.

16 MS. KATE MCGRANN: If Mr. Glicksman
17 delivered it, would you have been involved in its
18 creation?

19 MR. BRIAN BENTZ: Yes.

20 MS. KATE MCGRANN: Can we go to slide
21 3 to this presentation, please. Under the title,
22 "Next steps Collus Power," the first bullet point is:
23 "Continue informal meetings with the
24 President of Collus concerning the
25 status of their plans regarding a

1 potential M&A opportunity."

2 Up until this point, other than the
3 meetings that you had with Mr. Houghton, the breakfast
4 meeting, what other informal meetings had there been
5 with him?

6 MR. BRIAN BENTZ: I mean, it may have
7 referred to the June 15th meeting; it's possible. I -
8 - I don't recall.

9 MS. KATE MCGRANN: Any other meetings
10 that Collus Power had with -- with Mr. Houghton?

11 MR. BRIAN BENTZ: Not that I'm aware
12 of.

13 MS. KATE MCGRANN: Is it possible that
14 this slide was describing meetings that PowerStream
15 was having through Mr. Bonwick as agent with Mr.
16 Houghton?

17 MR. BRIAN BENTZ: It's possible.

18 MS. KATE MCGRANN: Do you have any
19 information about what meetings Mr. Bonwick and Mr.
20 Houghton may have had that are being described in this
21 slide?

22 MR. BRIAN BENTZ: No.

23

24 (BRIEF PAUSE)

25

1 MS. KATE MCGRANN: The second bullet
2 point:

3 "Started broad discussions with
4 senior City staff."

5 Do you know who's being referred to
6 there?

7 MR. BRIAN BENTZ: It would be the
8 chief administrative officer and the City clerk
9 presumably.

10 MS. KATE MCGRANN: It goes on to say:
11 "And the chair of Collus to make the
12 more of PowerStream's interests,
13 reputation, and success with our M&A
14 experience."

15 Do you know what's being discussed in
16 that bullet point?

17 MR. BRIAN BENTZ: Just we felt we had
18 a strong reputation in the sector as a consolidator.
19 So, you know, making our case that we do have that
20 with -- with the decision-makers is something we
21 wanted to focus in on.

22 MS. KATE MCGRANN: Do you recall if
23 you had any specific plans to meet with senior City
24 staff and/or the chair of Collus to discuss these
25 points with them?

1 MR. BRIAN BENTZ: No.

2 MS. KATE MCGRANN: Do you know if
3 those discussions actually happened?

4 MR. BRIAN BENTZ: Well, there was a
5 discussion with the chair and the CEO at -- at our
6 offices, I think, on July 7th. That would -- that
7 would be one (1).

8 MS. KATE MCGRANN: And we'll come to
9 the June 29th meeting in a second. Other than the --

10 MR. BRIAN BENTZ: Yes.

11 MS. KATE MCGRANN: Other than those
12 two (2) meetings, any other meetings that -- that
13 you're aware of --

14 MR. BRIAN BENTZ: No.

15 MS. KATE MCGRANN: -- with senior City
16 staff and the chair of Collus?

17 MR. BRIAN BENTZ: No.

18 MS. KATE MCGRANN: Stepping away from
19 this slide for a second. It's not the sound of me
20 having a good idea; don't worry.

21 Was -- was part of the work that Mr.
22 Bonwick is doing for PowerStream, did it involve
23 monitoring Town council meetings and reporting back to
24 you on what was discussed?

25 MR. BRIAN BENTZ: Likely, yes, that

1 would be expected.

2 MS. KATE MCGRANN: Were you aware of
3 any reports back that Mr. Bonwick made on Town council
4 meetings?

5 MR. BRIAN BENTZ: No.

6 MS. KATE MCGRANN: Do you recall
7 receiving any information about what happened on the
8 June 27th Town council meeting?

9 MR. BRIAN BENTZ: No.

10 MS. KATE MCGRANN: We can see from the
11 documents -- this may be of assistance because that's
12 a date that may have no meaning to you in the
13 abstract. We can see from the documents that Mr.
14 Houghton makes a presentation to je -- Town council in
15 a closed session on June 27th in which he goes over
16 the options available to the LDC and some -- some
17 indications are made about how to move forward.

18 Do you recall receiving any information
19 about that?

20 MR. BRIAN BENTZ: He was updating us
21 on the process as it was developing, I think, over the
22 course of the summer, so that's possible.

23 MS. KATE MCGRANN: Do you remember
24 receiving an update from him that -- that Town council
25 was proceeding towards an RFP?

1 MR. BRIAN BENTZ: I don't recall
2 specifically.

3 MS. KATE MCGRANN: I'm going to turn
4 now to the June 29th meeting that we've made reference
5 to. Could we go to paragraph 207 of the Foundation
6 Document?

7

8 (BRIEF PAUSE)

9

10 MS. KATE MCGRANN: This paragraph says
11 that on June 14th, 2011, Mr. Bonwick sends Deputy
12 Mayor Lloyd an untitled email that said, "Meeting at
13 PowerStream 2:30 June 29th, 2011."

14 You've made reference to the deputy
15 mayor a couple of times through out discussions this
16 morning. At the time that PowerStream retained Mr.
17 Bonwick, what was your understanding of the
18 relationship between Mr. Bonwick and Deputy Mayor
19 Lloyd?

20 MR. BRIAN BENTZ: They knew each
21 other. And I didn't think it was unusual that they
22 knew each other given his political background.

23 MS. KATE MCGRANN: You hadn't seen
24 Deputy Mayor Lloyd help Mr. Bonwick get some
25 information from the Town clerk back in the beginning

1 of your engagement. Did you understand that they had
2 the kind of relationship where they would help each
3 other out with things like that?

4 MR. BRIAN BENTZ: You could make that
5 assumption, yes.

6 MS. KATE MCGRANN: Up until this point
7 in time, so June of 2011, had you asked Mr. Bonwick
8 any questions about the nature of his relationship
9 with the deputy mayor?

10 MR. BRIAN BENTZ: No, I did not.

11 MS. KATE MCGRANN: And from this point
12 onwards, did you inquire into the nature of that
13 relationship at all?

14 MR. BRIAN BENTZ: No.

15 MS. KATE MCGRANN: So, we can see from
16 this paragraph that on June 22nd an invitation goes
17 out from Mayor Cooper's office to Mr. Houghton, Deputy
18 Mayor Lloyd, Dean Muncaster, CAO Wingrove to attend an
19 introductory meeting with you. And then you extent
20 the invitation to Mayor Lehman.

21 Do you remember attending a meeting on
22 June 29th?

23 MR. BRIAN BENTZ: Yes.

24 MS. KATE MCGRANN: Could you tell me
25 who else was there, please?

1 MR. BRIAN BENTZ: I believe the mayor
2 was there; the city administrator; the deputy mayor;
3 the chair of the hydro, Mr. Muncaster; and Mayor
4 Lehman; and myself.

5 MS. KATE MCGRANN: I'm only reacting
6 to the fact that you said you believe. Do you
7 specifically recall those individuals being at that
8 meeting?

9 MR. BRIAN BENTZ: I -- I recall those
10 people being at that meeting, yes.

11 MS. KATE MCGRANN: What was the
12 purpose of that meeting?

13 MR. BRIAN BENTZ: The purpose of that
14 meeting was following the genesis of going back right
15 to the beginning in January where we said, you know,
16 it was really important that disclosure be made,
17 especially by the mayor.

18 And then following that, the suggestion
19 by Mr. Bonwick that a meeting be held by key town
20 officials and the utility. And so this was -- and
21 then that was incorporated into the mayor's letter.
22 So this meeting was scheduled on the heels of -- of
23 those events.

24 MS. KATE MCGRANN: You'd had some
25 discussions about the language in the mayor's letter

1 about should certain events unfold, this meeting will
2 take place. Did you interpret this meeting -- the
3 fact that it was being scheduled and happening -- as
4 an indication that the Town intended to proceed with
5 the RFP?

6 MR. BRIAN BENTZ: I -- I thought it
7 was more likely. As I said, there was sort of two (2)
8 tests I was thinking about was the engagement of
9 Mr. Bonwick and the RFP -- the likelihood of the RFP
10 proceeding.

11 MS. KATE MCGRANN: Right. And the
12 engagement had already happened, so this is the second
13 one we're talking about. So you thought it was more
14 likely but not conclusive? Is that fair?

15 MR. BRIAN BENTZ: Yes.

16 MS. KATE MCGRANN: Do you recall any
17 discussions about whether or not Mr. Bonwick should
18 attend this meeting?

19 MR. BRIAN BENTZ: No.

20 MS. KATE MCGRANN: What can you tell
21 me about discussions about Mr. Bonwick's retainer that
22 took place at this meeting?

23 MR. BRIAN BENTZ: So as I recall,
24 the -- the meeting was -- began with the mayor 'cause
25 she called the meeting. And I believe she referenced

1 the letter that she had saying that she was aware that
2 PowerStream -- I don't know if I had or was going to
3 engage her brother.

4 And I think she also mentioned about
5 the Municipal Conflict of Interest Act that -- you
6 know, that if he was -- if he were engaged, he would
7 not be in contravention of the Municipal Conflict of
8 Interest Act and that -- and that, you know,
9 PowerStream's decision to do that would be their own
10 decision.

11 Then there were introductions at the
12 meeting, so, you know, people introduced themselves.
13 Then I spoke about PowerStream and who we were, sort
14 of our -- you know, our size, basic facts about the
15 company, how we came to be, and -- and the fact that
16 we were a product of -- of a merger.

17 And I think Mayor Lehman then spoke
18 about his experience with -- with the Barrie merger.
19 Then we talked about the engagement with Mr. Bonwick
20 and the fact that the purpose of this meeting was to
21 advise the -- the people at the table that we had
22 engaged Mr. Bonwick and that if there were an RFP that
23 he would assist us in that regard. And -- and did
24 they have any problems with that? Did they have any
25 concerns about that?

1 And the reaction we got was on the
2 contrary that I remember -- I remember the deputy
3 mayor making a statement around, you can't prevent a
4 person from earning a living, or something like that.
5 And then someone else made a comment that if
6 anything -- I don't know if it was Dean Muncaster
7 or -- or Deputy Mayor Lloyd -- if anything, he would
8 enhance the quality of your response because of his
9 knowledge of the community.

10 So that's -- that's what I recall from
11 the meeting, sort of the -- the main points of that
12 meeting.

13 MS. KATE MCGRANN: Okay. With respect
14 to the last item on the -- last item you described to
15 us there where you spoke about Mr. Bonwick's
16 engagement, who gave that information over? Was that
17 from you or from Mayor Lehman or both of you?

18 MR. BRIAN BENTZ: It probably was both
19 of us. We were both speaking to it. I don't recall
20 specifically. I -- I did the initial part of the
21 presentation or talking.

22 MS. KATE MCGRANN: About PowerStream?

23 MR. BRIAN BENTZ: Yes.

24 MS. KATE MCGRANN: And my next
25 question would be: Do you remember specifically what

1 was said about -- about Mr. Bonwick's retainer?

2 MR. BRIAN BENTZ: Just that if the RFP
3 was going to proceed that he -- he would maybe of
4 assistance to us in that regard.

5 MS. KATE MCGRANN: We've heard from
6 Mayor Cooper. She's already appeared as a witness.
7 At a high level, she doesn't recall any disclosure of
8 Mr. Bonwick's retainer with PowerStream being made at
9 this meeting.

10 So when you say that she started the
11 meeting, referencing the letter, and discussing the
12 Municipal Conflict of Interest Act, and her brother's
13 retainer, what do you remember her saying?

14 MR. BRIAN BENTZ: It was -- it was
15 sort of setting the -- the stage for the meeting. So
16 she had -- she had signed the letter acknowledging
17 that on June 2nd, I think -- acknowledging that
18 PowerStream was going to retain her brother. And I
19 think there was, you know -- I believe she talked
20 about the clerk.

21 So my recollection is that was the sort
22 of the context for, you know, why are we meeting?
23 So -- because in the letter, it says it would -- my
24 brother thinks it would be a good idea that we hold
25 this meeting. So that would be the logical stepping

1 off point to introduce the meeting.

2 MS. KATE MCGRANN: Do you remember how
3 long she spoke for in her introduction?

4 MR. BRIAN BENTZ: Maybe a few minutes.
5 I mean, I -- I don't recall specifically but yes.

6 MS. KATE MCGRANN: And do you remember
7 specifically anything that she said?

8 MR. BRIAN BENTZ: It was more context
9 setting for why the meeting was being held.

10 MS. KATE MCGRANN: Do you remember if
11 she shared copies of the letter with the other people
12 at the meeting?

13 MR. BRIAN BENTZ: I don't believe she
14 did.

15 MS. KATE MCGRANN: And did she read
16 from it?

17 MR. BRIAN BENTZ: No.

18 MS. KATE MCGRANN: Anything else you
19 can remember of being discussed at that meeting?

20 MR. BRIAN BENTZ: No.

21 MS. KATE MCGRANN: And at the close of
22 that meeting, were you satisfied that the disclosure
23 that PowerStream and more specifically the Audit and
24 Finance Committee wanted to be made had been made?

25 MR. BRIAN BENTZ: Yes.

1 MS. KATE MCGRANN: What was your
2 expectation with respect to what the other attendees
3 at that meeting would do with that information?

4 MR. BRIAN BENTZ: I'm not sure if I
5 had a specific expectation of them. It was more the
6 expectation of us that we had made them aware of -- of
7 the situation, and that was -- that was the purpose of
8 the meeting.

9 MS. KATE MCGRANN: Did you make any
10 notes before or after that meeting about the meeting?

11 MR. BRIAN BENTZ: No, I did not.

12 MS. KATE MCGRANN: Did you report back
13 to anyone at PowerStream about the meeting?

14 MR. BRIAN BENTZ: I don't recall. I
15 would have spoken to Mayor Lehman about it.

16 MS. KATE MCGRANN: What do you
17 remember about your discussions with him about the
18 meeting?

19 MR. BRIAN BENTZ: I think we thought
20 it was a good meeting. It accomplished our
21 objectives, and, you know, we had disclosed the
22 relationship.

23 MS. KATE MCGRANN: Anything else you
24 remember about talking to him about the meeting?

25 MR. BRIAN BENTZ: No.

1 MS. KATE MCGRANN: Paragraph 216 of
2 the Foundation Document.

3

4 (BRIEF PAUSE)

5

6 MS. KATE MCGRANN: So on the same day,
7 it looks like you then go on and play golf with
8 Mr. Houghton and Mr. Bonwick and Mayor Lehman.

9 Do you remember doing that?

10 MR. BRIAN BENTZ: Yes.

11 MS. KATE MCGRANN: Okay. Did you
12 mention to the group assembled for the meeting that
13 we've just talked about that you were going to then go
14 and play golf and have dinner with Mr. Houghton and
15 Mr. Bonwick?

16 MR. BRIAN BENTZ: I believe we did.

17 MS. KATE MCGRANN: Do you remember
18 what the reaction was to that?

19 MR. BRIAN BENTZ: I think -- I think
20 they were -- some of them may have been invited but
21 couldn't attend. So I don't think there was a
22 reaction.

23 MS. KATE MCGRANN: Who had been
24 invited?

25 MR. BRIAN BENTZ: I can't remember if

1 it was the deputy mayor and mayor and -- I can't
2 remember.

3 MS. KATE MCGRANN: But you
4 specifically remember that some of them had been
5 invited to join you?

6 MR. BRIAN BENTZ: I think so, yes.

7 MS. KATE MCGRANN: Who extended the
8 invitation?

9 MR. BRIAN BENTZ: Mr. Bonwick.

10 MS. KATE MCGRANN: What was the
11 purpose of the golf game?

12 MR. BRIAN BENTZ: This was really more
13 of a social out, that I -- I believe that Mr. Bonwick
14 and -- and Mayor Lehman knew each other, and I don't
15 know if it was in passing or -- I can't remember the
16 nature of the relationship. And Mayor Lehman -- I
17 can't remember if he had known Ed. I think he was
18 aware of Mr. Houghton prior to.

19 So we did talk about what happened in
20 the meeting in terms of, you know, went well, and had
21 been disclosed, and now they're aware. It was mostly
22 social.

23 I do recall there was some discussion
24 about the water industry, that Mr. Houghton been
25 involved in the water industry, and some of the

1 developments that were happening there.

2 MS. KATE MCGRANN: Anything else you
3 can recall about the -- the purpose of the golf game
4 and dinner?

5 MR. BRIAN BENTZ: No.

6 MS. KATE MCGRANN: Turning from that
7 to -- to the solar attic vent initiative that we have
8 discussed a little bit already, could we turn up
9 ALE234, please.

10

11 (BRIEF PAUSE)

12

13 MS. KATE MCGRANN: The -- this is an
14 email from Mr. Bonwick to you on July 7th, 2011, in
15 which he writes:

16 "Hi, Brian. Further to our
17 telephone conversation, topics for
18 discussion will be solar strategic
19 alliance."

20 Do you remember receiving this email?

21 MR. BRIAN BENTZ: Yes.

22 MS. KATE MCGRANN: Do you remember
23 having the telephone conversation with Mr. Bonwick
24 that he references there?

25 MR. BRIAN BENTZ: Yes.

1 MS. KATE MCGRANN: What do you
2 remember about that phone call?

3 MR. BRIAN BENTZ: That I -- Mr.
4 Bonwick suggested that this initiative might be a good
5 thing for PowerStream to participate in, because it
6 would help us brand in the community.

7 MS. KATE MCGRANN: What did you
8 understand about the initiative before you attended
9 the meeting here?

10 MR. BRIAN BENTZ: I think I understood
11 -- recollected in the context of this being a
12 conservation initiative, and that the government had
13 recently changed the license conditions of all local
14 distribution companies in the Province, that the
15 Ontario power authority was managing the conservation
16 initiative on behalf of the Province, and they were
17 encouraging LDCs to work together on these kind --
18 types of initiatives. So I thought there was merit in
19 that. And then also that this initiative would be
20 good for the branding in the community.

21 MS. KATE MCGRANN: So one (1) of the -
22 - one (1) of the motivations for -- for following
23 through on this project is branding in the community.
24 Would that be further to -- to your interests in
25 responding to an RFP in the community?

1 MR. BRIAN BENTZ: Yes.

2 MS. KATE MCGRANN: I've asked you this
3 before, did you attend this meeting?

4 MR. BRIAN BENTZ: I -- I don't have a
5 specific recollection of the meeting.

6 MS. KATE MCGRANN: Maybe if we walk
7 through the rest of the email, it might help. So he
8 says:

9 "Ed's proposal/objective for the
10 Collus board is a thousand units
11 (five hundred (500) homes)."

12 He says:

13 "I believe his intention is similar
14 -- for similar commitment from
15 PowerStream. Intent is to expand
16 program to other CHEC members as we
17 move forward. Water opportunity is
18 also unsafe for discussion."

19 And then Mr. Bonwick says that:

20 "Dean will be providing his
21 perspective as well as listening to
22 yours."

23 So this email suggests that Mr.
24 Muncaster will also be attending this meeting.

25 Do you remember attending a meeting

1 with Mr. Muncaster in or around the beginning of July?

2 MR. BRIAN BENTZ: Yes, I believe there
3 was a meeting in our offices in our boardroom.

4 MS. KATE MCGRANN: Did you discuss the
5 solar strategic alliance at that meeting, do you
6 recall?

7 MR. BRIAN BENTZ: We may have.

8 MS. KATE MCGRANN: Do you have a
9 recollection of what was discussed at that meeting?

10 MR. BRIAN BENTZ: There was an update
11 on the process with respect to the -- the sale of the
12 utility, and the timing, and that sort of thing, what
13 their expectations were, and -- and I -- I think there
14 was also sort of gauging our -- our interest, and --
15 with respect to being a participant in a -- in a
16 prospective RFP.

17 MS. KATE MCGRANN: Do you remember at
18 what point in time PowerStream decided to participate
19 in the solar strategic alliance?

20 MR. BRIAN BENTZ: I don't
21 specifically.

22 MS. KATE MCGRANN: Do you remember
23 having any discussions about the water opportunity
24 that's referenced in this email?

25 MR. BRIAN BENTZ: Mr. Houghton was

1 always of the opinion that there was a -- he was
2 involved in OCWA, the Ontario Clean Water Association.
3 So he -- he was always of the opinion that there was
4 merit in a multi-utility model. So that's something
5 that, you know, all -- all utilities should consider.

6 I had worked at Barrie Public Utilities
7 Commission, which was an electric and water utility,
8 and, you know, I could see the merits of that as well.

9 MS. KATE MCGRANN: So was it your
10 understanding that the -- there may be an opportunity
11 to get involved in the water utility through the RFP
12 process as well?

13 MR. BRIAN BENTZ: No.

14 MS. KATE MCGRANN: Was it -- was the
15 notion that the opportunity -- to have -- that the
16 water opportunity was a parallel process running
17 alongside the Hydro utility?

18 MR. BRIAN BENTZ: No. It would -- it
19 would be -- it would be an aspirational sort of goal,
20 that, you know, something that we should consider as
21 part of the growth strategy generally, and could we --
22 and could we collaborate on that?

23 MS. KATE MCGRANN: What would that
24 collaboration look like? What would the goal be?

25 MR. BRIAN BENTZ: There are -- there

1 are benefits to having electricity and water utilities
2 operate together. I won't go into the details as to
3 why, but there is there is -- there is a business case
4 around it. And so, you know, just what -- what was
5 our interest in sort of the electric, water, multi-
6 utility model, if you want to call it that.

7 MS. KATE MCGRANN: Did that discussion
8 go anywhere?

9 MR. BRIAN BENTZ: No.

10 MS. KATE MCGRANN: Coming back to the
11 solar strategic alliance, is it fair to say that Mr.
12 Bonwick is -- is bringing this opportunity to you
13 because -- did you understand him to be bringing it to
14 you because he thought it would be of use in your
15 response to any potential RFP?

16 MR. BRIAN BENTZ: I think he thought
17 it would help our branding in the community.

18 MS. KATE MCGRANN: Your branding in
19 the community being good, would be of assistance in
20 the RFP?

21 MR. BRIAN BENTZ: Yes.

22 MS. KATE MCGRANN: You did ultimately
23 highlight your participation in this project in your
24 response to the Collus Power RFP. Is that right?

25 MR. BRIAN BENTZ: Yes, we did.

1 MS. KATE MCGRANN: Is it fair to say
2 you highlighted it because you would be something that
3 would assist you in being successful in that RFP?

4 MR. BRIAN BENTZ: Yes. I didn't think
5 it had, you know, tremendous value, but it had some
6 value, an additional value.

7 MS. KATE MCGRANN: Look at ALE244,
8 please.

9

10 (BRIEF PAUSE)

11

12 MS. KATE MCGRANN: While that's coming
13 up, what was your understanding about whether this
14 opportunity was being offered to other -- other
15 potential bidders on the -- the Collus RFP?

16 MR. BRIAN BENTZ: I assumed that they
17 were being offered the same.

18 MS. KATE MCGRANN: Did anybody tell
19 you that they were being offered the same?

20 MR. BRIAN BENTZ: I don't know. I
21 think subsequently, Veridian was talking about some
22 interest in -- that they had in this. I -- I just
23 remember that sort of anecdotally. I don't remember
24 specifically, but, you know.

25 MS. KATE MCGRANN: Do you remember if,

1 when Mr. Bonwick brought you the potential
2 opportunity, you had any understanding about whether
3 it was being offered to others as well?

4 MR. BRIAN BENTZ: They said they
5 wanted as many as possible in the group, and I thought
6 that had merit.

7 MS. KATE MCGRANN: Who said they
8 wanted as many as possible?

9 MR. BRIAN BENTZ: Mr. Bonwick and Mr.
10 Houghton.

11 MS. KATE MCGRANN: When did that
12 discussion take place?

13 MR. BRIAN BENTZ: I think early on
14 would be, you know, that -- that -- the purpose of
15 this would -- to have many members. I think,
16 ultimately, there were three (3) additional members
17 that were brought into the group. So I assumed that
18 they were trying to source multiple members, and that
19 would be consistent with what the OPA wanted us to do.

20 MS. KATE MCGRANN: Do you remember any
21 discussion about whether there would be particular
22 emphasis on the work that Collus and PowerStream were
23 doing together?

24 MR. BRIAN BENTZ: No.

25

1 (BRIEF PAUSE)

2

3 MS. KATE MCGRANN: Turn up ALE967,
4 please.

5

6 (BRIEF PAUSE)

7

8 MS. KATE MCGRANN: Could we go to page
9 23 of this document, please. Oh, sorry, before we do
10 that, this is Collus/Power -- PowerStream's response
11 to the Collus Power Corp request for proposal. Scroll
12 down a little bit so you can see the page. Sections
13 3.2 to 3.7 -- do you recognize this document?

14 MR. BRIAN BENTZ: Yes.

15 MS. KATE MCGRANN: Did you review and
16 approve it before it was sent over to Collus Power?

17 MR. BRIAN BENTZ: Yes.

18 MS. KATE MCGRANN: Now could we go to
19 page 23, please?

20 So this is an image:

21 "Collus/Power customers put solar
22 power on your roof for \$100."

23 And across the bottom we see the Collus
24 Power logo, the PowerStream logo and a home made out
25 of hundred dollar bills and a logo with a "D" on it.

1 Otherwise I can't read it.

2 The heading underneath, it says:

3 "PowerStream and Collus Power
4 promoted the solar powered attic
5 vent program on billboards in the
6 Collingwood area during September
7 and October 2011."

8 Are these the billboard -- this is the
9 billboard that you were referring to?

10 MR. BRIAN BENTZ: Yes.

11 MS. KATE MCGRANN: This is the image
12 that was put up in -- in the town during that time?

13 MR. BRIAN BENTZ: Yes.

14 MS. KATE MCGRANN: Do you know why the
15 other participants aren't mentioned on this billboard?

16 MR. BRIAN BENTZ: No.

17 MS. KATE MCGRANN: Can you understand
18 how someone who is just walking through the community
19 and saw this billboard might think that the only two
20 (2) utilities involved in this project are Collus
21 Power and PowerStream?

22 MR. BRIAN BENTZ: They might.

23 MS. KATE MCGRANN: Could we go to
24 ALE244, please?

25

1 (BRIEF PAUSE)

2

3 MS. KATE MCGRANN: This is an email
4 from Mr. Bonwick to you, subject: "Ed Houghton."

5 Mr. Bonwick writes:

6 "Hi Brian: If you have time
7 available today, please give Ed a
8 call. I met with him this morning
9 after my briefing with John
10 Glicksman. He shared some
11 interesting information in terms of
12 his discussions with other LDCs as
13 it relates to partnership
14 opportunities."

15 Do you remember receiving this email?

16 MR. BRIAN BENTZ: Yes.

17 MS. KATE MCGRANN: Do you know if you
18 gave Mr. Houghton a call in response to receiving it?

19 MR. BRIAN BENTZ: I don't.

20 MS. KATE MCGRANN: Would this have
21 been an unusual communication for you to receive from
22 Mr. Bonwick?

23 MR. BRIAN BENTZ: No.

24 MS. KATE MCGRANN: Did he email you on
25 other occasions and suggest that you get in touch with

1 Mr. Houghton to speak to him?

2 MR. BRIAN BENTZ: He may have.

3 MS. KATE MCGRANN: And do you recall
4 whether -- whether you made calls in response to those
5 emails?

6 MR. BRIAN BENTZ: Generally I don't
7 recall making those calls, but that's my recollection.

8 MS. KATE MCGRANN: A couple more
9 questions before we leave the -- the topic of the
10 solar attic vents.

11 Can we go to ALE11366? And we're
12 jumping ahead in time here again and then we'll jump
13 back again. So we're going up to August -- no,
14 October of 2011.

15 And if we could start at the bottom of
16 the email chain, all the way down. So the -- an email
17 from Mr. Bonwick to Mr. Peter Budd. There's a
18 reaction there to take out an email address, but...

19 Did you understand that Mr. Budd was
20 involved in the solar attic vent initiative, do you
21 recall?

22 MR. BRIAN BENTZ: Yes.

23 MS. KATE MCGRANN: Look at the -- the
24 third paragraph in this email that starts, "On a
25 separate note." It says:

1 "On a separate note, one of our LDC
2 alliance members was inquiring about
3 the ownership of ISSI in terms of a
4 Canadian company as opposed to
5 foreign-owned. I would appreciate
6 if you could provide clarification
7 on this matter as your website
8 simply identifies the title of
9 corporate officers."

10 And then Mr. Bonwick thanks Mr. Budd.

11 Do you remember about -- do you
12 remember whether inquiries were made into the
13 ownership of -- of ISSI in or around this time?

14 MR. BRIAN BENTZ: Yes.

15 MS. KATE MCGRANN: Do you remember
16 what enquiries were being made?

17 MR. BRIAN BENTZ: I believe I made an
18 enquiry as to the ownership.

19 MS. KATE MCGRANN: Why were you asking
20 questions about that?

21 MR. BRIAN BENTZ: I was interested in
22 who the owners were, if we were going to invest in the
23 -- in the -- in the initiative.

24 MS. KATE MCGRANN: Okay. If you could
25 scroll up a little bit -- a little bit further.

1 Mr. Budd comes back. With respect to
2 the -- the question about ownership, he says:

3 "Thank you for your enquiry about
4 ownership. I can proudly confirm
5 that ISSI is a hundred percent
6 Canadian owned share capital
7 corporation, which is owned 70
8 percent by Thomas Bushey and 30
9 percent by Peter Budd."

10 Scroll up a little bit further. And
11 Mr. Bonwick passes this information on to you.

12 Were you satisfied with this response?

13 MR. BRIAN BENTZ: Yes. A Canadian
14 company.

15 MS. KATE MCGRANN: Were you aware at
16 any point before the closing of the share sale
17 transaction that Mr. Budd was receiving a --
18 a commission, or was otherwise been paid in respect of
19 the work that he was doing on the solar attic vent
20 initiative?

21 MR. BRIAN BENTZ: No.

22 MS. KATE MCGRANN: Is that something
23 that you would expect that he would have disclosed to
24 you when he brought you the opportunity?

25 MR. BRIAN BENTZ: Mr. Budd?

1 THE HONOURABLE FRANK MARROCCO: Mr.

2 Budd or --

3 MS. KATE MCGRANN: My goodness.

4 THE HONOURABLE FRANK MARROCCO: -- or

5 Mr. Bonwick?

6 MS. KATE MCGRANN: Mr. Bonwick.

7 Thanks, both of you.

8

9 CONTINUED BY MS. KATE MCGRANN:

10 MS. KATE MCGRANN: Were you aware that

11 Mr. Bonwick was being paid in respect -- by the -- by

12 ISSI, for the work that he was doing on the solar

13 attic vent initiative?

14 MR. BRIAN BENTZ: No.

15 MS. KATE MCGRANN: Is that something

16 that you would expect Mr. Bonwick would have disclosed

17 to you when he brought you the opportunity to

18 participate?

19 MR. BRIAN BENTZ: Yes.

20 MS. KATE MCGRANN: If he had given you

21 that information, would that have changed your view on

22 whether it was a good idea for PowerStream to

23 participate in that project?

24 MR. BRIAN BENTZ: It likely would

25 have.

1 (BRIEF PAUSE)

2

3 MS. KATE MCGRANN: Turning now to some
4 questions about things that took place during the
5 period between the June 29th meeting that we have
6 looked at, up unto the -- the release of the RFP, so
7 we're looking at the summer and early fall period.

8 We understand that a strategic task
9 team was struck to assist in preparing the RFP and
10 then ultimately review the responses that were
11 received to -- to that process.

12 Do you -- do you remember when you
13 became aware that there was a strategic task team that
14 would be working on that process?

15 MR. BRIAN BENTZ: I don't. It might
16 have been -- it may have been the July 7th meeting
17 with Dean Muncaster and Mr. Houghton.

18 MS. KATE MCGRANN: With respect to the
19 strategic task team, did Mr. Bonwick provide
20 PowerStream with information about the members of the
21 strategic task team, who they were, what their roles
22 was, what their -- what their interests would be?

23 MR. BRIAN BENTZ: I don't recall.

24 MS. KATE MCGRANN: Did Mr. Bonwick
25 provide PowerStream with updates on when the strategic

1 task team met?

2 MR. BRIAN BENTZ: As I recall, it was
3 more the process that they were going through, sort of
4 the milestones, the processes that were they were --
5 they were anticipating.

6 MS. KATE MCGRANN: Okay. And -- and
7 am I understanding you to be saying that Mr. Bonwick
8 provided you with information about the -- the task
9 team's process and milestones?

10 MR. BRIAN BENTZ: Yes.

11 MS. KATE MCGRANN: What do you
12 remember about the information he gave you?

13 MR. BRIAN BENTZ: It was something
14 about that they were going to continue with the RFP
15 and that would likely occur in the fall, and that --
16 and that there could be interviews in advance of the
17 RFP, something like that.

18 MS. KATE MCGRANN: Do you remember how
19 he delivered that information to PowerStream?

20 MR. BRIAN BENTZ: Probably verbally.

21 MS. KATE MCGRANN: Fair to say you
22 know that you had the information but you don't
23 remember exactly how he --

24 MR. BRIAN BENTZ: Yes.

25 MS. KATE MCGRANN: -- got it to you?

1 Do you know if anyone at PowerStream
2 went back with questions or sought to -- sought to
3 interact with members of the Strategic Task Team
4 before you met with them on September 19th?

5 MR. BRIAN BENTZ: No.

6 MS. KATE MCGRANN: To your knowledge,
7 through the -- the summer, were people at PowerStream
8 in -- in touch with Mr. Bonwick and Mr. Houghton about
9 the solar attic vent initiative?

10 MR. BRIAN BENTZ: Yes.

11 MS. KATE MCGRANN: Could we look at
12 paragraph 243 of the Foundation Document, please?

13

14 (BRIEF PAUSE)

15

16 MS. KATE MCGRANN: So it's our
17 understanding that the strategic task team first met
18 on August 3rd, 2011. On that same day, Mr. Bonwick
19 sends you an email saying:

20 "I can provide you an update as it
21 relates to Collus presentation this
22 morning. I also have two (2)
23 questions, please call my cell."

24 Do you remember receiving an email like
25 this from Mr. Bonwick?

1 MR. BRIAN BENTZ: Yes.

2 MS. KATE MCGRANN: Do you know if you
3 followed up and gave him a call?

4 MR. BRIAN BENTZ: I don't recall
5 specifically.

6 MS. KATE MCGRANN: When Mr. Bonwick
7 reached out to speak to you like this, I understand
8 you to be saying that this was not the only thing that
9 you were focusing on, which you sometimes refer him to
10 Mr. Glicksman, and say if you have something to share,
11 share it with Mr. Glicksman instead?

12 MR. BRIAN BENTZ: Yes.

13 MS. KATE MCGRANN: Do you remember --
14 do you remember receiving an update with respect to a
15 Collus presentation in early August, more generally
16 than with respect to this email?

17 MR. BRIAN BENTZ: Yes.

18 MS. KATE MCGRANN: What do you
19 remember learning about that?

20 MR. BRIAN BENTZ: It was that the --
21 the Chair and the CEO had met with the bidders and
22 that they were still planning on proceeding with the
23 RFP and the fall time line, and that there could be
24 interviews involved.

25 MS. KATE MCGRANN: And is that

1 information that you understood came from Mr. Bonwick?

2 MR. BRIAN BENTZ: I believe so, yes.

3 MS. KATE MCGRANN: Do you remember if
4 you received any information about who the other
5 bidders that had been met with were?

6 MR. BRIAN BENTZ: Mr. Houghton, in my
7 early meeting, in December 3rd, indicated who he
8 thought the bidders would be, anticipated who the
9 bidders would be, and he identif -- he identified
10 Hydro One, Veridian, Horizon, he may have mentioned
11 St. Thomas, so that's who I assumed they were.

12 MS. KATE MCGRANN: With respect to the
13 information you got about the -- the strategic task
14 team meeting at the beginning of August, do you
15 remember if you received any information that
16 confirmed that those bidders were still in
17 contemplation --

18 MR. BRIAN BENTZ: No.

19 MS. KATE MCGRANN: -- or not?

20 MR. BRIAN BENTZ: No.

21 MS. KATE MCGRANN: Anything else you
22 remember hearing about this particular meeting?

23 MR. BRIAN BENTZ: no.

24 MS. KATE MCGRANN: Was that
25 information of use to -- to PowerStream?

1 MR. BRIAN BENTZ: Well, with respect
2 to the process, yes, it's helpful to know what the
3 process is going to be, as we move forward.

4 MS. KATE MCGRANN: Did PowerStream
5 take any steps in response to receiving that
6 information?

7 MR. BRIAN BENTZ: Not really. I mean,
8 it was just let -- let the process unfold.

9 MS. KATE MCGRANN: Could we turn to
10 ALE --

11 THE HONOURABLE FRANK MARROCCO: Just -
12 - just before you do that. Based on your experience
13 in the industry, would it have been -- would you have
14 been able to guess at who might -- who the bidders
15 might be in a fairly informed way?

16 MR. BRIAN BENTZ: Yes.

17

18 CONTINUED BY MS. KATE MCGRANN

19 MS. KATE MCGRANN: Could we turn to
20 ALE256, please?

21 So this is a meeting, an outlook
22 meeting typed document. The subject is "update
23 strategic alliance opportunities", the location is
24 executive board room. It's set for 2 hours on August
25 24th, 2011.

1 It reflects that the meeting status is
2 accepted and the attendees are Ms. DiPonio, yourself,
3 Mr. Nolan, Mr. Henderson, Mr. Bonwick and Mr.
4 Houghton, and the message below says "This meeting is
5 confirmed", it identifies the -- that the attendees
6 are going to be yourself, Mark Henderson, Ed Houghton,
7 and Paul Bonwick.

8 Do you remember attending this meeting?

9 MR. BRIAN BENTZ: I -- I don't.

10 MS. KATE MCGRANN: The handwriting at
11 the top, "B. Bentz, meeting notes", do you know whose
12 handwriting that is?

13 MR. BRIAN BENTZ: I'm not sure. It
14 could be my assistant's.

15 MS. KATE MCGRANN: If you scroll down
16 to the second page, there is a page of handwritten
17 notes there. Do you know whose handwriting that is?

18 MR. BRIAN BENTZ: That looks like my
19 handwriting.

20 MS. KATE MCGRANN: I'll give you a
21 second to review these notes. I believe we've been
22 provided with a transcription of them, but I think
23 that I can muddle through the notes that you've made,
24 and I would prefer to refer to those.

25 If you can just let our court operator

1 know when you'd like the screen to be scrolled down so
2 you can look at them all.

3

4 (BRIEF PAUSE)

5

6 MR. BRIAN BENTZ: Okay, scroll down.

7 MR. FREDERICK CHENOWETH: Your Honour,

8 just one note before my friend proceeds. If there is
9 a -- a transcript, do we have the document number for
10 it, et cetera, and that my friend may be comfortable
11 with the -- with the written word here, I'm less
12 comfortable.

13 MS. KATE MCGRANN: Yes, I'm sure we
14 can find it and I can give it to you over lunch.

15 MR. FREDERICK CHENOWETH: Thank you.

16

17 (BRIEF PAUSE)

18

19 MR. BRIAN BENTZ: Okay.

20 MS. KATE MCGRANN: There's a bit more.

21

22 (BRIEF PAUSE)

23

24 MR. BRIAN BENTZ: Okay.

25 MS. KATE MCGRANN: So, as you can see

1 these notes were provided and packaged to us with the
2 August 24th meeting confirmation.

3 Do you recall if these are notes that -
4 - that you would have made at that meeting?

5 MR. BRIAN BENTZ: Likely, yes.

6 MS. KATE MCGRANN: Having reviewed
7 these notes, does this help you remember that you did
8 have a meeting with Mr. Bonwick, Mr. Houghton, and
9 Mark Henderson in or around this time?

10 MR. BRIAN BENTZ: Yes.

11 MS. KATE MCGRANN: What was the
12 purpose of that meeting?

13 MR. BRIAN BENTZ: It seems to relate
14 to the multi-utility model again, so electric and
15 water initiative.

16 And maybe if you can just scroll up so
17 I can --

18 MS. KATE MCGRANN: So I'll tell you
19 what I'd like to know about, and if we treat these
20 roughly as -- as lines here, we've got one line that
21 starts with -- it looks like solar initiative, is that
22 right?

23 MR. BRIAN BENTZ: Yes.

24 MS. KATE MCGRANN: Was that in
25 reference to the strategic solar alliance we've been

1 discussing?

2 MR. BRIAN BENTZ: Yes, that would
3 likely have been discussed at the meeting.

4 MS. KATE MCGRANN: And then there's a
5 pilot project funding, another word, HDBI model,
6 Collus/PowerStream rate mitigation, strategic
7 assessment committee. What does it say after that?

8 MR. BRIAN BENTZ: Where is Collus in
9 terms of size, et cetera?

10 MS. KATE MCGRANN: Do you remember
11 what you discussed about that?

12 MR. BRIAN BENTZ: The -- the HDBI
13 would refer to hydro in Brampton, so as I recollect,
14 this would be the -- the model that Hydro One had with
15 respect to Hydro One Brampton was that it was a stand-
16 alone entity. So it was a separate and distinct
17 entity, and it was the only one that wasn't actually,
18 as I recall, integrated into Hydro One networks.

19 So it's talking about a stand-alone
20 model.

21 MS. KATE MCGRANN: Do you recall why
22 you'd be discussing that model with Mr. Houghton and
23 Mr. Bonwick and Mr. Henderson at this time?

24 MR. BRIAN BENTZ: It's probably around
25 what the -- the fact that the -- it's -- autonomy and

1 independence would be an important consideration in
2 the RFP process. That -- that they didn't want the
3 utility to be merged in like a normal merger.

4 MS. KATE MCGRANN: M-hm.

5 MR. BRIAN BENTZ: It would be -- it
6 would retain its autonomy and independence, that's how
7 I would -- yes.

8 MS. KATE MCGRANN: After it says terms
9 of size, et cetera, it looks to me, like the next
10 bullet point is cash injection in a significant way.

11 Is that -- am I reading that right, for
12 starters?

13 MR. BRIAN BENTZ: Yes.

14 MS. KATE MCGRANN: What do you recall
15 discussing at this meeting about a significant cash
16 injection?

17 MR. BRIAN BENTZ: It's talking about -
18 - it's hard, I'm trying to remember, speculate on what
19 that might mean.

20 It -- it would either mean the sale, so
21 looking at the sale, or it would mean implementing or
22 -- again, I'm speculating, a regional consolidation
23 strategy would require equity in order to grow, so
24 that would be the cash injection that would be
25 required.

1 MS. KATE MCGRANN: So you said you're
2 speculating. Do you recall what discussion took place
3 about a cash injection in a significant way at this
4 meeting?

5 MR. BRIAN BENTZ: My notes aren't very
6 good here. I'm sort of piecing it together after the
7 fact, but I -- that's what I assume it would mean.

8 MS. KATE MCGRANN: Okay. I would
9 prefer that you not assume. It was a long time ago,
10 so it's understandable if you don't remember. I just
11 want to understand what you remember. I may try to --
12 to help you or give you information that I think might
13 trigger a memory, but I don't want you to guess.

14 So, in this instance, if we think about
15 the first communication that Mr. Bonwick ever made to
16 you, there was a discussion about the need for cash
17 for the Town. Do you remember that?

18 MR. BRIAN BENTZ: Yes.

19 MS. KATE MCGRANN: Does that assist
20 you in any way in remembering what you may have
21 discussed with Mr. Bonwick and Mr. Houghton on August
22 24th?

23 MR. BRIAN BENTZ: It's probably that
24 they want a -- like I said, an independent -- they
25 want -- they want Collus to be separate and distinct,

1 so they don't want to fold it into whoever the bidders
2 are, and that it would be a cash transaction.

3 MS. KATE MCGRANN: In the box there it
4 says, "Barber Glass." Do you see that?

5 MR. BRIAN BENTZ: Yes.

6 MS. KATE MCGRANN: Do you remember any
7 discussions about Barber Glass at that meeting?

8 MR. BRIAN BENTZ: No.

9 MS. KATE MCGRANN: If we could scroll
10 down a little bit further. Do you see, "IBM/TD/bank"?

11 MR. BRIAN BENTZ: Yes.

12 MS. KATE MCGRANN: Do you remember
13 what was discussed about that at the meeting?

14

15 (BRIEF PAUSE)

16

17 MR. BRIAN BENTZ: No, I don't.

18

19 (BRIEF PAUSE)

20

21 MS. KATE MCGRANN: Scroll down a
22 little bit further. The left-hand side, do you see
23 where it says, "Option B"?

24 MR. BRIAN BENTZ: M-hm.

25 MS. KATE MCGRANN: I'm going to walk

1 down with you to, "Multi-utility," then, "Employee
2 respect." Underneath that, something, "/to CAO," do
3 you know what that -- can you tell me what that says?

4 MR. BRIAN BENTZ: I think it says, CAO
5 to CAO, I think.

6 MS. KATE MCGRANN: Do you remember
7 what discussed about that?

8 MR. BRIAN BENTZ: No. Multi -- it
9 looks like it's looking at a multi-utility model. And
10 if we were to proceed with that, then the -- the CAOs
11 would have to talk to each other in order to initiate
12 something like that because they're responsible for
13 the municipal water operations.

14 MS. KATE MCGRANN: Looking down
15 further under, "Position," then it says, "Water." It
16 looks like it says, "Veridian, Horizon." There's,
17 like, a big bracket that points to, Will something
18 about water." What does that say?

19 MR. BRIAN BENTZ: "Will talk about
20 water.

21 MS. KATE MCGRANN: Do you know what
22 that -- what was discussed about that at the meeting?

23 MR. BRIAN BENTZ: I think these are my
24 notes after the meeting, so I'm formulating how I
25 might respond to the RFP. So, I'm thinking -- I knew

1 that -- I knew that Horizon did water billing, so it
2 was likely they would talk about.

3 And Veridian, I -- I believe they did
4 the same thing, so -- so -- and -- and Collus did --
5 did water and electric billing. So, it would be
6 likely that they would -- they would offer those
7 services as we would.

8 MS. KATE MCGRANN: Could you scroll
9 all the way down to the bottom. Just a couple more
10 questions about this. Sorry, paragraph at the very
11 bottom in the left-hand corner which I think --
12 actually, could you just read that to me?

13 MR. BRIAN BENTZ: Sorry, which one?

14 MS. KATE MCGRANN: It looks like it
15 says, Recognize something synergies between EW --

16 MR. BRIAN BENTZ: Existing synergies
17 between electric and water.

18 "Something as long as you want it.

19 Could be bigger and better. No --

20 no -- no obligation, no..."

21 I think that's what it means.

22 So, this would be, if we were to
23 continue with the -- so, I'm thinking about --
24 probably thinking about I'm going to respond to the
25 RFP and -- and talking about the electric and water

1 synergies and the water billing.

2 So, this is something that, you know,
3 we could expand into a multi-utility model, and it
4 would be at the option of the municipal owner. I
5 think that's what it's speaking to.

6 MS. KATE MCGRANN: When you said that
7 you made these notes after the meeting, is that -- are
8 -- is that your best guess or do you specifically
9 recall sitting down and making these notes after this
10 meeting?

11 MR. BRIAN BENTZ: I typically make
12 notes after the meeting --

13 MS. KATE MCGRANN: But --

14 MR. BRIAN BENTZ: -- not during the
15 meeting.

16 MS. KATE MCGRANN: -- it would be
17 consistent with your general practice, but you don't
18 recall this one (1) in particular?

19 MR. BRIAN BENTZ: Yes.

20 MS. KATE MCGRANN: My last question
21 for you on -- on this page is, in the box at the
22 bottom of the page on the right-hand side, something
23 on governance structure.

24 Can you just tell me what that says?

25 MR. BRIAN BENTZ: "Continuity on

1 governance structure."

2 MS. KATE MCGRANN: Do you -- do you
3 know what that was in reference to?

4 MR. BRIAN BENTZ: I'm probably
5 thinking about, if we were going to do to this
6 electric and water offer, then there's an existing
7 Public Utilities Board that is managing these things
8 together. And if they want to continue with the
9 existing structure, we could accommodate that.

10

11 (BRIEF PAUSE)

12

13 MS. KATE MCGRANN: With respect to
14 this meeting that you're having with Mr. Bonwick and
15 Mr. Houghton and Mr. Henderson, did you have any
16 concerns that you were getting information for an
17 upcoming RFP that may not be available to others?

18 MR. BRIAN BENTZ: I'm trying to
19 remember what was discussed. Clearly, it was the --
20 the water initiative was discussed and the potential
21 of the multi-utility model.

22 Would that have been discussed with
23 other bidders? I don't know.

24

25 (BRIEF PAUSE)

1 MS. KATE MCGRANN: Could we go to
2 paragraph 262 of the Foundation Document, please?

3

4 (BRIEF PAUSE)

5

6 MS. KATE MCGRANN: So, this paragraph
7 discusses a copy of an invoice from Mr. Bonwick's
8 company, including handwritten notes noting, amongst
9 other things, that Mr. Chadwick did contract work for
10 Paul Bonwick.

11 And if we could just scroll down. I
12 want to give you the date of the invoice. It was in
13 September, so September 1, 2011. At this point in
14 time, were you aware of the identities of all of the
15 members of Collingwood Town council?

16 MR. BRIAN BENTZ: This is August?

17 MS. KATE MCGRANN: The beginning of
18 September, so September 1.

19 MR. BRIAN BENTZ: Probably.

20 MS. KATE MCGRANN: Presumably, that's
21 the kind of information that PowerStream would have
22 wanted to obtain from Mr. Bonwick, who's on Town
23 council?

24 MR. BRIAN BENTZ: Yes.

25 MS. KATE MCGRANN: Okay. Do you

1 recall being advised that Mr. Bonwick wa -- had
2 retained the services of one (1) of the Town
3 councillors through his company?

4 MR. BRIAN BENTZ: Yes.

5 MS. KATE MCGRANN: What do you
6 remember -- what do you remember about that?

7 MR. BRIAN BENTZ: Mr. Bonwick
8 mentioned to me that he had -- and I can't remember
9 when the call was, it might have been in the fall,
10 that he thought it would be a good idea if we -- he
11 had -- he had used Mr. Chadwick before.

12 I didn't know up until this point that
13 Mr. Chadwick had been engaged by Mr. Bonwick, but I
14 think it was sometime in the fall. There was a call,
15 and he suggested that he would use him. And I think
16 there was a discussion around, well, who's going to do
17 that, and you've already engaged him in other things
18 and, you know, presumably he would recuse himself in
19 the process.

20 That was -- there was -- and I only
21 recall one (1) conversation I ever had with him on
22 that.

23 MS. KATE MCGRANN: So, fair to say you
24 understood that Councillor Chadwick may be working for
25 Mr. Bonwick and that he would take the appropriate

1 steps at council to deal with that work relationship?

2 MR. BRIAN BENTZ: Yes.

3 MS. KATE MCGRANN: And do you recall
4 anything else about discussions about Mr. Chadwick?

5 MR. BRIAN BENTZ: No.

6 MS. KATE MCGRANN: Can we go to
7 paragraph 266 of the Foundation Document?

8

9 (BRIEF PAUSE)

10

11 THE HONOURABLE FRANK MARROCCO: Break
12 for lunch at some point. How -- how much -- how long
13 -- how much longer before you complete the...

14 MS. KATE MCGRANN: I think I'm going
15 to need about an hour.

16 THE HONOURABLE FRANK MARROCCO: All
17 right. Well, we may as well break for lunch now then
18 for an -- we'll break for an hour, and then back at
19 twenty-five (25) -- in an hour. Thank you.

20

21 --- Upon recessing at 12:30 p.m.

22 --- Upon resuming at 1:36 p.m.

23

24 THE HONOURABLE FRANK MARROCCO:
25 Mr. Chenoweth, I should -- I neglected to tell you

1 this morning, I, of course, have your application and
2 the time for response is past. I'll give a decision
3 9:00 Monday morning.

4 MR. FREDERICK CHENOWETH: Thank you,
5 Sir.

6 THE HONOURABLE FRANK MARROCCO: Sorry.
7 10:00. There's a trick response. Just want to see if
8 you're all paying attention. 10:00.

9 MR. MICHAEL WATSON: Nine is fine with
10 us, Your Honour.

11 THE HONOURABLE FRANK MARROCCO: No.
12 Thank you for your help, Mr. Watson. 10:00.

13 MS. KATE MCGRANN: And I had committed
14 say -- getting a doc reference for some note
15 transcription that you were looking for,
16 Mr. Chenoweth.

17 MR. FREDERICK CHENOWETH: Yes.

18 MS. KATE MCGRANN: It's CJI9236.

19 MR. FREDERICK CHENOWETH: Can you
20 repeat that again?

21 MS. KATE MCGRANN: CJI --

22 MR. FREDERICK CHENOWETH: Yeah.

23 MS. KATE MCGRANN: -- 9236.

24 MR. FREDERICK CHENOWETH: Thank you.

25 MS. KATE MCGRANN: It's actually got

1 transcription of two (2) separate sets of notes on it,
2 so you'll have to --

3 MR. FREDERICK CHENOWETH: Thank you.

4 MS. KATE MCGRANN: All right.

5 MR. WILLIAM MCDOWELL: So just while
6 we're on the topic of Mr. Chenoweth's application, I
7 mean the Town didn't oppose -- doesn't oppose it and
8 so on. But will you address the order of examinations
9 in your ruling?

10 THE HONOURABLE FRANK MARROCCO: As far
11 as the cross-examinations go, I'll -- I'm prepared to
12 receive what you all think, and then I'll decide on
13 the order.

14 MR. WILLIAM MCDOWELL: All right.
15 Well --

16 THE HONOURABLE FRANK MARROCCO: It's a
17 little different than normal, so --

18 MR. WILLIAM MCDOWELL: Right. Well, I
19 mean --

20 THE HONOURABLE FRANK MARROCCO: But if
21 you can work it out --

22 MR. WILLIAM MCDOWELL: Sure.

23 THE HONOURABLE FRANK MARROCCO: -- my
24 counsel will -- if I allow the application, my counsel
25 will, in addition to cross examining, re-examine

1 last --

2 MR. WILLIAM MCDOWELL: Correct. Yeah.

3 Right.

4 THE HONOURABLE FRANK MARROCCO: --

5 which is, I think, the typical practice that's been

6 followed. And I'm mulling it over because -- and I

7 will exert the same pressure on Mr. Chenoweth that I

8 exert on Ms. McGrann and Mr. Mather every time there's

9 a witness concerning time. But it's --

10 MR. WILLIAM MCDOWELL: All right.

11 Well, we'll -- we await your ruling, and then we can

12 address it then.

13 THE HONOURABLE FRANK MARROCCO: We'll

14 deal with the details after.

15 MR. WILLIAM MCDOWELL: Thank you.

16 THE HONOURABLE FRANK MARROCCO: It

17 won't be -- I can tell you I don't intend to give

18 lengthy reasons?

19 MR. WILLIAM MCDOWELL: What?

20 THE HONOURABLE FRANK MARROCCO: So I

21 will give you an answer however.

22 MR. WILLIAM MCDOWELL: Thank you,

23 Commissioner.

24 THE HONOURABLE FRANK MARROCCO: And if

25 there's any need to communicate further with this,

1 Mr. Chenoweth, you can communicate by email.

2 MR. FREDERICK CHENOWETH: Yes, indeed.

3 Thank you.

4

5 CONTINUED BY MS. KATE MCGRANN:

6 MS. KATE MCGRANN: In light of the
7 pressure that I am subject to to finish my questions,
8 could we turn up TOC516278, please.

9

10 (BRIEF PAUSE)

11

12 MS. KATE MCGRANN: This is a copy of
13 the mutual non-disclosure agreement that Mr. Nolan
14 executed on September 19th in connection with the
15 presentation that PowerStream made to the Strategic
16 Task Team. Documents are here if we need to refer to
17 it.

18 My question for you is: Did PowerStream
19 understand that the presentation made to the Strategic
20 Task Team and any discussions that -- had at that
21 meeting were intended to be kept confidential by
22 PowerStream and the Strategic Task Team?

23 MR. BRIAN BENTZ: Yes.

24 MS. KATE MCGRANN: And was it your
25 expectation that the members of the Strategic Task

1 Team and Collus staff present would respect that
2 agreement?

3 MR. BRIAN BENTZ: Yes.

4 MS. KATE MCGRANN: In light of that,
5 was it your expectation that if Collus or members of
6 the Strategic Task Team became aware that confidential
7 information was being leaked, they would report back
8 to the bidder whose information had been leaked to let
9 them know?

10 MR. BRIAN BENTZ: Yes.

11 MS. KATE MCGRANN: Would you expect
12 them to take additional steps to address the leaking
13 of confidential information?

14 MR. BRIAN BENTZ: Yes.

15 MS. KATE MCGRANN: What steps would
16 you expect them to take?

17 MR. BRIAN BENTZ: Well, to advise
18 the -- the party that -- advise the party that the
19 breach had occurred.

20 MS. KATE MCGRANN: But take any
21 further steps beyond that?

22 MR. BRIAN BENTZ: Any other
23 appropriate parties that should be informed.

24 MS. KATE MCGRANN: Would you expect
25 them to take reasonable steps to identify the source

1 of the leak to try to deal with it that way?

2 MR. BRIAN BENTZ: Seems reasonable.

3 MS. KATE MCGRANN: In a similar vein,
4 was it your expectation that if -- if other bidders
5 who were involved in the process became aware that
6 information was being leaked that they would report
7 back to Collus that there was a leak of information?

8 MR. BRIAN BENTZ: Yes.

9 MS. KATE MCGRANN: And would you
10 expect Collus to take steps along the lines of what
11 you just discussed to address any leaks?

12 MR. BRIAN BENTZ: Yes.

13 MS. KATE MCGRANN: Can we turn up
14 TOC59012, please.

15

16 (BRIEF PAUSE)

17

18 MS. KATE MCGRANN: This is an email
19 from Mr. Bonwick -- just scroll down a little bit just
20 so we can see the first email.

21 Mr. Bonwick to Mr. Houghton at a Gmail
22 account, it says: "Please review and comment."

23 And if you scroll up, you can see
24 Mr. Houghton forwards it to himself. The doc attached
25 is titled "PowerStream competitive analysis." This

1 email is not sent to you. I'm going to show you the
2 attachment and ask you if you've ever seen it before.
3 And the attachment is at, I think, 59013.

4

5 (BRIEF PAUSE)

6

7 MS. KATE MCGRANN: So this is a memo
8 addressed to yourself, Mr. Glicksman, Mark Henderson,
9 and Dennis Nolan from Paul Bonwick. The subject is
10 "LDC presentations," and if you scroll down,
11 Mr. Bonwick has written:

12 "Please review the following points
13 of interest as they relate to
14 presentations to date, as well as
15 profiled points of interest."

16 I will give you an opportunity to
17 review this memo if you need to. My first question
18 will be have you seen this memo before?

19

20 (BRIEF PAUSE)

21

22 MR. BRIAN BENTZ: I had not seen
23 this -- this memo at the time.

24 MS. KATE MCGRANN: Have you seen it --

25 MR. BRIAN BENTZ: That's my

1 recollection.

2 MS. KATE MCGRANN: Sorry.

3 MR. BRIAN BENTZ: Okay.

4 MS. KATE MCGRANN: Your recollection
5 is that you didn't see it at the time.

6 MR. BRIAN BENTZ: Yes.

7 MS. KATE MCGRANN: Did you see it in
8 your preparation for coming here today?

9 MR. BRIAN BENTZ: Yes.

10 MS. KATE MCGRANN: Do you know if the
11 information in this memo was passed along to
12 PowerStream at the time?

13 MR. BRIAN BENTZ: It may have been.

14 MS. KATE MCGRANN: Why do you say that
15 it may have been?

16 MR. BRIAN BENTZ: In deliberations
17 with Mr. Bonwick with staff if he was aware of this
18 information, it's possible that he conveyed it to
19 other staff members.

20 I do have a recollection of -- my
21 recollection -- 'cause I've thought about this -- is
22 in -- in the deliberations that we had later when we
23 were preparing the response to the RFP, we had our
24 team prepare the -- the RFP response 'cause we had
25 internal resources to do that.

1 And so -- and then Mr. Bonwick
2 commented on our RFP response. And I came in at the
3 end and sort of review it or through different
4 iterations of the RFP response, I remember him saying
5 something about one of the bidders may -- I don't know
6 if he say may or will -- put in a community fund.

7 So in terms of a community fund, we --
8 we would likely want to put one in. So -- so that's
9 one thing that I think would correlate that I recall
10 happened in terms of the contents of this -- this memo
11 and my recollection of what happened.

12 I didn't really think anything of it at
13 the time because many utilities had -- had offered
14 community funds. Hydro One had a Power Play Fund. It
15 was a million dollars. Veridian already had a
16 community fund that they had issued press releases
17 about.

18 So I didn't think anything of it, but I
19 was trying to go back in my memory banks and say was
20 there anything in here that I recall being conveyed to
21 me? And that's the one that came to my mind.

22 MS. KATE MCGRANN: So I understand why
23 you've explained why the concept of a community fund
24 didn't cause you to think particularly hard about the
25 information. But what about the notion that one of

1 the bidders is going to do something? Did you stop
2 and think why are we getting information about what
3 one of the bidders is going to do?

4 MR. BRIAN BENTZ: What information
5 would that be? Sorry.

6 MS. KATE MCGRANN: That they're going
7 to include a community fund.

8 MR. BRIAN BENTZ: Well, I don't know
9 if he said they would or will. If he said "will,"
10 then that should have twigged me that, you know, maybe
11 ask, well, how do you know why?

12 MS. KATE MCGRANN: Yeah.

13 MR. BRIAN BENTZ: How do you know
14 that? So did I ask that? No, I didn't ask that.

15 MS. KATE MCGRANN: Why didn't you ask
16 that?

17 MR. BRIAN BENTZ: It didn't occur to
18 me at the time. I assume that I just thought that
19 well, a community fund would be a normal thing that,
20 you know, we would consider putting in the proposal.
21 It didn't twig to me at the time that, okay, now that
22 is -- you know, got that from one of the bidder's
23 presentations.

24 MS. KATE MCGRANN: Let's turn to
25 document AFF7.

1 (BRIEF PAUSE)

2

3 MS. KATE MCGRANN: This document is an
4 affidavit of Robert Hull. I understand that Mr. Hull
5 was representing PowerStream in the transaction
6 negotiations, and he -- did he come on during the
7 period that the -- you were responding to the RFP?

8 MR. BRIAN BENTZ: It might have been
9 earlier than that.

10 MS. KATE MCGRANN: We've heard
11 evidence that Mr. Nolan asked Mr. Hull to reach out to
12 David McFadden. Are you aware that that happened?

13 MR. BRIAN BENTZ: I don't recall that.
14 I know we were talking about the -- the ownership
15 structure and whether we would be, you know, more than
16 50 percent. That was something that we were talking
17 about.

18 But I don't recall him -- and I talked
19 to Mr. Nolan about that. But I don't recall saying
20 that -- in that Mr. Hull was involved in those
21 conversations, but I don't recall the extension of the
22 conversation to Mr. McFadden.

23 MS. KATE MCGRANN: To your knowledge,
24 did you ever hear that Mr. Nolan had gone to Mr. Hull
25 or that information had been received from

1 Mr. McFadden?

2 MR. BRIAN BENTZ: I don't recall.

3 MS. KATE MCGRANN: I want to ask you
4 some questions about the presentation that you made to
5 the Strategic Task Team on September 19th.

6

7 (BRIEF PAUSE)

8

9 MS. KATE MCGRANN: Bear with me for
10 one second.

11

12 (BRIEF PAUSE)

13

14 MS. KATE MCGRANN: I'm going to jump
15 ahead a day while I'm waiting for my colleague to
16 return. Could we look at ALE4112, please -- or
17 sorry -- 412.

18

19 (BRIEF PAUSE)

20

21 MS. KATE MCGRANN: So this is a
22 September 20th, 2011 email from Mr. Bonwick to
23 Mr. Glicksman with a copy to you, Mr. Henderson, and
24 Mr. Nolan sent the day after PowerStream's
25 presentation to the Strategic Task Team.

1 Who was involved in making the
2 presentation on September 19th?

3 MR. BRIAN BENTZ: I made the
4 presentation, and I believe that Mayor Scarpetti from
5 Markham and Mayor Lehman were there as well. There
6 may have been some other support employees from
7 PowerStream in addition to them.

8 MS. KATE MCGRANN: And we've received
9 a copy of the slides that you used in your
10 presentation, I think -- the ALE50219.

11

12 (BRIEF PAUSE)

13

14 MS. KATE MCGRANN: So is that -- does
15 this look to you like the slide presentation you made
16 at that meeting?

17 MR. BRIAN BENTZ: Yes.

18 MS. KATE MCGRANN: And again at the
19 top of it, we see the notation "B. Bentz notes," and
20 if you scroll down a little bit, we will see that you
21 have made handwritten notes throughout this
22 presentation.

23 I'm not going to ask you to go through
24 a deciphering exercise with me again. We've received
25 a copy of the transcript of your notes. They are at

1 ALE50222.

2

3 (BRIEF PAUSE)

4

5 MS. KATE MCGRANN: Can you tell me did
6 you assist in the creation of this document?

7 MR. BRIAN BENTZ: Yes.

8 MS. KATE MCGRANN: Have you had the
9 opportunity to review it and confir -- can you confirm
10 for us that the transcription is accurate?

11 MR. BRIAN BENTZ: Yes, I believe it's
12 accurate.

13 MS. KATE MCGRANN: So, I'm going to
14 ask that we be taken to page 5 of these notes. And it
15 looked to me like the sort of page headers above.
16 Each entry the page headers refer to the slides in the
17 slide show, such that page 25 would refer to slide 25?

18 MR. BRIAN BENTZ: Yes.

19 MS. KATE MCGRANN: I'm looking at the
20 notes under the heading, "Page 30." If we could
21 scroll down a little bit. In what I'll call the
22 second paragraph here it says:

23 "The structure and consideration of
24 strength and potential of the
25 partnership proposing a standalone

1 separate company that would own or
2 operate assets within Collus service
3 area, the company would be jointly
4 owned by Town of Collingwood and
5 P/S."

6 Is that PowerStream?

7 MR. BRIAN BENTZ: Yes.

8 MS. KATE MCGRANN: "It is our
9 intention that" -- I'm going to say that's
10 Corporation. Is that right, C-O-R-P-N, Corporation --

11 "-- would be an affiliate of
12 PowerStream, meaning PowerStream
13 would own 51 percent or more of the
14 Corporation but would be full
15 minority rights protection, change
16 in share capital, and capital call.

17 Is this what you presented to the
18 Strategic Task Team --

19 MR. BRIAN BENTZ: Yes.

20 MS. KATE MCGRANN: -- on September
21 19th?

22 MR. BRIAN BENTZ: Yes.

23 MS. KATE MCGRANN: Do you remember
24 having any discussion with them about what they were
25 looking for in terms of -- of the share ownership they

1 wanted to retain?

2 MR. BRIAN BENTZ: At -- at the
3 interview? I can't recall if there was a question and
4 answer after the presentation or we discussed it. I -
5 - I don't remember.

6 MS. KATE MCGRANN: So, do you remember
7 whether you received any feedback from them at that
8 time about how they would react to an offer in which
9 PowerStream would own 51 percent or more?

10 MR. BRIAN BENTZ: I don't recall.

11 MS. KATE MCGRANN: And if we could go
12 down to page 30. So, stay on -- stay on actual page
13 5. Go to the heading, "Page 32." The note there is,
14 "Also, 100 percent cash offer."

15 Do you remember what that refers to?

16 MR. BRIAN BENTZ: If we were to
17 purchase the shares, that there would be no debt taken
18 back. There would be no -- it would just be a
19 strictly cash-for-shares transaction.

20 MS. KATE MCGRANN: And did you get any
21 reaction from the Strategic Task Team at that time?

22 MR. BRIAN BENTZ: I -- I don't
23 remember.

24 MS. KATE MCGRANN: You were -- I -- I
25 think you said you don't remember if there was a

1 question and answer period, but I'll ask you this
2 question anyways.

3 Did you ask any questions of the
4 Strategic Task Team in terms of what the timing for
5 the process would be, what their expectations were,
6 anything like that at that meeting?

7 MR. BRIAN BENTZ: I don't recall that
8 either.

9 MS. KATE MCGRANN: Do you recall --

10 MR. BRIAN BENTZ: They may --

11 MS. KATE MCGRANN: Sorry. Please go
12 ahead.

13 MR. BRIAN BENTZ: I'm sorry. They may
14 have outlined the process. It would seem logical to
15 me that that would be a reasonable procedure prior to
16 -- prior to the presentation just -- and I'm trying to
17 remember who chaired the meeting, whether it was the
18 mayor or -- or Chair Muncaster. But, yes, it seems
19 logical that they would outline the -- the procedure
20 in advance of the presentation. I don't recall that
21 specifically though.

22 MS. KATE MCGRANN: Do you recall being
23 told that you were not to ask any questions of the
24 Strategic Task Team at that meeting?

25 MR. BRIAN BENTZ: No, I don't remember

1 that.

2 MS. KATE MCGRANN: Is that the kind of
3 thing that you think that you might remember if it had
4 happened?

5 MR. BRIAN BENTZ: Yes.

6 MS. KATE MCGRANN: One (1) more
7 question about the also 100 percent cash offer. Was -
8 - was the notion that you would also be willing -- I'm
9 sorry if this is -- this is not accurate, but was the
10 notion -- or could it have been that you would also be
11 willing to make an offer for a hundred percent of the
12 shares?

13 MR. BRIAN BENTZ: No. If I could
14 elaborate?

15 MS. KATE MCGRANN: Yes, you could.

16 MR. BRIAN BENTZ: So, the -- the slide
17 before, what we were proposing was, as it said, a 51
18 percent ownership structure. And we felt that, you
19 know, maybe it was the -- the optics of -- of control.

20 We had -- we had negotiated
21 transactions like this before. And we knew there was
22 an inverse relationship between equity ownership and
23 minority right protection so that the list of -- of
24 veto items increases in a partnership.

25 As you lower -- lower their equity

1 ownership, they'll want more control and more veto.
2 So, I'm saying to them -- I'm sort of making an offer.
3 I know there's going to be negotiations after, so it's
4 not definitive.

5 And I'm saying, you know, here's 51
6 percent. We could start at 51 percent, subject to
7 negotiations. And I'm willing to accept a relatively
8 long list of unanimous consent items. And I've listed
9 four (4) or five of them there, but I would also
10 include, you know, the business plan.

11 But the key for me, because the goal
12 was about a regional consolidation plan, that I'm
13 offering them a veto right to block and merger or
14 acquisition. To me, that's the key thing. And
15 whether we own 50 or 51, as long as the shareholder
16 has the right to block entering -- approving a merger
17 acquisition transaction, they hold the keys to the
18 growth strategy.

19 So, I didn't differentiate too much
20 between a 50 percent ownership with a reduced list of
21 minority rights protection versus a 51 percent
22 ownership with an extended list of mor -- minority
23 rights protection. That's what I was thinking.

24 MS. KATE MCGRANN: The veto rights
25 would apply to the result -- like, the corporation in

1 which you are buying 51 percent in.

2 Were you thinking at the time that, you
3 know, there are -- I -- it strikes me that there may
4 be two (2) different ways to achieve the growth
5 strategy that you were thinking of. One (1) was via
6 the shared corporation and two (2) would be under --
7 through PowerStream with whatever additional
8 credibility you gave from the fact that you're
9 successfully participating in this partnership.

10 Would the notion be that the veto right
11 would extend beyond the shared corporation to any --
12 any growth strategy that PowerStream wanted itself to
13 exercise in the area?

14 MR. BRIAN BENTZ: No. That's -- that
15 wasn't my intention because I think it would undermine
16 the spirit of the partnership, which is that, jointly
17 we're going to create this company that will become a
18 vehicle for regional consolidation in the area and be
19 complimentary to our service area presence in Simcoe
20 County.

21 So, I think PowerStream purchasing it
22 directly would undermine the partnership.

23

24 (BRIEF PAUSE)

25

1 MS. KATE MCGRANN: Is it possible that
2 if your partner in the partnership is vetoing attempts
3 to grow, then maybe the partnership isn't working out
4 the way it was intended to in the first place?

5 MR. BRIAN BENTZ: Yes. So, it was key
6 that we had alignment of the vision going into it in
7 order to be successful.

8 MS. KATE MCGRANN: And then you would
9 need that alignment of vision to continue onwards?

10 MR. BRIAN BENTZ: Yes.

11 MS. KATE MCGRANN: Fair to say that
12 you would need a strong base of trust in order for
13 that partnership to work?

14 MR. BRIAN BENTZ: Absolutely.

15 MS. KATE MCGRANN: And then you would
16 need to continue on with a relationship of continuing
17 trust in order to accomplish what you were looking to
18 do?

19 MR. BRIAN BENTZ: Yes.

20 MS. KATE MCGRANN: If we could turn to
21 ALE412, please.

22

23 (BRIEF PAUSE)

24

25 MS. KATE MCGRANN: So, the September

1 20th email from Mr. Bonwick to Mr. Glicksman with a
2 copy to you, Mr. Henderson, and Dennis Nolan. He
3 writes:

4 "In keeping with our discussion
5 yesterday, I would like to reaffirm
6 the initial feedback on the
7 PowerStream proposal."

8 Did you receive feedback at all from
9 the Strategic Task Team after you gave your proposal?

10 MR. BRIAN BENTZ: I don't recall if
11 there was a Q&A after.

12 MS. KATE MCGRANN: Mr. Bonwick says he
13 would like to reaffirm the initial feedback on the
14 PowerStream proposal. Do you remember if any feedback
15 came to you about your proposal via Mr. Bonwick?

16 MR. BRIAN BENTZ: Through this email.

17 MS. KATE MCGRANN: The next thing that
18 I want to ask you about -- you'll have -- we'll have
19 to scroll down a little bit. It's about halfway down
20 the page. That's perfect.

21 If you look on the left-hand side,
22 about halfway down, it says:

23 "Irrespective of the committee's
24 buy-in or reluctance on this --"

25 So, now that we've found it:

1 "Irrespective of the committee's
2 buy-in or reluctance on this issue,
3 the municipal council retains final
4 authority. And it is in this regard
5 that we must remain mindful that at
6 least one (1) of our competitors
7 [Horizon] will submit a proposal
8 providing a 50 percent ownership
9 scenario."

10 I'll stop right there. Do you remember
11 reading about this in this email?

12 MR. BRIAN BENTZ: Yes.

13 MS. KATE MCGRANN: What was your
14 reaction to being given information about what at
15 least one (1) of your competitors was going to do?

16 MR. BRIAN BENTZ: Well, at the time, I
17 probably read the email in the context of the
18 response, but, yeah, that -- that information should
19 not have been conveyed.

20 MS. KATE MCGRANN: When you say that
21 you -- you read it in the context of the response,
22 what do you mean?

23 MR. BRIAN BENTZ: Well, I was thinking
24 of more our proposal of the 51 percent that I had made
25 the day before and that they're saying okay, 50

1 percent is really what we want, which is what ended up
2 being in the RFP.

3 To me, as I -- as I indicated before,
4 there was a -- in effect, a distinction without a
5 difference, and in terms of the ability -- the
6 governance model and moving forward to execute the
7 strategy, whether it was 51/50 or 50/50, it didn't
8 matter, because either way they were going to have the
9 veto right on the -- and that -- that's what I was
10 thinking, mostly.

11 The information with respect to Horizon
12 was -- shouldn't be there and -- but I was thinking
13 more about the proposal that -- that I was making, the
14 context of the proposal and -- and thinking that, you
15 know, for me it's -- it -- I could go either way, 51
16 or 50, it doesn't matter.

17 MS. KATE MCGRANN: Let's scroll back
18 up a little bit, and I want to take a look at the top
19 of the email now where it says:

20 "There is a great deal of focus on
21 the committee's desire to create a
22 partnership that provides
23 Collingwood with 50 percent of
24 ownership of the LDC."

25 Was that information that hadn't been

1 available to you before you made a presentation to the
2 STT?

3 MR. BRIAN BENTZ: I mean, they talked
4 about a partnership a lot, partnership generally is a
5 split, we offered 51, we -- we were testing the
6 waters, our working assumption was that it was 50/50
7 and we'll take it up a percentage to see if they -- if
8 they're receptive to it.

9 And -- and I think they're saying that,
10 you know, 50 -- so I guess I'm saying my working
11 assumption is that it might have been 50/50, yes.

12 MS. KATE MCGRANN: But had you been
13 told that that was what the strategic task team
14 wanted?

15 MR. BRIAN BENTZ: I don't think so.

16 MS. KATE MCGRANN: So when you said
17 that you were looking at the paragraph in which you're
18 informed that at least one of your competitors will
19 submit a proposal, providing 50 percent, you said you
20 were thinking about it in terms of the -- of the
21 response.

22 Did you mean that you were thinking
23 about it in terms of this information, that there's a
24 great deal of focus on wanting a 50 percent
25 partnership?

1 MR. BRIAN BENTZ: That it was a
2 partnership and, you know, the -- I guess the optics
3 of a 50/50 partnership was important to them.

4 MS. KATE MCGRANN: Was learning in
5 this email that there was a great deal of focus on the
6 committee's behalf to -- to have a 50 percent
7 ownership structure, was that useful information to
8 PowerStream at the time?

9 MR. BRIAN BENTZ: Well, to me it
10 didn't -- it didn't matter because 51 or 50 was the
11 same deal to me. So is that useful? I don't know.

12 I mean, in terms of the -- the value,
13 the ultimate value of the -- of the investment to the
14 -- to the utility, no, because like I said, it's the
15 same thing from my perspective, because I was focused
16 on -- on growing this utility, having the ability to -
17 - to grow this utility, expand it under the regional
18 consolidation model.

19 So I was thinking the governance in
20 that context.

21 MS. KATE MCGRANN: So we've heard your
22 reaction today about the information in here about
23 what Horizon was going to do. At the time did you
24 take any steps in response to the -- to the fact that
25 you had received information about one (1) of your

1 competitors was going to do?

2 MR. BRIAN BENTZ: No.

3 MS. KATE MCGRANN: Why not?

4 MR. BRIAN BENTZ: I -- I didn't give
5 it as much probably attention as I should have, it was
6 one item in the memo. You know, in retrospect, yes,
7 probably should have told Mr. Bonwick that that
8 information was not appropriate to have and we don't
9 want that information.

10 MS. KATE MCGRANN: Would you envision
11 taking any steps further than that?

12 MR. BRIAN BENTZ: Probably maybe
13 advising the -- the task team as well, or other
14 parties.

15 MS. KATE MCGRANN: Would you have had
16 any concerns that having information like this might
17 disqualify you from the process?

18 MR. BRIAN BENTZ: I don't know. I
19 don't know if that -- I don't know. I mean, how
20 material is the -- is the breach, I guess is the
21 question. I don't know.

22 MS. KATE MCGRANN: The last thing I
23 want to ask you about in this email is at the bottom
24 of the email. Mr. Bonwick writes:

25 "At this time I'm recommending we

1 include a provision for a 50/50
2 ownership position with a caveat
3 that all necessary protection and
4 controls are in place, ensuring the
5 eventual consolidation we have
6 targeted."

7 Do you know what "eventual
8 consolidation" he's referring to there?

9 MR. BRIAN BENTZ: That would be the
10 regional consolidation plan.

11 MS. KATE MCGRANN: Is it possible that
12 he's referring to consolidation in which PowerStream
13 owns all of Collus Power?

14 MR. BRIAN BENTZ: No, that was never
15 my intention.

16 MS. KATE MCGRANN: Something that was
17 discussed within PowerStream?

18 MR. BRIAN BENTZ: No. I -- I knew the
19 partnership would not work on that basis.

20 MS. KATE MCGRANN: But it wouldn't be
21 a partnership at that point, right? He would just --
22 PowerStream would just own the --

23 MR. BRIAN BENTZ: Partnership --
24 sorry. In the sense of that we had joint ownership of
25 Collus PowerStream, if PowerStream were to go off and

1 -- and purchase all of the utilities in there, that's
2 not what -- that's not what the To -- certainly the --
3 the Board of Collus wanted, I didn't -- I can't -- I
4 think there was an issue with alignment with the Town,
5 ultimately.

6 But certainly the Board wanted us to
7 work together as, you know, as partners to -- to build
8 on -- because -- because Collus had already started
9 some satellite offices in Creen -- Creemore, Stayner,
10 and Thornbury, and they wanted to build on that.

11 And -- and that was the model that we
12 embraced. So I never considered that PowerStream
13 would buy these utilities separately; that was not in
14 my mind.

15 MS. KATE MCGRANN: Did you ever
16 consider whether PowerStream would start by buying 50
17 percent of Collus Power and eventually end up owning
18 the entire company?

19 MR. BRIAN BENTZ: We had to figure out
20 a financing strategy. I would never -- I would never
21 force such a thing, because I think you do that once
22 in this sector and then, you know, you've breached the
23 confidence of the -- the LDC community.

24 So I -- on a voluntary basis, maybe,
25 some day, if the owners wanted to do that we would

1 have done that.

2 But the plan was we would go forward
3 together and basically create a mini-PowerStream under
4 a separate umbrella. That was the vision.

5 MS. KATE MCGRANN: Could we go to
6 Foundation Document paragraph 348, please?

7 The paragraph describes that on October
8 25th, 2011, Mr. Bonwick sent a note to John Glicksman
9 to say that he had the opportunity to gather some
10 intelligence related to communication strategy. He
11 goes on and sends you an email that day, saying:

12 "I have had the opportunity to
13 follow-up on the communications
14 strategy, along with implementation.
15 If you have time, I can provide you
16 an update on their current
17 direction."

18 Do you remember hearing from Mr.
19 Bonwick about Collus Power's communication strategy in
20 and around October 25th, 2011?

21 MR. BRIAN BENTZ: I don't recall, no.

22 MS. KATE MCGRANN: Do you recall
23 whether gave you any information about their intended
24 communication strategy before the end of the -- before
25 the deadline for the RFP responses were due?

1 MR. BRIAN BENTZ: He may have, I don't
2 recall.

3 MS. KATE MCGRANN: Can we go to
4 Foundation paragraph 308, please?

5 So this describes that on October 17th,
6 2011, Paul Bonwick emailed John Glicksman writing:

7 "Please let me know if you would
8 like to review our agreement prior
9 to your meeting Wednesday. I would
10 also appreciate a look at the
11 numbers that have been offered for
12 the RFP if they're available."

13 And if we could scroll down to 309,
14 that paragraph describes that:

15 "By email dated October 16th, 2011,
16 John Glicksman provided Brian Bentz,
17 Dennis Nolan and others with a memo
18 regarding Paul Bonwick's continued
19 retainer for discussion with the
20 PowerStream audit and finance
21 committee the next day."

22 Just to put things in context, you --
23 PowerStream had executed a retainer with Mr. Bonwick
24 in June and provided for a 90-day term and the RFP
25 document had been issued on October 4th, so you're now

1 past the 90-day term and the RFP document hasn't been
2 issued. So that process is officially underway now.

3 I'd like to take you to the memo
4 itself, it's at ALE566.

5

6 (BRIEF PAUSE)

7

8 MS. KATE MCGRANN: This is a memo to
9 the audit and finance committee to the meeting of
10 October 19th, 2011. It's titled 'Approval of
11 Engagement of External Consultants for Collus RFP'. A
12 report by the president and CEO, and the EVP and chief
13 financial officer.

14 Do you recognize this memo?

15 MR. BRIAN BENTZ: Yes.

16 MS. KATE MCGRANN: Were you involved
17 in drafting this memo?

18 MR. BRIAN BENTZ: Likely, the CFO
19 would have drafted that memo, Mr. Glicksman.

20 MS. KATE MCGRANN: Would he have
21 provided it to you before your review and sign off
22 before circulating it?

23 MR. BRIAN BENTZ: Yes.

24 MS. KATE MCGRANN: Under the heading
25 'background', and I just want to look at the one that

1 starts with, "Since that time," for starters. The
2 memo does describe that Mr. Bonwick's been engaged for
3 a ninety (90) day period. It now says:

4 "Since that time, Mr. Paul Bonwick
5 has assisted PowerStream to grow its
6 presence and profile in the central
7 Ontario region as -- and has proven
8 to be a valuable asset in providing
9 strategic and communication advice,
10 and sit -- and in assisting us to be
11 successful, both with respect to the
12 Collus bid and other utilities in
13 the CHEC group."

14 And I've already asked you questions
15 and -- and heard from you on -- on the work that Mr.
16 Bonwick did.

17 At this point in time, why did you want
18 to continue retaining him?

19 MR. BRIAN BENTZ: We thought that, you
20 know, we were moving through the process of the RFP,
21 and that it was coming to a conclusion, and that in
22 the event we were the successful bidder, that it would
23 be time to start thinking about the phase 2 strategy,
24 if it were to occur.

25 MS. KATE MCGRANN: So I've looked at

1 the retainer that's signed, and its continuation is
2 not premised on PowerStream being success -- selected
3 as the successful bidder. Do you know why it wasn't
4 structured that way?

5 MR. BRIAN BENTZ: It wasn't -- it
6 wasn't contingent upon that. You could begin work on
7 the -- on the CHEC group initiative. We wanted it
8 more -- more detailed. The original -- the original
9 engagement I don't think was specific enough, and we
10 effectively wanted to renegotiate the terms of the
11 incentive.

12 MS. KATE MCGRANN: Could we turn up
13 the transcript of May 30th.

14

15 (BRIEF PAUSE)

16

17 MS. KATE MCGRANN: Go to page 51, and
18 while that's coming up, did you -- have you read the
19 transcript, or were you aware of Mr. Nolan's evidence
20 given yesterday?

21 MR. BRIAN BENTZ: No.

22 MS. KATE MCGRANN: So just to give you
23 some context, looking at this page, my colleague, Mr.
24 Mather, is asking Mr. Nolan some questions about the
25 extension of -- or the -- the new retainer agreement

1 that is entered into the fall, the one we're talking
2 about right now, he asks:

3 "Do you have any thoughts about
4 whether or not PowerStream should
5 continue with Mr. Bonwick, and if
6 so, on what terms?"

7 And Mr. Nolan says, "I wasn't
8 enthusiastic about it."

9 If you could scroll down, Mr. Mather
10 asks, "Why were you not enthusiastic about it?"

11 Mr. Nolan says:

12 "I just didn't think that we needed
13 the assistance." And he continues,
14 "It could be useful in context with
15 the CHEC group, but I was a little
16 skeptical about the value for the
17 dollar."

18 Mr. Mather asked, "What led you to have
19 that skepticism?"

20 Mr. Nolan responds, "Just my
21 impression, my experience."

22 Were you aware of Mr. Nolan's
23 skepticism about -- about continuing to -- to work
24 with Mr. Bonwick?

25 MR. BRIAN BENTZ: Mr. Nolan had

1 skepticism about Mr. Bonwick from the beginning.

2 MS. KATE MCGRANN: Did you share his
3 skepticism?

4 MR. BRIAN BENTZ: Yes, I -- I had --
5 did inform some of my decision making. I took it into
6 consideration when we ultimately -- when we initially
7 hired him as well.

8 MS. KATE MCGRANN: And looking in
9 particular at -- at Mr. Nolan's skepticism about the
10 value for the dollar, in light of the fact that Mr.
11 Bonwick's fee goes from ten thousand dollars (\$10,000)
12 a month to fifteen thousand dollars (\$15,000) a month
13 at this time, can you help us understand why Mr.
14 Bonwick's fee was raised by five thousand dollars
15 (\$5,000) a month at this time?

16 MR. BRIAN BENTZ: We had -- we had
17 eliminated the incentive payment in his original
18 proposal. We had asked for a 2 1/2 percent success
19 fee, and I didn't want to pay in a success fee. And
20 in this case, it would have been -- it could have been
21 up to a couple of hundred thousand dollars.

22 We wanted to -- so we wanted to make a
23 -- a combination of retainer and incentive that would
24 sort of marry the two, but we wanted a -- we wanted a
25 fixed incentive so it wouldn't fluctuate, and

1 something that would be much less than what he had
2 originally asked for, the 2 1/2 percent. And so there
3 were some compensation in the retainer to reflect
4 that.

5 MS. KATE MCGRANN: So the increases is
6 to account for the removal of the success fee that he
7 had asked for?

8 MR. BRIAN BENTZ: Yes.

9 MS. KATE MCGRANN: Was this a success
10 fee that he had asked for when he initially made the
11 proposal back at the beginning of the year?

12 MR. BRIAN BENTZ: Yes.

13 MS. KATE MCGRANN: Was it the case
14 that through discussions with Mr. Bonwick, you agreed
15 that you would put off his request for a success fee
16 until after RFP had been issued?

17 MR. BRIAN BENTZ: I don't recall. I -
18 - I -- initially, I did not want to pay a success fee,
19 especially on the Collus Transaction. And -- but
20 that, you know, I was receptive to a success fee in
21 future transactions.

22 MS. KATE MCGRANN: Was the increase in
23 his fee amount at this time in any way a reaction to
24 the fact that the RFP process that you had been unsure
25 would start had actually started?

1 MR. BRIAN BENTZ: No.

2 MS. KATE MCGRANN: If we could go back
3 to paragraph 309 of the Foundation Document.

4

5 (BRIEF PAUSE)

6

7 MS. KATE MCGRANN: What I want to ask
8 you about is the termination clause which provides
9 that the agreement will terminate if no transaction
10 with Collus Power was executed by June 30th, 2012.

11 Are you familiar with that provision?

12 MR. BRIAN BENTZ: Yes.

13 MS. KATE MCGRANN: Why was that
14 provision included in this agreement?

15 MR. BRIAN BENTZ: It was consistent
16 with the Collus Transaction being a precursor to
17 executing on the Regional Consolidation Plan.

18 MS. KATE MCGRANN: Was that because
19 you saw the value that Mr. Bonwick could offer to
20 PowerStream was really a -- a regional benefit
21 specific to the -- the area?

22 MR. BRIAN BENTZ: Yes.

23 MS. KATE MCGRANN: And is that because
24 that's where his relationships were?

25 MR. BRIAN BENTZ: Yes.

1 (BRIEF PAUSE)

2

3 MS. KATE MCGRANN: Go to paragraph 317
4 of the Foundation Document, please.

5

6 (BRIEF PAUSE)

7

8 MS. KATE MCGRANN: If we scroll down
9 so we can look at paragraph 318 as well, please.

10 So this -- just to put you in time,
11 this is November 2016. It's in the context of a
12 discussion about how the purchase price is going to be
13 phrased in the RFP. Mr. Glicksman reports back that
14 it's been suggested by Mr. Bonwick -- I'm sorry, Mr.
15 McNeil reports to Mr. Glicksman that:

16 "It's been suggested by Mr. Bonwick
17 that we present the purchase price
18 in the best possible light, which
19 follows the approach apparently
20 taken by KPMG."

21 We've taken a look at the RFP document
22 which lists all the data available in the data room.
23 It doesn't look like the KPMG valuation was there.

24 To your knowledge, had the bidders been
25 provided with information about the valuation that

1 KPMG did of Collus?

2 MR. BRIAN BENTZ: No.

3 MS. KATE MCGRANN: Do you remember
4 hearing that Mr. Bonwick was advising that Collus
5 follow the approach taken by KPMG in the way that it
6 presented its -- its financial bid?

7 MR. BRIAN BENTZ: Yes.

8 MS. KATE MCGRANN: What did you think
9 he was talking about?

10 MR. BRIAN BENTZ: He was talking about
11 the recapitalization of the utility, so the utility
12 had approximately 16 to 17 million in rate base, and -
13 - and utilities like LDCs are capitalized at 60
14 percent debt, 40 percent equity, so there was
15 additional headroom of \$5 million in debt to -- to be
16 financed.

17 The -- the bids could be presented as
18 to whether that recapitalization occurred prior to or
19 after closing. If it occurs after closing, then the
20 recapitalization dividend is split between the owners.

21 So if -- if you offer it after the
22 fact, your bid appears higher, because it -- it --
23 you're going to get 2 1/2 million dollars back. So
24 your bid appears 2 1/2 million dollars higher. I
25 didn't want to present it that way. I wanted to

1 present the way what you're going to get is what
2 you're going to get.

3 So -- so Collingwood do the -- do the
4 recapitalization upfront, and that is a more
5 transparent way. Mr. Bonwick was proposing the
6 alternative way, and I think the bidders made their
7 bids the alternative way.

8 MS. KATE MCGRANN: What information
9 that you -- did you understand Mr. Bonwick had about
10 what KPMG had done, is what I meant to ask you.

11 MR. BRIAN BENTZ: I -- I assume it was
12 the -- the way it was capitalized in advance or not.
13 I -- I mean, I was thinking more about the issue of do
14 you show it pre-capitalization or post-capitalization?
15 That's -- that's what I was thinking about.

16 MS. KATE MCGRANN: Okay. I -- but I
17 want to understand what information you thought Mr.
18 Bonwick had from KPMG. Can you help me with that?

19 MR. BRIAN BENTZ: It was -- I'd assume
20 it was how they presented their valuation, that --
21 that the recapitalization would occur after the
22 closing.

23 MS. KATE MCGRANN: But I think that
24 you just told me that -- that you have the same
25 understanding I do, which is that the KPMG valuation

1 was not made available to the bidders, right?

2 MR. BRIAN BENTZ: Right.

3 MS. KATE MCGRANN: Do you think Mr.
4 Bonwick has information about that valuation?

5 MR. BRIAN BENTZ: He may have.

6 MS. KATE MCGRANN: Did you take any
7 steps to look into whether or not he had that?

8 MR. BRIAN BENTZ: No, I did not.

9 MS. KATE MCGRANN: Why not?

10 MR. BRIAN BENTZ: It didn't occur to
11 me at the time. I was thinking more about the
12 transaction itself.

13 MS. KATE MCGRANN: At any point in
14 time through your work with Mr. Bonwick, who you've
15 retained to bring you information, did you ask him
16 about where he was getting his information from?

17 MR. BRIAN BENTZ: I don't think I ever
18 asked him directly. I assume that it was primarily
19 coming from Mr. Houghton or other members of the -- of
20 the team, likely Mr. Muncaster, is my assumption.

21 MS. KATE MCGRANN: And why did you
22 think that that would be acceptable?

23 MR. BRIAN BENTZ: That would be the --
24 I mean, they were the two (2) leads, who we met with
25 them at the July 7th meeting. They seemed to be the

1 point persons with respect to the strategic
2 partnership task team, the Chair of the Utility, and
3 the CEO. It seemed like that would be a logical
4 connection point for communication.

5 MS. KATE MCGRANN: Did you read the
6 Collus Power RFP when it was issued?

7 MR. BRIAN BENTZ: Yes.

8 MS. KATE MCGRANN: Do you recall
9 seeing that there is a designated contact person for
10 questions, who you should be communicating with in
11 writing?

12 MR. BRIAN BENTZ: I don't recall that
13 specifically.

14 MS. KATE MCGRANN: Could we look at
15 CPS0006891?

16

17 (BRIEF PAUSE)

18

19 MS. KATE MCGRANN: Could we go to page
20 10 of this document, please?

21 So this is the Collus Power RFP.
22 Scroll down to point 3.8, "Proposal response and
23 contract -- contact." Look at the last bullet point.

24 It says:

25 "All enquiries regarding this

1 request for proposal should be
2 directed in writing to Mr. John
3 Herhalt, partner KPMG LLP."

4 Do you remember seeing that at the
5 time?

6 MR. BRIAN BENTZ: yes.

7 MS. KATE MCGRANN: Does that -- can
8 you help me understand why with this designated
9 contact in the RFP, you believed that Mr. Houghton
10 would be giving information to you through Mr.
11 Bonwick?

12 MR. BRIAN BENTZ: Okay. I thought you
13 were talking more specifically about the genesis of
14 the -- of the communications prior to the issuance of
15 the RFP, in October. So him that acting as our agent
16 over the summer and through the fall, the contact
17 would be there. Once the RFP was in place, my
18 expectation is, we would -- we would be communicating
19 with Mr. Herhalt.

20 MS. KATE MCGRANN: So when you talk
21 about the KPMG valuation, you believe that was
22 information that Mr. Bonwick got when?

23 MR. BRIAN BENTZ: I don't know.

24 MS. KATE MCGRANN: So it brings me
25 back again my question, did you take any steps to find

1 out when -- who you -- who Mr. Bonwick was getting
2 information from once the RFP was issued?

3 MR. BRIAN BENTZ: No.

4 MS. KATE MCGRANN: Why not?

5 MR. BRIAN BENTZ: Well, I mean, the --
6 the one issue that you've identified was from KPMG.
7 John Herhalt was the partner at KPMG. No, didn't
8 occur to me.

9 MS. KATE MCGRANN: Didn't occur to
10 you?

11 MR. BRIAN BENTZ: No.

12 MS. KATE MCGRANN: Could we go to
13 ALE894, please?

14

15 (BRIEF PAUSE)

16

17 MS. KATE MCGRANN: This is an email
18 from Eric Fagen to a number of people at PowerStream,
19 including you, on November 14th, 2011. If we could
20 scroll down.

21 He writes:

22 "Good afternoon. Here is a recap of
23 tentative public disclosures and
24 decision time lines for the Collus
25 Power/Collingwood RFP that Ed

1 Houghton and Paul Bonwick outlined
2 to me in a conference call this
3 morning."

4 Do you remember hearing about this?

5 MR. BRIAN BENTZ: Yes.

6 MS. KATE MCGRANN: Did you ask any
7 questions about why Mr. Houghton and Mr. Bonwick were
8 having a -- a conference call with PowerStream about
9 this information?

10 MR. BRIAN BENTZ: No, I didn't.

11 MS. KATE MCGRANN: Why not?

12 MR. BRIAN BENTZ: I assumed that Ed
13 Houghton was representing Collus in the RFP process
14 and that, you know, the communication with him was --
15 was made in that context.

16

17 (BRIEF PAUSE)

18

19 MS. KATE MCGRANN: Could we go to
20 paragraph 297 of the Foundation Document, please?

21

22 (BRIEF PAUSE)

23

24 MS. KATE MCGRANN: Paragraph 297
25 and the paragraphs following it discuss a request for

1 assistance that Deputy Mayor Lloyd made to PowerStream
2 through Paul Bonwick in early October 2011 for a
3 friend of his who was running a business in Barrie.

4 Do you have any knowledge about --
5 about that request and what steps were taken in
6 response to it?

7 MR. BRIAN BENTZ: I think Mr.
8 Henderson dealt with that issue primarily. I really
9 don't recall it being brought to my attention. It may
10 have been.

11 MS. KATE MCGRANN: But if I asked you
12 questions about what was done at the time, do you have
13 any -- do you -- did you know about it then?

14 MR. BRIAN BENTZ: No, probably not,
15 but it's not unusual for, you know, municipal
16 politicians to ask for assistance with customers. We
17 get that all the time.

18 MS. KATE MCGRANN: At this point in
19 time -- so the RFP was issued on October 4th. You're
20 now in an RFP process. Deputy Mayor is a decision-
21 maker at the Town, the shareholder of the -- the
22 target that you are bidding on, correct?

23 MR. BRIAN BENTZ: Yes.

24 MS. KATE MCGRANN: You've also already
25 made a presentation to the strategic task team at this

1 point, so you know he's on the strategic task team.

2 Is that right?

3 MR. BRIAN BENTZ: Yes.

4 MS. KATE MCGRANN: Would those
5 considerations have been important to you in
6 considering whether you were going to assist a friend
7 of his at his request?

8 MR. BRIAN BENTZ: Yes.

9 MS. KATE MCGRANN: Could you see why
10 an outsider who is looking at this may wonder if
11 PowerStream is providing special assistance to someone
12 who is sitting in two (2) decision-making chairs with
13 respect to this RFP in the hopes of -- of gathering
14 their -- garnering their favour?

15 MR. BRIAN BENTZ: Yes.

16 MS. KATE MCGRANN: Do you remember if
17 you took any steps to -- to address those concerns at
18 the time?

19 MR. BRIAN BENTZ: I recall seeing this
20 after the fact. I -- I did not take any steps at the
21 time.

22

23 (BRIEF PAUSE)

24

25 MS. KATE MCGRANN: Do you recall that

1 PowerStream submitted three (3) envelopes in response
2 to the Collus Power RFP?

3 MR. BRIAN BENTZ: I believe so, yes.

4 MS. KATE MCGRANN: Were you aware that
5 the RFP explicitly requested that two (2) envelopes be
6 submitted?

7 MR. BRIAN BENTZ: I don't recall that,
8 no.

9 MS. KATE MCGRANN: Do you remember
10 having any discussions with Mr. Bonwick about whether
11 submitting three (3) envelopes in response to the RFP
12 could lead to potential for disqualification?

13 MR. BRIAN BENTZ: No.

14 MS. KATE MCGRANN: Do you know if
15 anyone on the PowerStream team had that discussion
16 with Mr. Bonwick?

17 MR. BRIAN BENTZ: No.

18 MS. KATE MCGRANN: Could we go to
19 paragraph 413 in the FD, please.

20

21 (BRIEF PAUSE)

22

23 MS. KATE MCGRANN: This paragraph
24 describes that on November 28th, 2011, Mr. Glicksman
25 reported to other members of the PowerStream team that

1 Mr. Bonwick had provided information about the other
2 bids.

3 "Specifically based on my discussion
4 with Paul this evening, I understand
5 that the others are more detailed
6 with respect to the type and costs
7 of operational services they would
8 offer Collus Hydro. I expect we
9 will get more details regarding this
10 when Ed calls to formally invite us
11 in."

12 Did you have any concerns about
13 receiving this kind of information about the other
14 bidders' responses?

15 MR. BRIAN BENTZ: That's -- yes, I
16 would have concerns about that.

17 MS. KATE MCGRANN: Okay. I guess
18 we'll take a look at the email that's at ALE1078.

19

20 (BRIEF PAUSE)

21

22 MS. KATE MCGRANN: Do you remember if
23 you were given that information at the time?

24 MR. BRIAN BENTZ: Don't recall.

25 MS. KATE MCGRANN: You're not copied

1 on that email. You're on the email below, which we'll
2 scroll down and take a look at.

3 In this email, Mr. Glicksman writes to
4 you:

5 "Brian: I understand that we will
6 likely be quote 'invited' to meet
7 with Ed Houghton and/or his task
8 team Thursday morning, and you have
9 agreed to free up your time to do
10 so."

11 Do you remember getting this email?

12 MR. BRIAN BENTZ: Not really, no, but
13 I'm sure I received it.

14 MS. KATE MCGRANN: Do you remember
15 learning that you were going to be invited in to meet
16 with Mr. Houghton and his task team the week of
17 November 28th?

18 MR. BRIAN BENTZ: We likely did. I
19 don't recollect that at the moment.

20 MS. KATE MCGRANN: If we go to
21 paragraph 419 of the Foundation Document, please?

22 This paragraph discusses a December
23 1st, 2011 meeting that Mr. Houghton and Mr. Muncaster,
24 along with Mr. Rockx had with you and Mr. Glicksman at
25 PowerStream's offices.

1 I want to ask you two things about this
2 meeting. Do you remember attending this meeting?

3 MR. BRIAN BENTZ: Yes, I do remember
4 this meeting.

5 MS. KATE MCGRANN: Do you remember
6 having any discussion about whether or not there would
7 be a buy sell provision or a shotgun clause in the
8 transaction documents?

9 MR. BRIAN BENTZ: No.

10 MS. KATE MCGRANN: Do you remember at
11 this meeting that you gave a commitment to increase
12 PowerStream's offer by an additional \$700,000?

13 MR. BRIAN BENTZ: Yes.

14 MS. KATE MCGRANN: What can you tell
15 us about how those negotiations unfolded?

16 MR. BRIAN BENTZ: I believe Dean
17 Muncaster came to -- and Ed Houghton and I think John
18 Herhalt was there as well, and it was in our boardroom
19 at PowerStream and they -- they said that we had made
20 a good bid, but they -- they -- and I remember Dean
21 Muncaster asking if we would consider increasing our
22 bid to -- to \$8 million and would we do that.

23 And -- and I said yes, I would consider
24 that and I can't remember if I agreed to it at that
25 time, but I did subsequently agree to increasing the

1 bid to \$8 million.

2 MS. KATE MCGRANN: Were you in a
3 position where you could make a decision to increase
4 the bid to 8 million by yourself, or would you need
5 authorization from others at the company?

6 MR. BRIAN BENTZ: I had authorization
7 at that point to increase -- to have a bid up to \$8
8 million.

9 MS. KATE MCGRANN: How was it
10 determined that you could increase your bid up to \$8
11 million?

12 MR. BRIAN BENTZ: It was at the
13 discretion of the CEO, my discretion.

14 MS. KATE MCGRANN: How did you select
15 8 million as the number?

16 MR. BRIAN BENTZ: We had a -- a
17 valuation completed by BDR which was done --
18 independent valuation, a firm we had used before. And
19 it had been peer reviewed by Elenchus, one of our
20 municipal shareholders. And he gave us a value range,
21 he said that the -- the initial value range was 5.5
22 million, so he put a \$21 million enterprise value on
23 it based on a discounted cash flow at the terminal
24 value, and then took off the \$10 million and divided
25 by 2, that's 5 and 1/2 million. He said that's fair

1 value.

2 Anything above that is, you know, a
3 strategic premium that you would have to rationalize
4 and -- but he said his view at the upper end of that
5 range of what is a reasonable strategic premium in
6 this case, would be \$8 million.

7 So -- and again, that was peer
8 reviewed. So we took that to our board and they --
9 they authorized the executive team, me, to offer up to
10 \$8 million for the purchase of 50 percent of the
11 shares of Collus.

12 MS. KATE MCGRANN: Did you find it an
13 interesting coincidence that Mr. Muncaster asked for
14 the exact amount that you had decided would be the top
15 end of your range?

16 MR. BRIAN BENTZ: No, because it
17 seemed that, you know, it was a round number, \$16
18 million. No.

19 MS. KATE MCGRANN: Were you involved
20 in the deliberations about whether to purchase shares
21 in the holding company as opposed to the Wiresco?

22 MR. BRIAN BENTZ: No.

23 MS. KATE MCGRANN: If we look at
24 ALE0001307, please? So this is an email chain in
25 which -- if we scroll down a little bit and we'll just

1 walk through it quickly.

2 Mr. MacDonald receives a presentation
3 from Scott Stoll of Aird & Berlis, and if you could
4 scroll up.

5 He says thanks, he sends it on to Mr.
6 Glicksman, who writes back and says the attachment
7 seems to be missing, something that we all do from
8 time to time, could you pass it along, please.

9 Colin MacDonald responds:

10 "John, this is what we got from
11 Scott, but it is not the Town hall
12 presentation."

13 Scroll up.

14 And then Mr. Glicksman forwards it to
15 you and says:

16 "Brian, attached is a presentation
17 that was given to Collus Council by
18 the task team, we got it from Aird &
19 Berlis when we, like, shouldn't
20 have. It's showing our rankings in
21 detail along with other interesting
22 points on our proposed transaction.
23 Take care and Happy New Year."

24 I'm happy to take you to the
25 presentation if you'd like to see it, but are you

1 familiar with the presentation that's --

2 MR. BRIAN BENTZ: Yes.

3 MS. KATE MCGRANN: -- being discussed
4 here?

5 MR. BRIAN BENTZ: Yes.

6 MS. KATE MCGRANN: Are you aware that
7 it set out the financial bids that the other bidders
8 made in response to the RFP?

9 MR. BRIAN BENTZ: Yes.

10 MS. KATE MCGRANN: What did you do in
11 response to receiving this email and that presentation
12 from Mr. Glicksman?

13 MR. BRIAN BENTZ: I spoke to -- I
14 think I spoke to the executive team about it and, you
15 know, that -- I think -- I think Colin went back to
16 Scott Stoll and asked him why we sent that
17 information, I think he said it was sent in error, so
18 we don't know why they sent it. And you know, the
19 bids had -- the decision had been made with respect to
20 the bidder at that time.

21 So yeah, that's what happened.

22 MS. KATE MCGRANN: So you recall that
23 Mr. MacDonald went back to Mr. Stoll?

24 MR. BRIAN BENTZ: I think he may have.

25 MS. KATE MCGRANN: Did Mr. Stoll ask

1 that you delete the information that he had sent in
2 error?

3 MR. BRIAN BENTZ: I don't know.

4 MS. KATE MCGRANN: Did you follow up
5 with Mr. MacDonald on the conversation you had with
6 Mr. Stoll at all?

7 MR. BRIAN BENTZ: No.

8 MS. KATE MCGRANN: If your bid had
9 been sent to somebody else and you were alerted to it,
10 would you have asked that that information be deleted?

11 MR. BRIAN BENTZ: I may have. I don't
12 know what the intention of the sender was. I mean,
13 we're in negotiations now and you know, that -- that
14 information may be useful in negotiations. I don't
15 know.

16 The information should have been sent
17 back.

18 MS. KATE MCGRANN: Do you specifically
19 recall being advised that Mr. Stoll had been advised
20 of this?

21 MR. BRIAN BENTZ: No.

22 MS. KATE MCGRANN: So is it -- do you
23 actually know whether anyone from PowerStream went
24 back to Aird & Berlis and said we got this, should we
25 have it?

1 MR. BRIAN BENTZ: I don't recall, no.

2 MS. KATE MCGRANN: Was this
3 information of any use to PowerStream in the
4 negotiations going forward?

5 MR. BRIAN BENTZ: Not really, because
6 the price had been settled and we were looking at
7 commercial terms, so it was really around the
8 shareholder agreement, and what were the -- and the
9 share purchase agreement. Those are the two documents
10 that we were negotiating.

11 MS. KATE MCGRANN: Subsequent to this
12 we see Mr. Houghton coming back to you and looking to
13 set a minimum for the dividend that's to be paid.
14 Does that ring a bell for you?

15 MR. BRIAN BENTZ: No.

16 MS. KATE MCGRANN: If the information
17 wasn't useful to PowerStream, why did you hang on to
18 it?

19 MR. BRIAN BENTZ: What information?

20 MS. KATE MCGRANN: The shares that
21 were -- sorry, the slides that were forwarded to you
22 that set out, amongst other things, all of the
23 financial bids that the other bidders had made?

24 MR. BRIAN BENTZ: I mean, I didn't --
25 the -- the bids had been made, the Town made its

1 decision in early December with respect to who they
2 wanted to negotiate the transaction with.

3 So you know, that -- that information
4 or that decision had been made and we were into
5 negotiations now, and the price had been settled.

6 So no, I didn't see any particular
7 value in that.

8 MS. KATE MCGRANN: My question for you
9 is a little bit different. Why did you retain the
10 information?

11 MR. BRIAN BENTZ: We -- we should have
12 returned the information, we didn't, and -- and yeah,
13 in retrospect, we should have.

14 MS. KATE MCGRANN: And that's probably
15 my fault for -- for having a bit of a low voice.

16 Why did you keep this email and the
17 slide deck if it wasn't useful to you? Why did you
18 retain it?

19 MR. BRIAN BENTZ: Well, I don't know.
20 I mean, that -- I don't know. I'd have to have that
21 conversation with Mr. Glicksman.

22 MS. KATE MCGRANN: Can we look at
23 ALE1490, please?

24 THE HONOURABLE FRANK MARROCCO: How
25 much more is there?

1 MS. KATE MCGRANN: 15, 20 minutes.

2 THE HONOURABLE FRANK MARROCCO: Okay.

3

4 CONTINUED BY MS. KATE MCGRANN:

5 MS. KATE MCGRANN: ALE1490, please?

6 This is a spreadsheet that we received from

7 PowerStream. It's undated, but the sort of metadata

8 associated with the spreadsheet indicates that it was

9 created on January 17th, 2012.

10 Are you familiar with this spreadsheet?

11 MR. BRIAN BENTZ: I don't recall

12 seeing this spreadsheet, but I may have.

13 MS. KATE MCGRANN: Do you remember

14 asking anyone to take, for example, the information

15 that PowerStream received in those slides had

16 converted into a spreadsheet that just set out the

17 cash bids?

18 MR. BRIAN BENTZ: No.

19 MS. KATE MCGRANN: Can we look at

20 ALE1413, please?

21

22 (BRIEF PAUSE)

23

24 MS. KATE MCGRANN: This is a January

25 13th email to you from Mr. Houghton re: strategic

1 partnership. Actually, we'll scroll down and -- and
2 start at the bottom. There we go, email from Mr.
3 Houghton to you. Can we scroll up so we can see the
4 date? January 13th, 2012.

5 Mr. Houghton is talking about how well
6 the whole process has gone in the second paragraph.
7 And if you look at the last sentence, it says:

8 "I also need to tell you that Paul
9 Bonwick has assisted me in so many
10 ways by giving me a heads up if an
11 issue is brewing or helping me
12 communicate our position to council
13 or the public or to help strategize
14 our next move.

15 Thanks for allowing me to use him as
16 a resource."

17 Were you intentionally allowing Mr.
18 Houghton to use Mr. Bonwick as a resource?

19 MR. BRIAN BENTZ: I would say as a --
20 as an agent for PowerStream, someone who would
21 represent our interests and communicate with him.
22 That's the context.

23 MS. KATE MCGRANN: And when did that
24 start?

25 MR. BRIAN BENTZ: Likely, after we

1 engaged Mr. Bonwick in June.

2 MS. KATE MCGRANN: Okay. So, am --
3 fair to say that your understanding is -- I'm trying
4 to understand, "Allowing us to use him as a resource."

5 MR. BRIAN BENTZ: I don't understand
6 what he meant by that either. You'd have to ask Mr.
7 Houghton.

8 MS. KATE MCGRANN: Did you go back and
9 ask him what he meant at this time?

10 MR. BRIAN BENTZ: No.

11 MS. KATE MCGRANN: Can we look at
12 ALE1529, please?

13

14 (BRIEF PAUSE)

15

16 MS. KATE MCGRANN: Scroll down.

17

18 (BRIEF PAUSE)

19

20 MS. KATE MCGRANN: This is an email
21 from Mr. Bonwick to Mr. Glicksman. And if you scroll
22 up, we don't have to do that right now, but it's
23 forwarded on to you. Mr. Bonwick reports:

24 "Hi, gentlemen. The meeting went
25 very well this afternoon with the

1 Town's lawyers, mayor, deputy mayor,
2 CAO, and Ed."

3 It says:

4 "The motion is completely in keeping
5 with our discussion. It's subject
6 to the satisfaction of the mayor
7 with no mention of their lawyer."

8 Just to give you sense of the context,
9 this report is coming during the time that the
10 language for the authorization bylaw with respect to
11 the share of sale transaction is being drafted.

12 Do you remember receiving this email?

13 MR. BRIAN BENTZ: Yes.

14 MS. KATE MCGRANN: Do you remember
15 being concerned that you were receiving a report back
16 on a meeting that the Town and Collus staff were
17 having with their lawyers?

18 MR. BRIAN BENTZ: No.

19 MS. KATE MCGRANN: Why not?

20 MR. BRIAN BENTZ: I think the -- the
21 bylaw was being negotiated with Mr. Nolan on behalf of
22 PowerStream with -- I think it was Aird & Berlis.

23 MS. KATE MCGRANN: So, it was your
24 understanding that Mr. Nolan was negotiating directly
25 with Aird & Berlis with respect to the bylaw?

1 MR. BRIAN BENTZ: I can't remember the
2 -- the firm that they were negotiating with. It was
3 Ron Clark. I think it was Ron Clark was --

4 MS. KATE MCGRANN: Was it your
5 understanding that Mr. Nolan was negotiating directly
6 with Ron Clark?

7 MR. BRIAN BENTZ: I'm trying to
8 remember who he negotiated with on the bylaw. I'd
9 sort of delegated that whole task to him --

10 MS. KATE MCGRANN: M-hm.

11 MR. BRIAN BENTZ: -- so it was his
12 responsibility, so, yes.

13 MS. KATE MCGRANN: But it -- okay,
14 let's put it this way. Was it your understanding that
15 Mr. Nagolan -- Nolan was negotiating with whatever
16 lawyers --

17 MR. BRIAN BENTZ: Yes.

18 MS. KATE MCGRANN: -- who were
19 involved on behalf of the Town?

20 MR. BRIAN BENTZ: Yes.

21 MS. KATE MCGRANN: Why would you be
22 getting an update from Mr. Bonwick instead of Mr.
23 Nolan then?

24 MR. BRIAN BENTZ: I should have got it
25 from Mr. Nolan.

1 MS. KATE MCGRANN: This update isn't
2 about a meeting that PowerStream had with the Town.
3 This update is about a meeting that the Town had with
4 its lawyers.

5 Do you remember having concerns at the
6 time that you were receiving an update about a meeting
7 that the Town was having with its lawyers alone?

8 MR. BRIAN BENTZ: No.

9 MS. KATE MCGRANN: Why not?

10 MR. BRIAN BENTZ: I assumed that Mr.
11 Nolan was negotiating the bylaw with the Town on
12 PowerStream's behalf delegated to him.

13 MS. KATE MCGRANN: And -- and how
14 would that -- how would that adjust into con -- how
15 does that answer why you're getting an update on -- on
16 what the Town is talking about with its council?

17 MR. BRIAN BENTZ: I think there was a
18 question as to who the counterparty was, was the
19 counterparty the Town, was the counterparty the
20 Utility or -- or both, who are we negotiating with.

21 MS. KATE MCGRANN: That was the
22 question that was being asked by whom, sorry?

23 MR. BRIAN BENTZ: Well, we assumed we
24 were negotiating with -- with the Town and the utility
25 at the same time.

1 MS. KATE MCGRANN: Would you agree
2 with me that a meeting that the Town had with its
3 lawyers over negotiations with PowerStream would --
4 would be the kind of meeting that would attract
5 solicitor client privilege protection?

6 MR. BRIAN BENTZ: Yes.

7 MS. KATE MCGRANN: Did you have any
8 concerns that this meeting that the Town is having
9 with its lawyers that you're hearing about is covered
10 by solicitor/client privilege protection?

11 MR. BRIAN BENTZ: It could be, yes.

12 MS. KATE MCGRANN: When you got this,
13 did you ask yourself whether or not you should be
14 receiving this information?

15 MR. BRIAN BENTZ: I can't recall if I
16 discussed this with Mr. Nolan or not.

17 MS. KATE MCGRANN: Mr. Bonwick
18 reports:

19 "The motion is completely in keeping
20 with our discussion; it's subject to
21 the satisfaction of the mayor with
22 no mention of their lawyer."

23 Do you know what discussion he's
24 referring to there?

25 MR. BRIAN BENTZ: No.

1 MS. KATE MCGRANN: Do you remember
2 being involved in any discussions about wanting the
3 authorization of the transaction to be subject to the
4 satisfaction of the mayor?

5 MR. BRIAN BENTZ: I don't recall.

6 MS. KATE MCGRANN: Do you recall any
7 discussions about wanting to remove the lawyer from
8 being able to authorize the signing of the documents?

9 MR. BRIAN BENTZ: I mean, at this
10 point, the transaction was completed. I delegated the
11 closing of the transaction to Mr. Nolan and Mr.
12 Glicksman. And, you know, that -- that was my
13 perspective on it.

14 And so, I'm not as intimately involved
15 with -- with these emails, but, yeah, it was delegated
16 to the two (2) of them.

17 MS. KATE MCGRANN: I understand that.
18 But my question for you is, despite the fact that you
19 delegated it, do you remember being involved in any
20 discussions about who PowerStream wanted to be named
21 in the bylaw that was -- that was authorizing the
22 transaction?

23 MR. BRIAN BENTZ: No.

24

25 (BRIEF PAUSE)

1 MS. KATE MCGRANN: The last thing I
2 want to ask you about is the continuing retainer of
3 Mr. Bonwick after the transaction closed. Can we look
4 at CPS9247_00001, please?

5

6 (BRIEF PAUSE)

7

8 MS. KATE MCGRANN: This is a May 6th,
9 2012, email from Mr. Bonwick to Mr. Houghton. You're
10 not copied. I just want to ask you if you have any
11 knowledge about something that's discussed in here.

12 It's in the last paragraph that starts
13 with:

14 "John and I then discussed a couple
15 of different approaches to my
16 continued involvement post-
17 Collus/PowerStream approval."

18 Do you see where I'm -- I'm looking at?

19 MR. BRIAN BENTZ: Yes.

20 MS. KATE MCGRANN: Okay. So, that's a
21 reference to John Glicksman. He goes on to say:

22 "John has raised the issue that
23 there is likely to be challenges at
24 the board level related to our
25 current agreement."

1 Were there going to be challenges at
2 the board level to PowerStream's agreement with Mr.
3 Bonwick in or around May 2012?

4 MR. BRIAN BENTZ: I think the thinking
5 would be that, once the transaction was completed,
6 that Mr. Bonwick was working on behalf of both
7 PowerStream and Collus PowerStream and, therefore --
8 to assist with the consolidation strategy and,
9 therefore, the fee should be shared.

10 MS. KATE MCGRANN: Is that what you
11 recall was being discussed at the time?

12 MR. BRIAN BENTZ: I don't remember
13 this. I don't recall this -- this email. I know that
14 Mr. Houghton called me about Mr. Bonwick's engagement
15 and suggested that it be transferred over to Collus
16 PowerStream.

17 MS. KATE MCGRANN: Do you remember
18 when he made that call?

19

20 (BRIEF PAUSE)

21

22 MR. BRIAN BENTZ: Some time in 2012.

23

24 MS. KATE MCGRANN: Can you be any more
25 specific than that?

1 MR. BRIAN BENTZ: No. But I mean, if
2 it was transferred over, then the costs would
3 presumably be shared on a 50/50 basis post-closing
4 because the two (2) shareholders would share in the
5 cost as owners.

6 MS. KATE MCGRANN: I understand that.
7 Let's just walk through a couple of other things that
8 Mr. Bonwick is saying he discussed with Mr. Glicksman.
9 He says: "We --" He's referring to Mr. Glicksman and
10 himself:

11 "-- agreed that you and Brian should
12 have a discussion in terms of level
13 of engagement, fee structure,
14 reporting structure, and payment
15 model."

16 Did you have a discussion with
17 Mr. Houghton like that?

18 MR. BRIAN BENTZ: No.

19 MS. KATE MCGRANN: Did you have a
20 discussion with Mr. Glicksman about that?

21 MR. BRIAN BENTZ: No. The only
22 discussion I recall is I would rollover the existing
23 contract.

24 MS. KATE MCGRANN: Mr. Bonwick writes:
25 "John presented a couple of options

1 that he thought might be acceptable
2 from a Board perspective."

3 Do you remember discussing any options
4 with respect to the continued retainer of Mr. Bonwick
5 that might be acceptable to the Board with
6 Mr. Glicksman?

7 MR. BRIAN BENTZ: No.

8 MS. KATE MCGRANN: At any point before
9 the closing of the transaction, did you have any
10 discussions with anyone from the Town about the notion
11 that after the transaction closed, it made more sense
12 for Mr. Bonwick to be working for the resulting
13 entity, Collus PowerStream?

14 MR. BRIAN BENTZ: I don't think so.

15 MS. KATE MCGRANN: So it's your
16 recollection that Mr. Houghton called and suggested
17 that -- that Mr. Bonwick's retainer should be
18 transferred over there?

19 MR. BRIAN BENTZ: Yes. That was the
20 only conversation I had on that as I recall.

21 MS. KATE MCGRANN: And was it the case
22 that the retainer agreement that PowerStream had
23 entered into with Mr. Bonwick in the fall of 2011 was
24 simply rolled over?

25 MR. BRIAN BENTZ: I think it was.

1 MS. KATE MCGRANN: Could we look at
2 paragraph 672 of the Foundation Document, please.

3

4 (BRIEF PAUSE)

5

6 MS. KATE MCGRANN: This is a reference
7 to a note in auditor specified vendor testing records
8 in respect of a February 13th, 2013 payment from
9 Collus PowerStream to Compenso. And you see there, it
10 says -- or starting about a contract:

11 "Between Compenso and Collus for
12 Paul to provide consulting support
13 for ongoing strategic partnership
14 planning. It was a requirement of
15 the Shareholder Agreement that
16 within a set time frame, the two (2)
17 companies proceed with a plan to
18 grow the operation through further
19 strategic partnership and
20 purchases."

21 This is what I'd like to ask you about:

22 "Brian Bentz suggested to Ed that
23 Compenso be hired to look after the
24 Collus' side of this responsibility,
25 given Ed's commitment to the Town as

1 CAO through to April 2013."

2 So for starters, do you recall that
3 Mr. Houghton took on the role of acting CAO for the
4 Town of Collingwood in or around April of 2012?

5 MR. BRIAN BENTZ: Yes. Yes.

6 MS. KATE MCGRANN: This discussion
7 that's described here and where you suggest to add
8 that Compenso be hired to look after Collus' part of
9 the consolidated work, did that conversation take
10 place?

11 MR. BRIAN BENTZ: He approached me
12 about Mr. Bonwick's contract and suggested that it be
13 rolled over. He called me.

14 MS. KATE MCGRANN: Do you recall
15 whether the additional responsibilities that he had
16 taken on as Town CAO played into that discussion that
17 he had with you at all?

18 MR. BRIAN BENTZ: I didn't think of
19 that at the time, no.

20 MS. KATE MCGRANN: Finally, could we
21 look at paragraph 699 of the Foundation Document.

22

23 (BRIEF PAUSE)

24

25 MS. KATE MCGRANN: This is in the

1 context of CBC coverage that came out with respect to
2 Mr. Bonwick in March of 2013.

3 I'm happy to take you up and walk you
4 through that coverage, but do you remember what I'm
5 talking about?

6 MR. BRIAN BENTZ: Yes.

7 MS. KATE MCGRANN: In particular,
8 there's a quote -- a quote of a quote from you in this
9 article that I want to ask you about.

10 And so can you scroll down? We'll look
11 at the email. It's ALE3879.

12

13 (BRIEF PAUSE)

14

15 MS. KATE MCGRANN: We have to scroll
16 down. It's about partway down the page. Keep going,
17 keep going, keep going. There you go.

18 The line at the bottom of the page says
19 that: "PowerStream CAO" -- so there's our first
20 error:

21 "PowerStream CAO and president,
22 Brian Bentz, in an interview with
23 QMI Agency in May 2012 said Bonwick
24 played no role in the sale and that
25 the idea that a third party would

1 act as a broker in any deal would
2 not be normal practice in our
3 industry."

4 So this is an email about the share
5 sale transaction. Do you remember participating in
6 the interview with QMI Agency in May 2012 that's
7 referenced there?

8 MR. BRIAN BENTZ: Yes.

9 MS. KATE MCGRANN: Is the quote of
10 that interview accurate?

11 MR. BRIAN BENTZ: The -- the words in
12 quotation I believe are accurate.

13 MS. KATE MCGRANN: And so can you just
14 walk us -- so we'll walk through it together, and you
15 can tell me what's not accurate. The notion that you
16 said to them that Bonwick played no role in the sale.
17 Is that accurate?

18 MR. BRIAN BENTZ: Right. That is not
19 accurate.

20 MS. KATE MCGRANN: What about it isn't
21 accurate?

22 MR. BRIAN BENTZ: I wouldn't suggest
23 that Mr. Bonwick played no role in the sale. I mean,
24 we, from the beginning, had -- had been pretty adamant
25 about the fact that we wanted to disclose his

1 relationship with us.

2 So the question, as I recall it, was
3 did he act improperly? And -- and my answer was, no,
4 I don't believe he did. Did the reporter take that to
5 interpret he played no role in the sale? Maybe.
6 That's my interpretation of what happened.

7 With respect to the second quote, what
8 would not be normal practice in the industry, it's
9 true that in most of these transactions, some
10 utilities use third parties more than others.

11 With respect to our experience with
12 mergers and acquisitions, we did not typically use
13 third-party consultants. And so that's not -- from
14 our perspective, it's not normal practice in the
15 industry, and that's what I was referring to.

16 MS. KATE MCGRANN: Now, I understand
17 and you've told us throughout the day that it was a
18 very important that -- to PowerStream that your
19 relationship with Mr. Bonwick be transparent and out
20 in the open.

21 When Mr. Fagen, who I understand -- is
22 he communications at PowerStream --

23 MR. BRIAN BENTZ: Yes.

24 MS. KATE MCGRANN: -- at this time?

25 Yes?

1 MR. BRIAN BENTZ: Yes.

2 MS. KATE MCGRANN: When he sends you
3 an article that has you saying that Mr. Bonwick played
4 no role in the sale, did you consider whether you
5 should take any steps to -- to correct that statement
6 that's being made in a Collingwood publication?

7 MR. BRIAN BENTZ: Could have.

8 MS. KATE MCGRANN: Did you?

9 MR. BRIAN BENTZ: No.

10 MS. KATE MCGRANN: Why not?

11 MR. BRIAN BENTZ: Didn't think it was,
12 you know -- I mean, in retrospect? Sure, probably
13 should have. But at the time, I didn't. I just
14 didn't think it was worth it.

15 MS. KATE MCGRANN: In this situation
16 where you are working -- where PowerStream is working
17 in partnership with Collus and you've already
18 explained to me the importance of trust to the success
19 of that partnership, did you have any concerns that a
20 misquote like this could serve to undermine the trust
21 that the people in town had in the -- the way that the
22 sale was transacted?

23 MR. BRIAN BENTZ: It's possible, but
24 sometimes drawing attention to media events creates
25 more issues than not.

1 MS. KATE MCGRANN: Did you have an
2 explicit conversation within PowerStream at the time
3 about whether it would be a better idea to correct
4 this or not correct it?

5 MR. BRIAN BENTZ: Yes.

6 MS. KATE MCGRANN: Who was involved in
7 the discussion?

8 MR. BRIAN BENTZ: It probably would
9 have Mr. Nolan and Mr. Fagen.

10 MS. KATE MCGRANN: Only because you
11 said "probably." Do you specifically remember the
12 discussion?

13 MR. BRIAN BENTZ: I know we talked
14 about this article and what should we do about it.

15 MS. KATE MCGRANN: And was your quote
16 in this article part of that discussion?

17 MR. BRIAN BENTZ: It would be part of
18 the discussion, yes.

19 MS. KATE MCGRANN: Again, are we
20 reacting to the fact that you said it would be --

21 MR. BRIAN BENTZ: Yes.

22 MS. KATE MCGRANN: Do you remember
23 that it was part of it?

24 MR. BRIAN BENTZ: I know we talked
25 about the media attention that the whole story was --

1 was --

2 MR. MICHAEL WATSON: Your Honour --
3 Your Honour, if I may. This is obviously what from
4 what the witness said a discussion involving
5 Mr. Nolan. I'm not sure that he appreciates of what
6 he may be getting into is the contents of that --

7 THE HONOURABLE FRANK MARROCCO: All
8 right.

9 MR. MICHAEL WATSON: -- which is
10 privileged.

11 THE HONOURABLE FRANK MARROCCO: I take
12 your point.

13 MS. KATE MCGRANN: Not my intention,
14 yeah.

15 THE HONOURABLE FRANK MARROCCO: Yeah.
16 Let's just leave it alone.

17 MS. KATE MCGRANN: Okay. Those are my
18 questions.

19 THE HONOURABLE FRANK MARROCCO: All
20 right. Who's cross-examining?

21 MR. WILLIAM MCDOWELL: I do have some
22 questions. Could we take a little break first though?

23 THE HONOURABLE FRANK MARROCCO: Sure.
24 We'll take ten (10) minutes.

25

1 --- Upon recessing at 3:00 p.m.

2 --- Upon resuming at 3:08 p.m.

3

4 THE HONOURABLE FRANK MARROCCO: All
5 right, who's -- go ahead.

6

7 CROSS-EXAMINATION BY MR. WILLIAM MCDOWELL

8 MR. WILLIAM MCDOWELL: Thank you.

9 As I think you know, Mr. Bentz, I'm
10 Will McDowell, I'm one of the lawyers for the Town of
11 Collingwood.

12 And Commissioner, just for your
13 purposes, I think that I will be done by four o'clock,
14 because, frankly, given the succinctness and the --
15 and the candour of some of the answers that I've
16 gotten, there are a lot of areas that I -- I'm not
17 going to go into. But there are some things that I
18 wanted to go over with you briefly.

19 THE HONOURABLE FRANK MARROCCO: Well,
20 thank you for the time estimate, that's quite helpful
21 and is -- go ahead.

22 MR. WILLIAM MCDOWELL: All right,
23 thank you, Commissioner.

24

25 CONTINUED BY MR. WILLIAM MCDOWELL

1 MR. WILLIAM MCDOWELL: Just on the
2 point of -- in the early discussions between you and
3 Mr. Houghton, you I gather made some suggestion to him
4 about using KPMG as a valuator?

5 MR. BRIAN BENTZ: No. The -- the
6 conversation that we had was he said do you know any
7 other valutors, other than KPMG, because he was
8 thinking of using KPMG.

9 MR. WILLIAM MCDOWELL: Right. And in
10 the end, he ended up using KPMG?

11 MR. BRIAN BENTZ: Yes.

12 MR. WILLIAM MCDOWELL: And KPMG, I
13 understand, had done a lot of work with -- with
14 PowerStream as well?

15 MR. BRIAN BENTZ: They had in the
16 past, yes.

17 MR. WILLIAM MCDOWELL: And do you
18 remember on which transactions?

19 MR. BRIAN BENTZ: The original
20 PowerStream merger in 2004, they assisted us in
21 strategic advice around the merger.

22 MR. WILLIAM MCDOWELL: It's my fault
23 for not being up there, but are you -- you're
24 comfortable doing this?

25 MR. BRIAN BENTZ: Yes.

1 MR. WILLIAM MCDOWELL: All right.
2 With the microphone, I mean, not testifying, you're
3 obviously comfortable doing that.

4 Now, let me just ask you some
5 questions, I'll start frankly where my friend ended
6 off just for convenience, and this is on this article
7 that was published and it was at paragraph 699 of the
8 Foundation Document.

9 So we don't need to go back into it too
10 much, but for context, PowerStream was owned then by
11 three municipalities?

12 MR. BRIAN BENTZ: Yes.

13 MR. WILLIAM MCDOWELL: And so in some
14 sense it's a fundamentally public institution?

15 MR. BRIAN BENTZ: Yes.

16 MR. WILLIAM MCDOWELL: And the
17 shareholders are the citizens of the various
18 municipalities?

19 MR. BRIAN BENTZ: yes.

20 MR. WILLIAM MCDOWELL: So trust is
21 important, obviously?

22 MR. BRIAN BENTZ: Yes.

23 MR. WILLIAM MCDOWELL: And optics are
24 important?

25 MR. BRIAN BENTZ: Yes.

1 MR. WILLIAM MCDOWELL: Now, you said
2 to us that the -- the paraphrase having to do with Mr.
3 Bonwick having no involvement with the transaction was
4 simply wrong?

5 MR. BRIAN BENTZ: Yes.

6 MR. WILLIAM MCDOWELL: And there was a
7 discussion and Mr. Nolan was in the discussion and at
8 the conclusion of that discussion it was decided that
9 it didn't make sense to go back to seek a
10 clarification?

11 MR. BRIAN BENTZ: yes.

12 MR. WILLIAM MCDOWELL: And you've
13 reasoned that sometimes when you draw attention to
14 something, it just actually magnifies the original
15 problem?

16 MR. BRIAN BENTZ: Yes.

17 MR. WILLIAM MCDOWELL: And this was a
18 community newspaper, after all?

19 MR. BRIAN BENTZ: Yes.

20 MR. WILLIAM MCDOWELL: So could we
21 turn up ALE3878?

22

23 (BRIEF PAUSE)

24

25 MR. WILLIAM MCDOWELL: This is the

1 report of the report, as somebody said. This was sent
2 around to all of the staff within -- within
3 PowerStream, I gather?

4 MR. BRIAN BENTZ: Yes. All of the --
5 it looks like the executive management team.

6 MR. WILLIAM MCDOWELL: All right, and
7 is there any prohibition within the company in sending
8 this to other staff?

9 MR. BRIAN BENTZ: No.

10 MR. WILLIAM MCDOWELL: And can we
11 scroll down? Sorry, keep going. I'm sorry, scroll up
12 again, I apologize.

13

14 (BRIEF PAUSE)

15

16 MR. WILLIAM MCDOWELL: So this is the
17 source, frankly, of a lot of things that follow this
18 article, but it had to deal with the OPP ostensibly
19 being involved in an investigation?

20 MR. BRIAN BENTZ: Yes.

21 MR. WILLIAM MCDOWELL: Right. And
22 like most police forces, they didn't confirm or deny
23 whether they were investigating.

24 MR. BRIAN BENTZ: Correct.

25 MR. WILLIAM MCDOWELL: Did you think

1 that it was important within the company to clear the
2 air surrounding just what Mr. Bonwick had done?

3 Let me put that a better way. What
4 role Mr. Bonwick had performed in the -- in the
5 transaction?

6 MR. BRIAN BENTZ: No, I didn't think
7 it was a major issue within the corporation. It
8 wasn't an issue that had been brought up, I don't
9 think they had a lot of focus on it within the rank
10 and file of the organization, we didn't feel we needed
11 to address it as a -- as a company.

12 MR. WILLIAM MCDOWELL: All right.

13 So moving to a slightly different area,
14 you had this approach from Mr. Bonwick in January of
15 2011 I think I'm right about that date? January 2011
16 he approached you?

17 MR. BRIAN BENTZ: Yes.

18 MR. WILLIAM MCDOWELL: And very --
19 fairly shortly thereafter you spoke with Mr. Houghton
20 and you got an endorsement of sorts from Mr. Houghton?

21 MR. BRIAN BENTZ: Yes.

22 MR. WILLIAM MCDOWELL: But you were
23 concerned, you had two concerns. One was whether this
24 was formally a conflict within the Municipal Conflict
25 of Interest Act?

1 MR. BRIAN BENTZ: Correct.

2 MR. WILLIAM MCDOWELL: And so you
3 decided that you would go to your Board, which had
4 three municipal mayors on it?

5 MR. BRIAN BENTZ: Correct.

6 MR. WILLIAM MCDOWELL: And the mayor -
7 - it was the Mayor of Barrie, the May -- Mayor of
8 Vaughan, and who's the -- the mayor, Mayor Patterson?

9 MR. BRIAN BENTZ: Mayor Mark -- Mayor
10 of Markham --

11 MR. WILLIAM MCDOWELL: Markham. Mayor
12 Scarpetti of Markham, right. The three (3) tenors, as
13 it were, the three (3) mayors.

14 And you suppose that they would know
15 something about this world of conflict of interest?

16 MR. BRIAN BENTZ: Yes.

17 MR. WILLIAM MCDOWELL: All right.

18 And so the mayors -- well, first of
19 all, Mr. Bevilacqua knew Mr. Bonwick from their time
20 in Parliament together, I take it?

21 MR. BRIAN BENTZ: They did, yes. I
22 think they were in a similar caucus, liberal caucus.

23 MR. WILLIAM MCDOWELL: And they were
24 both Parliamentary Secretaries, I think, as well?

25 MR. BRIAN BENTZ: Yes, I believe so.

1 MR. WILLIAM MCDOWELL: All right.

2 And so the mayors, as I understand it,
3 gave you two pieces of advice. One was this did not
4 amount to a conflict under the MCIA.

5 MR. BRIAN BENTZ: Yes.

6 MR. WILLIAM MCDOWELL: But then the
7 second one had to do with the more nuanced problem,
8 and that was the problem of the appearance of
9 conflict.

10 MR. BRIAN BENTZ: Yes.

11 MR. WILLIAM MCDOWELL: And there they
12 had another bit of advice was that the way to handle
13 this was through full and complete disclosure.

14 MR. BRIAN BENTZ: Yes.

15 MR. WILLIAM MCDOWELL: And I just
16 wanted to explore this with you a bit, Mr. Bonwick was
17 the MP for this area, which included Collingwood?

18 MR. BRIAN BENTZ: Former MP, as I
19 understand it.

20 MR. WILLIAM MCDOWELL: I apologize,
21 the former MP.

22 He is a former member of Council of the
23 Town of Collingwood?

24 MR. BRIAN BENTZ: Yes.

25 MR. WILLIAM MCDOWELL: He knows the

1 area well?

2 MR. BRIAN BENTZ: Yes.

3 MR. WILLIAM MCDOWELL: And the reason
4 for the disclosure, you have said, was that you wanted
5 the mayor and the clerk and other appropriate people
6 within the Town to know of his involvement?

7 MR. BRIAN BENTZ: Yes.

8 MR. WILLIAM MCDOWELL: So he would
9 want, I presume, the entire Town Council to know that
10 he was involved?

11 MR. BRIAN BENTZ: If it went to the
12 entire Town Council that -- that would be fine, yes.

13 MR. WILLIAM MCDOWELL: Right. But one
14 of the reasons for that, it occurs to me and it may or
15 may not have occurred to you, is that part of what he
16 is going to do for you under his agreement is he's
17 going to gather intelligence?

18 MR. BRIAN BENTZ: Yes.

19 MR. WILLIAM MCDOWELL: Very candid
20 about saying that's what you expected him to do.

21 MR. BRIAN BENTZ: Yes.

22 MR. WILLIAM MCDOWELL: But if he's out
23 gathering intelligence, don't you want people to know
24 that he's carrying a brief for PowerStream when he's
25 doing that?

1 MR. BRIAN BENTZ: Yes.

2 MR. WILLIAM MCDOWELL: Because
3 otherwise, people are having unguarded conversations
4 with him and he's taking this information, and not to
5 be critical of him, that's what he's supposed to do,
6 but they don't realize that he's being paid to gain
7 access to people like them.

8 MR. BRIAN BENTZ: Right.

9 MR. WILLIAM MCDOWELL: So that they're
10 public, they hold public office and they're -- they're
11 handing over information they might have been more
12 cautious about if they knew that he was carrying this
13 brief?

14 MR. BRIAN BENTZ: Yes.

15 MR. WILLIAM MCDOWELL: Just on the
16 point of the MCIA, I'm curious about this. You know,
17 there's a lot of law on the Municipal Conflict of
18 Interest Act and whether or not something amounts to a
19 breach, and it can be tricky, I don't know if you've
20 looked into any of these cases, but --

21 MR. BRIAN BENTZ: Not really, no.

22 MR. WILLIAM MCDOWELL: But I mean,
23 just to give one example, the report of the
24 Mississauga inquiry, Associate Chief Justice
25 Cunningham thought that some -- that a particular

1 thing that Hazel McCallion did did not amount to a
2 conflict of interest, but then a subsequent reviewing
3 judge said that it did amount to a conflict, but then
4 he gave her relief on some other part of the sections.

5 So just to illustrate, these can be
6 difficult problems, right?

7 MR. BRIAN BENTZ: Yes.

8 MR. WILLIAM MCDOWELL: So, you have no
9 difficulty finding lawyers when you need them. There
10 are a couple of pretty good specimens sitting in the
11 courtroom here, right?

12 MR. BRIAN BENTZ: Yes.

13 MR. WILLIAM MCDOWELL: So, when you're
14 looking for advice on the MCIA, why do you want to get
15 it from somebody who's not a lawyer, namely the clerk
16 of the Town of Collingwood?

17 MR. BRIAN BENTZ: We -- we wanted the
18 clerk to know, but we also sought independent legal
19 advice in addition to that.

20 MR. WILLIAM MCDOWELL: You wanted the
21 clerk to know, but you weren't really relying on the
22 clerk's advice?

23 MR. BRIAN BENTZ: In her capacity as
24 the clerk of the Town, we -- no, we weren't
25 necessarily relying on her advice from a legal point

1 of view; that's true.

2 MR. WILLIAM MCDOWELL: Right, because
3 you were getting advice from --

4 MR. BRIAN BENTZ: Yes.

5 MR. WILLIAM MCDOWELL: -- Mr. Watson
6 or Ms. Bain or one (1) of --

7 MR. BRIAN BENTZ: Yes.

8 MR. WILLIAM MCDOWELL: -- their
9 colleagues, correct?

10 MR. BRIAN BENTZ: Yes.

11 MR. WILLIAM MCDOWELL: But you wanted
12 -- I guess what it comes to is you wanted to be on the
13 same page as the clerk if you could be?

14 MR. BRIAN BENTZ: Yes.

15

16 (BRIEF PAUSE)

17

18 MR. WILLIAM MCDOWELL: But the most
19 that you ever got from the clerk, and I can pull it up
20 if we have to, is you had an email which Mr. Bonwick
21 sent to Ms. Almas saying, We've had this discussion,
22 and you said -- and I'm sending this email, and you've
23 agreed to be copied in the email --

24 MR. BRIAN BENTZ: Yes.

25 MR. WILLIAM MCDOWELL: -- which isn't

1 really very satisfactory even in the terms that you
2 wanted to get it, is it?

3 MR. BRIAN BENTZ: In retrospect, I --
4 you know, I probably would have wanted something more
5 definitive in -- in terms of, as we've discussed the
6 scope, that she understood fully the scope.

7 MR. WILLIAM MCDOWELL: Right. And
8 that -- the reason for being concerned of the scope is
9 not because of the MCIA, it's about this other
10 problem, of the perception?

11 MR. BRIAN BENTZ: Yes.

12 MR. WILLIAM MCDOWELL: Now, can we
13 turn up ALE192?

14

15 (BRIEF PAUSE)

16

17 MR. WILLIAM MCDOWELL: So, this is the
18 -- the engagement letter -- or the retainer letter
19 that PowerStream signs with Mr. Bonwick, correct?

20 MR. BRIAN BENTZ: Correct.

21 MR. WILLIAM MCDOWELL: And can we just
22 turn up the disclosure part of this?

23

24 (BRIEF PAUSE)

25

1 MR. WILLIAM MCDOWELL: So, it says
2 here:

3 "Bonwick agrees to make all
4 necessary and prudent disclosures of
5 his or Compenso's engagement with
6 PowerStream. Any such disclosure
7 shall be discussed and authorized
8 with PowerStream in advance."

9 And so, I think we've gone over this.
10 Had he come to you and said I want to tell the
11 entirety -- all of the members of Collingwood council
12 about my retainer, that would have been fine with --
13 with you?

14 MR. BRIAN BENTZ: Yes.

15 MR. WILLIAM MCDOWELL: Did he ever
16 come to you and seek to authority to tell anybody?

17 MR. BRIAN BENTZ: Not that I recall.

18 MR. WILLIAM MCDOWELL: And just to
19 cover this off, the -- the letter came with a standard
20 form, confidentiality agreement?

21 MR. BRIAN BENTZ: Yes.

22 MR. WILLIAM MCDOWELL: And I don't
23 need to go into the text of that. But I take it you
24 would agree with me there's nothing in that
25 confidentiality agreement would -- that would have

1 prevented Mr. Bonwick from disclosing his involvement
2 to members of Collingwood council?

3 MR. BRIAN BENTZ: Yes.

4 MR. WILLIAM MCDOWELL: You agree with
5 me that there's no obstacle in the confidentiality
6 agreement?

7 MR. BRIAN BENTZ: There is no
8 obstacle. And we would have preferred that he had
9 done it.

10 MR. WILLIAM MCDOWELL: Right.

11 MR. BRIAN BENTZ: Yes.

12 MR. WILLIAM MCDOWELL: We might not be
13 here now if he'd done it.

14 MR. BRIAN BENTZ: Right.

15 MR. WILLIAM MCDOWELL: So -- now, let
16 me just ask another contextual set of questions. So,
17 Mr. Bonwick is being retained to gather intelligence
18 from people surrounding the Collingwood decision-
19 making process, right?

20 MR. BRIAN BENTZ: Yes.

21 MR. WILLIAM MCDOWELL: PowerStream, as
22 we've said, is owned by municipalities --

23 MR. BRIAN BENTZ: Yes.

24 MR. WILLIAM MCDOWELL: -- right? And
25 mis -- municipal councillors have oaths of office --

1 MR. BRIAN BENTZ: Yes.

2 MR. WILLIAM MCDOWELL: -- declarations
3 I believe they're now called. But part of that deals
4 with confidentiality. We don't have to pull that up.
5 But -- but you'd agree that -- that municipal
6 councillors have -- have duties of confidentiality?

7 MR. BRIAN BENTZ: Yes.

8 MR. WILLIAM MCDOWELL: Right. And if
9 Mr. Bonwick is gathering intelligence, the most
10 valuable -- ble intelligence may be, for example,
11 surrounding what happens within an in camera meeting?

12 MR. BRIAN BENTZ: We didn't want that
13 information.

14 MR. WILLIAM MCDOWELL: Well, that's
15 what I was going to ask.

16 MR. BRIAN BENTZ: Yes.

17 MR. WILLIAM MCDOWELL: Because that
18 puts the councillor potentially in violation of his or
19 her oath?

20 MR. BRIAN BENTZ: Yes.

21 MR. WILLIAM MCDOWELL: And if you're
22 an outfit that's owned by municipalities, that's not a
23 healthy place to be?

24 MR. BRIAN BENTZ: Yes.

25 MR. WILLIAM MCDOWELL: And the other

1 problem that came up when Mr. Bonwick is asking
2 questions of the members of the Strategic Task Team is
3 that the Strategic Task Team had their own
4 expectations with respect to confidentiality?

5 MR. BRIAN BENTZ: Yes.

6 MR. WILLIAM MCDOWELL: And could we
7 look at -- I think this is ALE2342?

8

9 (BRIEF PAUSE)

10

11 MR. WILLIAM MCDOWELL: Okay. Scroll
12 down.

13

14 (BRIEF PAUSE)

15

16 MR. WILLIAM MCDOWELL: Okay. So,
17 there it says it was decided that a non-disclosure
18 agreement will be a requirement. So, that was with
19 respect to the bidders, correct?

20 MR. BRIAN BENTZ: Yes.

21 MR. WILLIAM MCDOWELL: And then can we
22 turn up CPS4397?

23

24 (BRIEF PAUSE)

25

1 MR. WILLIAM MCDOWELL: That confesses
2 the -- the document that I -- I wanted to go to in the
3 first place. And go to slide 24 of this. Scroll
4 down.

5

6 (BRIEF PAUSE)

7

8 MR. WILLIAM MCDOWELL: Go to the next
9 page. Okay, hang on. So, there:

10 "Confidentiality is critical to
11 ensure that the greatest value is
12 fully recognized."

13 And -- and so, it seems that the
14 Strategic Task Team members were being exhorted to
15 keep their discussions confidential?

16 MR. BRIAN BENTZ: Yes.

17 MR. WILLIAM MCDOWELL: And, in fact,
18 from the point of view of the shareholder, you don't
19 want information leaking out because, you know, if
20 you're allowing information as to issues on which the
21 shareholder is prepared to collapse, get out to the
22 bidders, then that is obviously a strategic
23 disadvantage?

24 MR. BRIAN BENTZ: Yes.

25

1 (BRIEF PAUSE)

2

3 MR. WILLIAM MCDOWELL: Could we turn
4 up -- I think it's TOC59013 -- sorry, 59103?

5

6 (BRIEF PAUSE)

7

8 MR. WILLIAM MCDOWELL: So, we've gone
9 through this in -- in some detail, but this is the
10 comparison among the presentations made by the
11 bidders?

12 MR. BRIAN BENTZ: Yes.

13 MR. WILLIAM MCDOWELL: And my
14 understanding as I heard your evidence was that you
15 don't know whether you did or didn't see this?

16 MR. BRIAN BENTZ: Correct.

17 MR. WILLIAM MCDOWELL: However, you
18 think that it probably was disseminating somehow
19 within PowerStream?

20 MR. BRIAN BENTZ: It's likely that in
21 one (1) form or another it did, yes.

22 MR. WILLIAM MCDOWELL: Right. And --
23 and the -- the marker for that for you comes from the
24 fact that a community fund was proposed by another
25 bidder and was made -- then made as a suggestion --

1 MR. BRIAN BENTZ: Yes.

2 MR. WILLIAM MCDOWELL: -- for
3 PowerStream?

4 MR. BRIAN BENTZ: Yes, that's where I
5 connected the document.

6 MR. WILLIAM MCDOWELL: And, obviously,
7 as far as you're concerned, the information in here
8 was confidential to the bidders?

9 MR. BRIAN BENTZ: Some of it was
10 confidential. Some of it was public in nature.

11 MR. WILLIAM MCDOWELL: Okay. Let me
12 ask you about that. So, it's public information, so
13 the components of what's said here may be public
14 information, some of them?

15 MR. BRIAN BENTZ: Yes.

16 MR. WILLIAM MCDOWELL: All right. But
17 isn't it the assembly of the components that may be
18 public information and the emphasis put on one piece
19 of public information rather than another that makes
20 it confidential?

21 MR. BRIAN BENTZ: It could be
22 interpreted that way, but, you know, an annual report,
23 for example, is a promotional document.

24 MR. WILLIAM MCDOWELL: Right.

25 MR. BRIAN BENTZ: And so, you know,

1 they're sort of trying to make the utility -- they're
2 trying to promote that the utility is running its
3 business well and doing a good job, and you're doing
4 the same thing here. So some of that -- I take your
5 point, but some of that information may be assembled
6 the same way.

7 MR. WILLIAM MCDOWELL: So while we
8 have you here under oath, are annual reports mere
9 puffery as far as you're concerned, sir?

10 MR. BRIAN BENTZ: No.

11 MR. WILLIAM MCDOWELL: All right.
12 So -- well, I thought I'd give that a try.

13

14 (BRIEF PAUSE)

15

16 MR. WILLIAM MCDOWELL: Now, let's turn
17 up ALE412 briefly.

18

19 (BRIEF PAUSE)

20

21 MR. WILLIAM MCDOWELL: So again, we
22 can deal with this fairly quickly. There's
23 information in here which you've conceded very fairly,
24 I think, that PowerStream should not have had.

25 MR. BRIAN BENTZ: Yes.

1 MR. WILLIAM MCDOWELL: Specifically
2 the information having to do with Horizon?

3 MR. BRIAN BENTZ: Yes.

4 MR. WILLIAM MCDOWELL: And I wanted to
5 ask you a question. This is addressed Mr. Glicksman:

6 "Hi, John. In keeping with our
7 discussion yesterday..."

8 Do you know what the content of that
9 discussion was?

10 MR. BRIAN BENTZ: No, I don't.

11 MR. WILLIAM MCDOWELL: And then just
12 while we have it here, Mr. Bonwick says:

13 "I believe they're prepared to
14 acquiesce on issues like PowerStream
15 maintaining the chair position and
16 control of Board provision ensuring
17 required rights by PowerStream as
18 well as a predetermined shotgun
19 value."

20 So you see that, right?

21 MR. BRIAN BENTZ: M-hm.

22 MR. WILLIAM MCDOWELL: And I see you
23 sort of wincing at the last part. So the
24 "predetermined shotgun value" doesn't make sense as
25 far as you're concerned.

1 MR. BRIAN BENTZ: No. It makes no
2 sense.

3 MR. WILLIAM MCDOWELL: I mean, there
4 are mechanisms where the parties agree that there is a
5 fixed buy-out price.

6 MR. BRIAN BENTZ: Correct. But a
7 typical buy-sell -- the whole point of the buy-sell is
8 when you make the offer of the price, and it goes to
9 the other party to determine whether they'll accept.
10 They'll be the buyer or the seller.

11 MR. WILLIAM MCDOWELL: Right. And the
12 reason for that is that the -- the asset -- the value
13 fluctuates.

14 MR. BRIAN BENTZ: Correct.

15 MR. WILLIAM MCDOWELL: And so it
16 wouldn't make sense to have a predetermined price. Is
17 that right?

18 MR. BRIAN BENTZ: Yes.

19 MR. WILLIAM MCDOWELL: All right.
20 So -- and with respect to the balance of these things
21 if you look at this by analogy, in bidding it's as
22 though you're making a pitch to a jury, and you're
23 being told what the jury thinks of the pitch.

24 MR. BRIAN BENTZ: M-hm.

25 MR. WILLIAM MCDOWELL: You have to say

1 yes or no for the record.

2 MR. BRIAN BENTZ: Yes.

3 MR. WILLIAM MCDOWELL: All right. And
4 there's an obvious strategic advantage to having that
5 information.

6 MR. BRIAN BENTZ: Yes. There is an
7 advantage.

8 MR. WILLIAM MCDOWELL: Now, I think
9 what you're going to say is -- but some of the things
10 he's talking about, you already knew from experience.

11 MR. BRIAN BENTZ: No. And that's not
12 what I was going to say.

13 MR. WILLIAM MCDOWELL: What were you
14 going to say?

15 THE HONOURABLE FRANK MARROCCO:
16 Perhaps if we could let the witness say it --

17 MR. WILLIAM MCDOWELL: I'm just trying
18 to save time here. Sorry about that.

19 MR. MICHAEL WATSON: I'm prepared to
20 have Mr. McDowell take as much time as he wants in
21 order to have the witness answer.

22 THE HONOURABLE FRANK MARROCCO: All
23 right. Go ahead. Sorry about that.

24 MR. BRIAN BENTZ: What I was going to
25 say was that in the context of the broader decision, I

1 think that -- that the decision with respect to who
2 the Strategic Partnership Task Team was going to
3 choose to negotiate the agreement with that the -- the
4 real consideration would be -- although this had
5 value. I -- I acknowledge that.

6

7 CONTINUED BY MR. WILLIAM MCDOWELL:

8 MR. WILLIAM MCDOWELL: Right.

9 MR. BRIAN BENTZ: That has value.

10 MR. WILLIAM MCDOWELL: Fair.

11 MR. BRIAN BENTZ: But the -- but the
12 real value if you step back and say where's the value
13 in the transaction? The value in the transaction for
14 us was something that we had a natural advantage on,
15 and that was our geographic proximity.

16 So we had been in the north of
17 Simcoe County, the metropolitan hub of Simcoe County,
18 the south in Simcoe County. We're going to fill in
19 the board here, and that's why a lot of mergers occur
20 with -- with utilities that are close geographically.

21 Indeed, Veridian is close
22 geographically. It has some satellites, but it's
23 Ajax, Pickering -- they just did a deal with Whitby,
24 which is geographically continuous. Horizon's with
25 Hamilton and St. Catharines and people know that.

1 And the reason is if you look at the --
2 if you look at the criteria that was ultimately put
3 in, they said -- they said strategic or specialized
4 resources, and they talked about engineering, and they
5 talked about construction, and they talked about a
6 call centre. We were right there.

7 MR. WILLIAM MCDOWELL: Right.

8 MR. BRIAN BENTZ: We could provide --
9 you know, if they had an emergency response, we could
10 dispatch crews. If they needed back-up call centre,
11 we could give them a back-up call centre. If we
12 wanted to transfer employees for opportunities, we
13 could move them between. And the other utilities
14 couldn't do that.

15 So to me, that was the key thing,
16 notwithstanding price. That was -- but the other
17 30 percent was those two (2) items.

18 And it was also the ability to manage
19 organic growth. So in the region, we're dealing with
20 the same sort of developers and that sort of thing and
21 manage the growth strategy, and we have a presence
22 there.

23 So I -- I take your point --

24 MR. WILLIAM MCDOWELL: Yeah.

25 MR. BRIAN BENTZ: -- that there is --

1 there is value in this -- and your analogy to the
2 jury. But -- but I think in the broader issue, the
3 thing that really turned the deal for us was our
4 natural advantage we have because of our -- and then
5 I'd also like to think our culture and our -- but
6 others would say that, too.

7 MR. WILLIAM MCDOWELL: Okay.

8 MR. BRIAN BENTZ: The true
9 differentiator was location.

10 MR. WILLIAM MCDOWELL: Well, you see,
11 I was saving time. But let me follow up with a couple
12 of things.

13 One, so what you're saying, if I
14 distill it is, all right, we had this information. We
15 shouldn't have it but, frankly, learning about their
16 competitive position didn't change the fact that we
17 had a more competitive position by reason of
18 geography.

19 MR. BRIAN BENTZ: Yeah. Yes.

20 MR. WILLIAM MCDOWELL: All right. But
21 I guess the other followup is that Hydro One, using
22 that analogy, had a -- had an even greater advantage
23 because their geography is all over the place.

24 MR. BRIAN BENTZ: So the issue with
25 Hydro One is that -- first of all, they're -- they're

1 very large.

2 MR. WILLIAM MCDOWELL: M-hm.

3 MR. BRIAN BENTZ: And -- and the issue
4 of independence and anatomy was -- was critical --

5 MR. WILLIAM MCDOWELL: Right.

6 MR. BRIAN BENTZ: -- that you could
7 retain the -- the branding of Collus, that it still
8 would be a community asset. And I -- I think that --
9 other than Hydro -- they had done eighty-eight (88)
10 acquisitions.

11 MR. WILLIAM MCDOWELL: M-hm.

12 MR. BRIAN BENTZ: Well, they had
13 eighty-seven (87) of them were absorbed into the
14 fabric of Hydro One, other than Hydro One Brampton
15 which was intended to be a beachhead -- and I had that
16 in one of my notes. Hydro One Brampton is -- is
17 separate, standalone, but it was because it was a
18 beachhead into the GTA. It never happened. They
19 actually sold it to us in the end.

20 MR. WILLIAM MCDOWELL: Right.

21 MR. BRIAN BENTZ: But that was the
22 intent strategically. So I think there was a
23 concern -- I'm speculating -- but I think there was
24 concern.

25 It's a \$20 billion company that just

1 absorbs in -- into -- so we -- we can't have this
2 autonomous independent organization that would give us
3 that advantage. That's my theory, I guess --

4 MR. WILLIAM MCDOWELL: Right.

5 MR. BRIAN BENTZ: -- for what it's
6 worth.

7 MR. WILLIAM MCDOWELL: Okay. And I
8 was really limiting the question to the question of
9 geography but -- and there they've got the advantage,
10 but it -- it comes along with a bunch of
11 disadvantages --

12 MR. BRIAN BENTZ: Yes.

13 MR. WILLIAM MCDOWELL: -- should we
14 say. Okay.

15 Now, to come back to the question that
16 I thought you were -- or the answer I thought you were
17 going to give. On the issue of the percentage of
18 ownership, what you're really saying in your evidence
19 is the percentage doesn't matter. It's in all of the
20 minority protections that the other side seeks.

21 MR. BRIAN BENTZ: Correct.

22 MR. WILLIAM MCDOWELL: Right. And so,
23 for example, when Mississauga Hydro sold 10 percent to
24 Borealis, Borealis got a right of veto over major
25 transactions.

1 MR. BRIAN BENTZ: Yes.

2 MR. WILLIAM MCDOWELL: All right.

3 Okay. I understand that point. Let's turn up ALE --
4 ALE819.

5

6 (BRIEF PAUSE)

7

8 MR. WILLIAM MCDOWELL: Okay. So this
9 was the kicking off point for the discussion about
10 your belief that Mr. Bonwick had the information about
11 the KPMG valuation. Correct?

12 MR. BRIAN BENTZ: Yes.

13 MR. WILLIAM MCDOWELL: And you had
14 some discussion with Ms. McGrann about the
15 significance of knowing of that information?

16 MR. BRIAN BENTZ: Yes.

17 MR. WILLIAM MCDOWELL: And I wouldn't
18 say that you were dismissive in your answer, but you
19 said, well, it's only of so much importance.

20 MR. BRIAN BENTZ: Yes.

21 MR. WILLIAM MCDOWELL: But isn't it
22 the case that it's of critical importance because this
23 is what the Town is being told its asset is worth.

24 MR. BRIAN BENTZ: I don't think
25 it's -- okay. Maybe I'm interpreting the question

1 incorrectly. I thought it was the issue not of the --
2 not of the actual value but how the -- the email that
3 Mr. McNeil sent from BDR, was really how do you
4 present -- it wasn't -- 'cause our number was based on
5 our independent valuation.

6 MR. WILLIAM MCDOWELL: Okay.

7 MR. BRIAN BENTZ: It -- it -- it
8 wasn't based on whether we had KPMG's number or not.

9 MR. WILLIAM MCDOWELL: All right. So
10 what you're -- what you're talking about is what's --
11 what's important from -- from your perspective was how
12 you, for want of a better term, how you dress up the
13 presentation of the price.

14 MR. BRIAN BENTZ: yes.

15 MR. WILLIAM MCDOWELL: And there's a
16 whole sideshow that we won't go into about how you
17 present the recapitalization dividends and -- and so
18 on.

19 MR. BRIAN BENTZ: Yes.

20 MR. WILLIAM MCDOWELL: And that's what
21 you were answering in the discussion with my friend?

22 MR. BRIAN BENTZ: Yes.

23 MR. WILLIAM MCDOWELL: All right. But
24 we agree that -- that knowing what the -- what the
25 Town is being told about the enterprise value and so

1 on is -- is important because you know frankly where
2 their break point is probably.

3 MR. BRIAN BENTZ: It would be helpful.
4 Would it have informed our ultimate decision? I --
5 you know, I -- when -- when we put our original offer
6 at 7.3 million, and it was based on the valuation
7 range that BDR gave us, and I was trying to go towards
8 the higher end of the range but not at the higher end
9 of the range, it wasn't informed by KPMG's valuation.

10

11 (BRIEF PAUSE)

12

13 MR. WILLIAM MCDOWELL: Now, I won't go
14 through all of the instances where Mr. Bonwick passes
15 on what I think is agreed to be confidential
16 information, but your answer has been to a lot of
17 this, you weren't responsible for managing Mr.
18 Bonwick.

19 MR. BRIAN BENTZ: I was responsible
20 for everything. I'm the chief --

21 MR. WILLIAM MCDOWELL: Oh, I know that
22 but you --

23 MR. BRIAN BENTZ: -- executive
24 officer.

25 MR. WILLIAM MCDOWELL: You weren't his

1 -- you weren't his handler, as it were.

2 MR. BRIAN BENTZ: No.

3 MR. WILLIAM MCDOWELL: Right. And you
4 didn't focus on some of this at the time.

5 MR. BRIAN BENTZ: True.

6 MR. WILLIAM MCDOWELL: And you're
7 candid in saying that probably you should have.

8 MR. BRIAN BENTZ: Yes.

9 MR. WILLIAM MCDOWELL: Right. Could
10 we turn up the transcript of 30th May and go to page
11 192?

12

13 (BRIEF PAUSE)

14

15 MR. WILLIAM MCDOWELL: So scroll up
16 actually to 191.

17 So Mr. Breedon, who's beside me, asks
18 the question about you're coming to testify, you, Mr.
19 Bentz, and making reference to there having been
20 internal discussions within PowerStream.

21 MR. BRIAN BENTZ: M-hm.

22 MR. WILLIAM MCDOWELL: And then if we
23 keep scrolling down...

24

25 (BRIEF PAUSE)

1 MR. WILLIAM MCDOWELL: Okay, stopping
2 there. So Mr. Breedon asked:

3 "Do you have any recollection of
4 having any discussion with anyone at
5 PowerStream concerning and regarding
6 a concern that Mr. Bonwick was
7 bringing confidential or proprietary
8 information to PowerStream?"

9 And Mr. Nolan says:

10 "I don't think I can answer that for
11 reasons of solicitor and client
12 privilege."

13 So just to assure my colleague behind
14 me --

15 MR. MICHAEL WATSON: My mouth is open
16 already, Mr. McDowell.

17

18 CONTINUED BY MR. WILLIAM MCDOWELL:

19 MR. WILLIAM MCDOWELL: I -- I don't
20 want to know about those discussions, but the point is
21 that, that once you have those discussions with Mr.
22 Nolan -- first of all, in having those discussions,
23 you did focus on -- on the issue as the CEO --

24 OBJ MR. MICHAEL WATSON: I -- I object to
25 that, Your Honour. If the premise to the question is

1 that there were discussions, and so if Mr. Nolan
2 answers that then it's getting right into lawyer/
3 client privilege.

4 MR. WILLIAM MCDOWELL: Well -- well
5 then he's waived his privilege in the -- in the will-
6 say document. I don't want to know the content of the
7 discussions.

8 MR. MICHAEL WATSON: Wait -- wait.
9 The will-say document has no status in this hearing.

10 MR. WILLIAM MCDOWELL: Well, wait a
11 second. I mean, I think I'm entitled to know, as a
12 result of those discussions, what did you do?

13 MR. MICHAEL WATSON: Well, let's just
14 take a look very carefully.

15 "Do you have any recollection of
16 having any discussions with anyone -
17 - of having any discussions"

18 "I don't think I could properly
19 answer that question for reason of
20 solicitor-client privilege."

21 The privilege was not waived and the
22 law is very clear -- the matter of retainer of a
23 lawyer, whether or not there were communications and
24 the content of the communications are all privilege,
25 and Mr. McDowell knows that.

1 MR. WILLIAM MCDOWELL: I do know that.

2 THE HONOURABLE FRANK MARROCCO: That's
3 -- that's all fine, but the question I will allow is
4 whether any action was taken as a result of the
5 advice.

6 MR. WILLIAM MCDOWELL: Right.

7 MR. MICHAEL WATSON: Or a result --

8 THE HONOURABLE FRANK MARROCCO: The
9 result is there may be discussions that took place,
10 whether an action -- action was taken. I -- I -- I
11 will allow that question. I don't know if that's the
12 question you were going to ask, but I will allow it.

13 MR. WILLIAM MCDOWELL: All right. Let
14 me -- let me reel it back a bit.

15

16 CONTINUED BY MR. WILLIAM MCDOWELL:

17 MR. WILLIAM MCDOWELL: There were
18 internal discussions, I take it?

19 MR. MICHAEL WATSON: It's the same
20 thing, Your Honour.

21 MR. WILLIAM MCDOWELL: It is not the
22 same thing. I didn't say anything about with the
23 lawyer. I'm saying were there internal discussions.

24 MR. MICHAEL WATSON: As long as it's
25 clear that it's not asking about internal discussions

1 with Mr. Nolan, I don't have an objection with that.

2 MR. WILLIAM MCDOWELL: Well, he may or
3 may not have been involved in them, but I'm just
4 asking whether there were internal discussions.

5 THE HONOURABLE FRANK MARROCCO: I'll
6 allow -- Mr. Bentz, it's not about the content of the
7 discussions. It's a -- probably is a "yes" or "no"
8 answer. Were -- were there discussions? That
9 question I'll allow.

10 MR. WILLIAM MCDOWELL: Yeah. And --
11 and frankly, I apologize. I didn't mean to lapse into
12 --

13 THE HONOURABLE FRANK MARROCCO: The
14 content of --

15 MR. WILLIAM MCDOWELL: -- the content
16 --

17 THE HONOURABLE FRANK MARROCCO: -- the
18 discussions. I get that. So the question of whether
19 or not there were discussions is -- is a question I'll
20 permit.

21 MR. WILLIAM MCDOWELL: All right. So
22 let's go there. You're going to --

23 THE HONOURABLE FRANK MARROCCO: Why
24 don't you -- why don't you ask the question again --

25 MR. WILLIAM MCDOWELL: Sure.

1 THE HONOURABLE FRANK MARROCCO: -- so
2 that Mr. Bentz knows exactly what question he's
3 answering.

4 MR. WILLIAM MCDOWELL: All right.

5

6 CONTINUED BY MR. WILLIAM MCDOWELL:

7 MR. WILLIAM MCDOWELL: All right. So
8 were there internal discussions concerning a concern
9 that Mr. Bonwick was bringing confidential or
10 proprietary information to PowerStream? If you say
11 no, it's going to be very disappointing on this point.

12 MR. BRIAN BENTZ: No. I'm just trying
13 to think of the time line.

14 MR. WILLIAM MCDOWELL: Sure.

15 MR. BRIAN BENTZ: I'm thinking of the
16 time line when -- when that would have happened, but,
17 yes.

18 MR. WILLIAM MCDOWELL: Okay. And as a
19 result of those discussions, was an approach made to -
20 - to Collus or to the Town to say we have this concern
21 because we appear to be getting this information?

22 MR. BRIAN BENTZ: No.

23 MR. WILLIAM MCDOWELL: All right. And
24 I guess the question I have about that is, I think
25 it's fair enough to say you got a lot of

1 responsibilities as the CEO and I'm sure you get a lot
2 of emails every day, correct?

3 MR. BRIAN BENTZ: Yes.

4 MR. WILLIAM MCDOWELL: But once there
5 is a focused discussion, I take it with senior people,
6 correct?

7 MR. BRIAN BENTZ: Yes.

8 MR. WILLIAM MCDOWELL: All right. I'm
9 curious about why it is the decision is made not to go
10 to the other side and say, look, we seem to be
11 receiving leaked information.

12 THE HONOURABLE FRANK MARROCCO: Now,
13 be -- before you answer that question --

14 MR. WILLIAM MCDOWELL: Excluding any
15 privileged information.

16 THE HONOURABLE FRANK MARROCCO: -- if
17 the answer to the question has to do with advice you
18 were given during the course of those discussions,
19 then you can decline to answer the question because it
20 would require you to reveal information that's of a
21 privileged nature, provided there was a lawyer who was
22 namely Mr. Nolan, who was part of those discussions.
23 Obviously that privilege doesn't arise if you're not
24 talking to anyone who's legally trained.

25 MR. BRIAN BENTZ: Then I will decline

1 to answer the question on that basis.

2 THE HONOURABLE FRANK MARROCCO: All
3 right.

4

5 CONTINUED BY MR. WILLIAM MCDOWELL:

6 MR. WILLIAM MCDOWELL: All right, fair
7 enough.

8

9 (BRIEF PAUSE)

10

11 MR. WILLIAM MCDOWELL: You were trying
12 to remember the time. Do you remember when in the
13 scheme of things these discussions took place?

14 MR. BRIAN BENTZ: It would have been
15 after the deal had -- we had been selected.

16 MR. WILLIAM MCDOWELL: After you'd
17 been selected but before the closing?

18 MR. BRIAN BENTZ: Yes, that's correct.

19 MR. WILLIAM MCDOWELL: The fact that
20 you had to have these discussions was a matter of
21 concern to you, I take it?

22 MR. BRIAN BENTZ: yes.

23 MR. WILLIAM MCDOWELL: Because, you
24 know, if this kind of thing is going on, it carries
25 risk with it.

1 MR. BRIAN BENTZ: Yes.

2 MR. WILLIAM MCDOWELL: And there's a
3 risk in the extreme case that the -- the transaction
4 could be voided?

5 MR. BRIAN BENTZ: That's possible,
6 sure.

7 MR. WILLIAM MCDOWELL: All right. And
8 there's -- and I think you said in your testimony in
9 chief it goes to the materiality of the information
10 and so on.

11 MR. BRIAN BENTZ: Yes.

12 MR. WILLIAM MCDOWELL: Right. And
13 then there's a reputational risk obviously.

14 MR. BRIAN BENTZ: Potentially.

15 MR. WILLIAM MCDOWELL: Right. But in
16 the fall of 2012, you renewed Mr. Bonwick's retainer
17 and you increased the amount that you were paying him
18 per month, correct?

19 MR. BRIAN BENTZ: Yes.

20 MR. MICHAEL WATSON: Your Honour, the
21 year is wrong, I think -- 2011.

22 MR. WILLIAM MCDOWELL: Oh, yes.

23 MR. MICHAEL WATSON: November 2011.

24 MR. WILLIAM MCDOWELL: I apologize.

25 All right. That's -- that was a genuine Friday

1 afternoon thing, I apologize.

2

3 CONTINUED BY MR. WILLIAM MCDOWELL:

4 MR. WILLIAM MCDOWELL: At the time --
5 and I guess I'll ask this question. At the time that
6 you renewed his retainer, you personally, were you
7 aware that -- of this leaking problem?

8 MR. BRIAN BENTZ: No.

9 MR. WILLIAM MCDOWELL: Right. And if
10 you had been, you wouldn't have renewed it, I take it?

11 MR. BRIAN BENTZ: Likely not.

12 MR. WILLIAM MCDOWELL: Right. But --
13 but when you did learn about it, this is in 2012,
14 sometime in the first quarter of 2012, I take it?

15 MR. BRIAN BENTZ: M-hm.

16 MR. WILLIAM MCDOWELL: You have to say
17 "yes" or "no" for the record.

18 MR. BRIAN BENTZ: Yes.

19 MR. WILLIAM MCDOWELL: Yes. But when
20 you did learn about it, you didn't terminate the
21 retainer at that point.

22 MR. BRIAN BENTZ: Could have.

23 MR. WILLIAM MCDOWELL: Could have.
24 Did you ever raise it with Mr. Bonwick at that time?

25 MR. BRIAN BENTZ: Don't think so.

1 MR. WILLIAM MCDOWELL: Now, again, to
2 move through this quickly, if you move ahead to 2013,
3 the CBC story breaks, and sometime prior to that, Mr.
4 Bonwick, the Board has approved moving forward with
5 him --

6 MR. BRIAN BENTZ: Yes.

7 MR. WILLIAM MCDOWELL: -- in his role?
8 And then when the CBC story breaks, Mr. Bonwick's
9 retainer ends?

10 MR. BRIAN BENTZ: Yes.

11 MR. WILLIAM MCDOWELL: Right. And in
12 fact it ends not only with the termination of the
13 contract, but there is actually a cheque that has been
14 given to him that is asked to be returned.

15 MR. BRIAN BENTZ: Yes.

16 MR. WILLIAM MCDOWELL: Correct? And
17 is that because the reputational risk is now coming
18 home? Is that the reason?

19 MR. BRIAN BENTZ: That would be part
20 of the reason, yes.

21 MR. WILLIAM MCDOWELL: What's the
22 balance of the reason?

23 MR. BRIAN BENTZ: It would be the main
24 reason.

25 MR. WILLIAM MCDOWELL: Right. Now,

1 can I just look at -- I think it's ALE1307.

2

3 (BRIEF PAUSE)

4

5 MR. WILLIAM MCDOWELL: So I don't want
6 to spend a lot of time on this, but this is the
7 presentation given to Collus council by the strategic
8 task team. Got it from Aird -- Aird & Berlis when we
9 shouldn't have.

10 And my understanding from you, and
11 quoting from the document, but my understanding from
12 you is that in fact someone did go back to Aird &
13 Berlis and say we have this, we're not sure why we
14 have it, correct?

15 MR. BRIAN BENTZ: Yes.

16 MR. WILLIAM MCDOWELL: And your
17 evidence was that the -- the information there wasn't
18 so valuable because you already had the -- you were
19 already the winning bidder, correct?

20 MR. BRIAN BENTZ: Yes.

21 MR. WILLIAM MCDOWELL: But isn't the
22 real value, the next time you get into a -- an RFP
23 with the same competitors, you've got some inside
24 information?

25 MR. BRIAN BENTZ: That's an unlikely

1 event when you haven't had an RFP -- we haven't had
2 many RFPs in this industry. I suppose so. Most bids
3 that are made by utilities eventually become
4 transparent and -- and the market sort of price is --
5 is well known. In any other transaction, the
6 successful bid, you know what the price is.

7 MR. WILLIAM MCDOWELL: Right. But in
8 -- but in the absence of -- of an RFP, if there are
9 just sort of private discussions going on, you have a
10 sense of the way the other side is pitching these
11 things.

12 MR. BRIAN BENTZ: Potentially.

13 MR. WILLIAM MCDOWELL: Right. And I'm
14 prompted to ask -- and of course it follows on from
15 that, you also have a sense of the kind of money that
16 your competitors are prepared to pay in a given
17 opportunity where you know the -- that the -- the
18 concluding value.

19 MR. BRIAN BENTZ: You could tell that
20 on a sole source as well. That would be -- so if they
21 had a sole-source bid, there was -- obviously, Hydro
22 One made several bids and you could tell their --
23 their bidding pattern from that.

24 So there -- there would be some, I'd
25 say residual information or value in that information,

1 but you know, the market I think was fairly
2 transparent and -- and known, including bidding
3 patterns of individual utilities based on their sole
4 source strategy. But there would be some residual
5 value there, yes.

6 MR. WILLIAM MCDOWELL: Can you turn up
7 ALE1529 for me? So just scrolling down again, this is
8 the report on the meeting with the Town's lawyers.

9 So I think we agree that there's
10 privileged information here?

11 MR. BRIAN BENTZ: M-hm.

12 MR. WILLIAM MCDOWELL: And you had a
13 vivid demonstration a minute ago about just how
14 seriously we lawyers take that kind of thing.

15 MR. BRIAN BENTZ: Yes.

16 MR. WILLIAM MCDOWELL: Right.

17 And so I just wanted to ask you, it's
18 either privileged or it isn't, right? And if it's
19 privileged then it's entitled to be protected?

20 MR. BRIAN BENTZ: I would agree with
21 that.

22 MR. WILLIAM MCDOWELL: All right.

23 And so again, if this comes to you,
24 it's privileged, it's plainly privileged, no
25 obligation to go back to Aird & Berlis or to the Town

1 to say look, we got this information, we don't think
2 we should have gotten it?

3 MR. BRIAN BENTZ: I -- there'd be an
4 obligation to do that.

5 MR. WILLIAM MCDOWELL: All right.

6 Now, just on -- briefly on the solar
7 vents issue, could we turn up TOC65379? If we scroll
8 down.

9 So if we preface this by saying there's
10 lots of evidence to come on the issue of the role that
11 each of Mr. Budd, Mr. Houghton, Mr. Bonwick played in
12 the solar vent company, right?

13 MR. BRIAN BENTZ: Yes.

14 MR. WILLIAM MCDOWELL: Have you had an
15 opportunity to look at the foundation document?

16 MR. BRIAN BENTZ: Yes.

17 MR. WILLIAM MCDOWELL: And you looked
18 with some interest at this issue about the solar vent
19 company, I take it?

20 MR. BRIAN BENTZ: Yes.

21 MR. WILLIAM MCDOWELL: And so this is
22 the email that Mr. Budd sends to Mr. Bonwick, Mr.
23 Houghton. Mr. Houghton then sends it on to his wife's
24 gmail account.

25 Scroll up you can just see that for a

1 second. Okay, so then go back down.

2 So the email recounts the history of
3 the ownership participation, it ostensibly recounts
4 the ownership participation among Mr. Bushey, Mr. Budd
5 and then it says then with Paul and Ed we established
6 an amended sharing agreement.

7 You see that?

8 MR. BRIAN BENTZ: Yes.

9 MR. WILLIAM MCDOWELL: And then
10 there's a statement that cash was fully distributed to
11 Compensio and partially to Mr. Boshey and Mr. Budd,
12 right?

13 MR. BRIAN BENTZ: Yes.

14 MR. WILLIAM MCDOWELL: So I guess the
15 question is you have addressed the issue about Mr.
16 Bonwick's participation in some way in this project.

17 MR. BRIAN BENTZ: Yes.

18 MR. WILLIAM MCDOWELL: So that if Mr.
19 Bonwick was receiving a financial reward for
20 participation in this project, that's something that
21 should have been drawn to your attention?

22 MR. BRIAN BENTZ: I believe so, yes.

23 MR. WILLIAM MCDOWELL: And it would
24 have affected the participation of PowerStream in this
25 deal?

1 MR. BRIAN BENTZ: Likely, yes.

2 MR. WILLIAM MCDOWELL: Okay, and then
3 obviously the question is, if Mr. Houghton had a
4 financial interest in the deal, that's something you
5 would have wanted to know about as well?

6 MR. BRIAN BENTZ: Yes, absolutely.

7 MR. WILLIAM MCDOWELL: And you would
8 have wanted to know once the merger took place as
9 well, I take it?

10 MR. BRIAN BENTZ: Yes.

11 MR. WILLIAM MCDOWELL: Right, because,
12 to say the very least, having side deals with ones
13 employer that aren't disclosed is frowned upon.

14 MR. BRIAN BENTZ: Correct.

15 MR. WILLIAM MCDOWELL: You take it
16 very seriously?

17 MR. BRIAN BENTZ: Yes.

18 MR. WILLIAM MCDOWELL: All right.

19 Now, lastly I just wanted to ask you a
20 few questions about Mr. Houghton. If we turn up
21 paragraph 778 of the Foundation Document.

22 So this sets out in some detail the --
23 the email that was sent to you and to Mr. McFadden, as
24 co-chairs of the merged company board?

25 MR. BRIAN BENTZ: Yes.

1 MR. WILLIAM MCDOWELL: And Mr.

2 Houghton says:

3 "It is with an extremely heavy heart
4 that I am forced to be in a
5 situation where it is necessary to
6 write this email. Further to our
7 meeting last week, you both agreed
8 that a mutual separation seemed to
9 be in everyone's best interests,
10 including the best interests of
11 Collus PowerStream."

12 MR. BRIAN BENTZ: Yes.

13 MR. WILLIAM MCDOWELL: Right.

14 And so it's a bit ambiguous. Was it
15 that you and Mr. McFadden agreed that it was in the
16 best interests that there be a mutual separation?

17 MR. BRIAN BENTZ: Yes.

18 MR. WILLIAM MCDOWELL: Did Mr. -- did
19 Mr. Houghton also agree with that?

20 MR. BRIAN BENTZ: At that point, yes,
21 I believe he agreed with that.

22 MR. WILLIAM MCDOWELL: And he speaks
23 to the situation escalating to the point where he
24 thinks he's being constructively dismissed.

25 What gave rise to this? If I can ask

1 that.

2 MR. BRIAN BENTZ: Primarily the
3 relationship between him and the Town officials, so
4 that the Town officials had -- had -- it had become
5 dysfunctional --

6 MR. WILLIAM MCDOWELL: Right.

7 MR. BRIAN BENTZ: -- to the point
8 where it just -- it just couldn't work.

9 MR. WILLIAM MCDOWELL: Right.

10 MR. BRIAN BENTZ: And Mr. McFadden and
11 I recognized that and, you know, regardless of who is
12 responsible, this was untenable, so we had to move
13 forward.

14 MR. WILLIAM MCDOWELL: All right. So
15 if we scroll up, sorry. I apologize, scroll down.

16 So there Mr. Houghton sets up a -- a
17 number of points of the position that he wants to
18 advance to get a deal to end his employment?

19 MR. BRIAN BENTZ: Yes.

20 MR. WILLIAM MCDOWELL: And then if we
21 keep going up, so he wants twenty-four (24) months
22 compensation. Do you know whether he got that?

23 MR. BRIAN BENTZ: It was a basis for a
24 negotiation, I don't know exactly what he received.

25 MR. WILLIAM MCDOWELL: All right.

1 MR. BRIAN BENTZ: I can't recall. I
2 was involved in the discussions, obviously, but I
3 can't recall off-hand what the final settlement was.

4 MR. WILLIAM MCDOWELL: All right, so
5 keep scrolling.

6 MR. FREDERICK CHENOWETH: Your Honour,
7 I have some hesitation with respect to this.

8 I must say we're speaking of a
9 negotiation here that at this juncture I, frankly,
10 don't know a great deal about.

11 And the tenure of the answer suggested
12 that it -- it might well involve counsel that Mr.
13 Houghton may have had at the time. I -- I don't know
14 the details of that.

15 So I'm concerned about again --

16 THE HONOURABLE FRANK MARROCCO:
17 Counsel, was --

18 MR. FREDERICK CHENOWETH: Yes, the --
19 there was a suggestion that -- by this witness that
20 there was some negotiations and --

21 MR. WILLIAM MCDOWELL: I don't want to
22 know about those. I just want to know where we ended
23 up, that's all.

24 MR. FREDERICK CHENOWETH: Okay, well --

25 MR. WILLIAM MCDOWELL: And the answer

1 is he doesn't recall.

2 MR. FREDERICK CHENOWETH: That's the
3 end of the matter, then that may do it.

4 THE HONOURABLE FRANK MARROCCO: I
5 understood from Mr. Bentz that he -- he may have known
6 at some point in the past, but he certainly doesn't
7 remember now where it ended up.

8 MR. BRIAN BENTZ: Correct.

9 MR. FREDERICK CHENOWETH: That'll be
10 the end of it.

11 MR. WILLIAM MCDOWELL: Well, no, I've
12 got a couple more questions.

13 MR. FREDERICK CHENOWETH: That doesn't
14 surprise me.

15 THE HONOURABLE FRANK MARROCCO: It may
16 not be the end of it.

17

18 CONTINUED BY MR. WILLIAM MCDOWELL

19 MR. WILLIAM MCDOWELL: I take it the
20 corporation had an indemnification bylaw?

21 MR. BRIAN BENTZ: Yes, right.

22 MR. WILLIAM MCDOWELL: Which would
23 indemnify Mr. Houghton in respect of legal actions
24 taken when he was performing his functions as -- as an
25 officer of the corporation?

1 MR. BRIAN BENTZ: Yes.

2 MR. WILLIAM MCDOWELL: Right. And do
3 you know whether that indemnification bylaw is now
4 funding his defence or his representation in these
5 proceedings?

6 MR. FREDERICK CHENOWETH: Your Honour,
7 again, I'm not -- I -- I'm not sure whether that's
8 proper either. I -- I do know the answer with respect
9 to that, and it might surprise my friend, but I'm not
10 sure that's a proper question either --

11 MR. WILLIAM MCDOWELL: Well, he's
12 asked, Mr. Chenoweth --

13 MR. FREDERICK CHENOWETH: -- because
14 that's a matter between a solicitor and his client.

15 MR. WILLIAM MCDOWELL: Well, it isn't,
16 actually. It's, you know, what the Corporation's
17 paying for. I mean --

18 THE HONOURABLE FRANK MARROCCO: Well,
19 I'm having some trouble with why it matters, to me.

20 MR. WILLIAM MCDOWELL: Well, it's part
21 of the narrative of what happened, that -- you know,
22 what led to the departure of Mr. Houghton from the
23 Corporation.

24 THE HONOURABLE FRANK MARROCCO: Well,
25 I'm -- I'm good with -- I understand why you want to

1 get into that narrative, but -- but I'm -- I'm not
2 going to allow the question of how Mr. Houghton's
3 defence is being funded. I'm -- I'm not going to
4 allow that question.

5 MR. WILLIAM MCDOWELL: I'll take it up
6 with Mr. Chenoweth in the hallway then.

7 MR. FREDERICK CHENOWETH: That's maybe
8 the best place for it.

9

10 CONTINUED BY MR. WILLIAM MCDOWELL:

11 MR. WILLIAM MCDOWELL: Oh, yes, I -- I
12 just had a very few questions about Mr. Chadwick.
13 First of all, you -- you became aware at some point
14 that Mr. Chadwick was performing some kind of
15 monitoring service for Compenso, I take it?

16 MR. BRIAN BENTZ: Yes.

17 MR. WILLIAM MCDOWELL: Right. So, can
18 I ask you? You've got -- is it Mr. Fagen at --

19 MR. BRIAN BENTZ: Yes.

20 MR. WILLIAM MCDOWELL: -- your
21 corporation? Does he maintain some kind of clipping
22 service, as well?

23 MR. BRIAN BENTZ: I believe he did at
24 the time.

25 MR. WILLIAM MCDOWELL: Did you really

1 need Mr. Chadwick?

2 MR. BRIAN BENTZ: I don't think we
3 needed Mr. Chadwick.

4 MR. WILLIAM MCDOWELL: All right. And
5 then you said that when you learned about this, you
6 learned about it because Mr. Bonwick told you, I take
7 it?

8 MR. BRIAN BENTZ: Yes.

9 MR. WILLIAM MCDOWELL: And you
10 expected that Mr. Chadwick would recuse himself with
11 respect to any votes in rela -- in relation to the --
12 the RFP and approving the successful bidder?

13 MR. BRIAN BENTZ: He would have to
14 make a decision with respect to the conflict, yes.

15 MR. WILLIAM MCDOWELL: And you thought
16 that he'd recuse himself?

17 MR. BRIAN BENTZ: Yes.

18 MR. WILLIAM MCDOWELL: Right. Now, as
19 it turns out, you were in the room on January the
20 23rd, 2012, when the vote took place to approve you as
21 a successful bidder, that is PowerStream?

22 MR. BRIAN BENTZ: Yes.

23 MR. WILLIAM MCDOWELL: And Mr.
24 Chadwick didn't recuse himself?

25 MR. BRIAN BENTZ: Yes.

1 MR. WILLIAM MCDOWELL: Right. And I'm
2 not suggesting you should have thrown yourself in
3 front of that train, but did that strike you as odd at
4 the time?

5

6 (BRIEF PAUSE)

7

8 MR. BRIAN BENTZ: He should have been,
9 I think, consistent through the -- through the entire
10 process I guess would be my expectation.

11 MR. WILLIAM MCDOWELL: Right. So, he
12 re -- he recused himself once?

13 MR. BRIAN BENTZ: Yes.

14 MR. WILLIAM MCDOWELL: And then he
15 didn't on the fundamental vote?

16 MR. BRIAN BENTZ: Right.

17 MR. WILLIAM MCDOWELL: Okay.

18

19 (BRIEF PAUSE)

20

21 MR. WILLIAM MCDOWELL: Let the record
22 show I'm bang on one (1) hour.

23 THE HONOURABLE FRANK MARROCCO: Okay.

24 Thank you. Just before we get onto the next question,
25 Mr. Bentz, you were talking about risks.

1 Is -- is -- do -- do you think it's a
2 risk in this type of situation that -- that, apart
3 from any commercial issues and apart from whether an
4 advantage is conferred on one (1) bidder over another,
5 that there's loss of public confidence in the
6 decision-making process?

7

8 (BRIEF PAUSE)

9

10 MR. BRIAN BENTZ: That's a
11 consideration for sure that, you know, the -- the
12 process has to be seen as fair, so it's appropriate.
13 But all -- you know, that's the test, maybe the
14 ultimate test, to ensure that everyone realizes that
15 the process was fair, and so that's a consideration,
16 as well, yes.

17 THE HONOURABLE FRANK MARROCCO: Who --
18 who -- we're going to stop at 5:00, so who's -- who's
19 going?

20 MR. FREDERICK CHENOWETH: I am, Your
21 Honour.

22

23 (BRIEF PAUSE)

24

25 CROSS-EXAMINATION BY MR. FREDERICK CHENOWETH:

1 MR. FREDERICK CHENOWETH: There was --
2 there was a series of questions put to you, sir, with
3 respect to the payer of Mr. Bonwick's ongoing fees
4 being changed from whoever it was to Collus
5 PowerStream?

6 MR. BRIAN BENTZ: Yes.

7 MR. FREDERICK CHENOWETH: You remember
8 those questions. Help me here a little bit. I -- I
9 get confused easily. But who -- who was the payer
10 before it was changed to Collus PowerStream?

11 MR. BRIAN BENTZ: PowerStream.

12 MR. FREDERICK CHENOWETH: Thank you.
13 And you indicate that you were approached by Mr.
14 Houghton. In essence, it was an ongoing obligation to
15 make the payments?

16 MR. BRIAN BENTZ: Yes.

17 MR. FREDERICK CHENOWETH: And you were
18 approached by Mr. Houghton to, in essence, change the
19 payer?

20 MR. BRIAN BENTZ: Yes.

21 MR. FREDERICK CHENOWETH: All right.
22 And -- and the consideration of who the payer would
23 be, I take it, was something that you regard --
24 regarded as a reasonable point of equity that Mr.
25 Houghton had raised?

1 MR. BRIAN BENTZ: Yes, I think that's
2 fair.

3 MR. FREDERICK CHENOWETH: Right. And,
4 in fact, he, in essence, was pointing out to you that
5 -- that PowerStream is getting the -- the raw end of
6 the stick on this one (1) because they're paying for
7 it when it's an ongoing issue for the new entity,
8 Collus PowerStream?

9 MR. BRIAN BENTZ: I think it would be
10 -- in the interest of equity, it would make more sense
11 that Collus PowerStream would pay. And, yes, he
12 raised that issue.

13 MR. FREDERICK CHENOWETH: All right.
14 So, that was -- that was simply a fair and equitable
15 thing for him to do?

16 MR. BRIAN BENTZ: Yes.

17 MR. FREDERICK CHENOWETH: Thank you.
18 And the upshot of that was nothing more than the payer
19 was changed?

20 MR. BRIAN BENTZ: Yes.

21 MR. FREDERICK CHENOWETH: Thank you.
22 Again, my name is Chenoweth, Fred Chenoweth. And I'm
23 the counsel for Mr. Houghton, as my friend, Mr.
24 McDowell, would want to get into.

25 But in any event, there was also a

1 discussion about paragraphs 317 and 318 of Foundation
2 Document number 1. Could we just raise those up? It
3 might be useful to have -- to have them up while we
4 have this brief conversation about these matters.

5 And I must say that I am a little
6 concerned, Your Honour, that -- that my screen is dark
7 while the screen of others in the room is not dark.

8 THE HONOURABLE FRANK MARROCCO: You
9 may have to turn it on.

10 MR. FREDERICK CHENOWETH: That might
11 be helpful. Thank you.

12 THE HONOURABLE FRANK MARROCCO: You
13 know, we can -- we can only help you to -- to, you
14 know, a certain extent and, after that, you're on your
15 own.

16 MR. FREDERICK CHENOWETH: I have no
17 idea how it -- how it got turned out. And I won't
18 allege that Mr. McDowell did that.

19 THE HONOURABLE FRANK MARROCCO: Well,
20 it may have been sabotaged, Mr. Chenoweth.

21

22 CONTINUED BY MR. FREDERICK CHENOWETH:

23 MR. FREDERICK CHENOWETH: In any
24 event, just looking through the documents and using my
25 memory as -- as much as -- rather than using the

1 screen, there was a discussion in that -- maybe it was
2 in the next paragraph, 318. There was a discussion
3 about learning about following the approach of KPMG,
4 and in paragraph 318, the last quote in that document.

5 And the -- you gave us some evidence
6 with respect to that. And you gave us some evidence
7 about an assumption you'd made. You -- you understand
8 that this is a matter of -- of some significance, and
9 so I just wish to get to the bottom of it.

10 I take it the reality is you -- you
11 have no idea where this information came from,
12 correct?

13 MR. BRIAN BENTZ: No, I don't know
14 that.

15 MR. FREDERICK CHENOWETH: Thank you
16 very much.

17

18 (BRIEF PAUSE)

19

20 MR. FREDERICK CHENOWETH: You talked
21 about an exchange that I believe took place between
22 yourself and Mr. Houghton on December 3rd, 2010, at
23 the infamous Sunset Grill which I'll have to visit
24 some day.

25 MR. BRIAN BENTZ: Good breakfast.

1 MR. FREDERICK CHENOWETH: And at that
2 time, you suggested that there was an exchange about
3 who the bidders might be. And you seemed to -- at
4 that early stage to rhyme (sic) off the bidders with
5 alacrity and there was a discussion between you about
6 those names.

7 Having heard what I heard from -- from
8 the hot-tubbed witnesses earlier in this -- in this
9 piece, Mr. Freeman and Ms. Gaspar and Mr. Angemeer --
10 it was pretty obvious to all that if you were going to
11 think about one (1) of the options of an RFP that it
12 was likely these parties might be involved.

13 MR. BRIAN BENTZ: Yes.

14 MR. FREDERICK CHENOWETH: So if there
15 was an exchange of ideas between yourself and
16 Mr. Houghton, there -- I take it there wasn't any
17 magic in that exchange. He was an exchange, in
18 essence, of the obvious.

19 MR. BRIAN BENTZ: Yes. The bidders
20 that -- there were only a handful of bidders who are
21 active in this sector in Ontario, yes.

22 MR. FREDERICK CHENOWETH: Well, that
23 was obvious information that was mentioned between the
24 two (2) of you.

25 MR. BRIAN BENTZ: It could be

1 construed that way, yes.

2 MR. FREDERICK CHENOWETH: Thank you.
3 You have, I think, referred to it at earlier times in
4 your evidence, but after the closing of the
5 transaction in July of 2012 and for a period of -- of
6 certainly at least a year, I take it the activities of
7 the -- then partnership, Collus PowerStream, did they
8 go well?

9 MR. BRIAN BENTZ: Post-closing --

10 MR. FREDERICK CHENOWETH: Yes.

11 MR. BRIAN BENTZ: -- for the first
12 year?

13 MR. FREDERICK CHENOWETH: The first
14 year.

15 MR. BRIAN BENTZ: I think there was
16 some enthusiasm around the new partnership, yes.

17 MR. FREDERICK CHENOWETH: And did
18 you -- did you manage to save what I think we've come
19 to learn from witnesses -- such as Shuttleworth and
20 Pam Hogg, et cetera -- is it fair to say that during
21 that year, you were able to maintain, preserve, and
22 encourage what appeared to be a pretty good culture of
23 both organizations prior to the -- the joinder?

24 MR. BRIAN BENTZ: Yes.

25 MR. FREDERICK CHENOWETH: All right.

1 Thank you. And Mr Nolan -- and this is a pretty
2 straight-forward question -- Mr. Nolan described that
3 that relationship, particularly the relationship
4 between Collus PowerStream and the Town,
5 deteriorated -- he, I think, used the word
6 significantly, and others had used other words, such
7 as toxic. That relationship deteriorated
8 significantly at some juncture at approximately the
9 year mark.

10 MR. BRIAN BENTZ: Yes.

11 MR. FREDERICK CHENOWETH: And
12 Mr. Nolan described that the deterioration arose, he
13 felt, as a result of a new CAO, Mr. Brown.

14 MR. BRIAN BENTZ: There was a tense
15 relationship between the Town and the senior staff at
16 the utility when Mr. Brown came -- it built up over
17 time but yes.

18 MR. FREDERICK CHENOWETH: Sure. So
19 you would agree with the evidence of Mr. Nolan that
20 there was -- and I use the word "serious" because
21 that's what he used -- a serious deterioration in
22 the -- in essence, the functionality of the
23 partnership as a result of that deteriorating
24 relationship between the Town and Collus PowerStream.
25 Correct?

1 MR. BRIAN BENTZ: Yes.

2 MR. FREDERICK CHENOWETH:

3

4 (BRIEF PAUSE)

5

6 MR. FREDERICK CHENOWETH: Your Honour,
7 those are all the questions I have of this witness.
8 Thank you.

9 THE HONOURABLE FRANK MARROCCO: Thank
10 you, Mr. Chenoweth. Mr. Marron. Are your devices
11 turned on, Mr. Marron?

12 MR. GEORGE MARRON: Well, I think I
13 just bumped into it. I think I bumped into it
14 yesterday. I've tried to not perform that again.
15 Thank you.

16

17 CROSS-EXAMINATION BY MR. GEORGE MARRON:

18 MR. GEORGE MARRON: Mr. Bentz, my name
19 is George Marron. I represent Sandra Cooper, who is
20 the mayor of the Town of Collingwood in the years 2010
21 to 2014 and actually thereafter for her second term.

22 And yeah, I would like to call up
23 ALE50195.

24

25 (BRIEF PAUSE)

1 MR. GEORGE MARRON: These -- this is a
2 typed version of your notes. There was no date,
3 although we got April 2011. I just ask that to be
4 pulled up because the notes were quite extensive, and
5 I appreciate that this is in reference to preparation
6 before a Board meeting.

7 But you didn't make any notes of the
8 meeting which you had in company with Jeff Lehman on
9 June 29, 2011 when you came to Collingwood to meet
10 Sandra Cooper.

11 MR. BRIAN BENTZ: No.

12 MR. GEORGE MARRON: And you didn't
13 make any notes, I believe you indicated, at any point
14 in time after the 29th of June, 2011.

15 MR. BRIAN BENTZ: No.

16 MR. GEORGE MARRON: You didn't make
17 any notes, I take it, in advance of the 29th of June
18 meeting.

19 MR. BRIAN BENTZ: No.

20 MR. GEORGE MARRON: And the question I
21 had, are you -- having given your busy day and the
22 number of demands that are made on you, is it your
23 usual practice to make notes of meetings or to dictate
24 or provide your -- I take it you have a secretary or
25 someone who works in conjunction with you. Is it --

1 do you dictate memos to yourself for recall purposes
2 and things of that sort?

3 MR. BRIAN BENTZ: I typically make
4 notes for presentation I'm making.

5 MR. GEORGE MARRON: Okay.

6 MR. BRIAN BENTZ: Board meetings when
7 I'm speaking. So if I'm making a presentation or
8 speaking to an issue with the Board of Directors, I'll
9 make notes to myself, handwritten notes in the
10 document. It's typically how I do it.

11 MR. GEORGE MARRON: Okay. But I'm
12 suggesting to you, you know, you're here today.
13 You've been examined and then cross-examined by
14 two (2) of my esteemed colleagues, I take it that if
15 it's a matter of importance, would you not give some
16 thought or have some concern -- and in this case, it
17 was something as important as this conflict of
18 interest issue and the fact that you had received
19 some -- or at least were made aware of what
20 potentially was -- or what was described as a
21 misunderstanding.

22 But obviously, you're made aware.
23 You're a smart guy. You're made aware that there was
24 some difficulties in Mr. Bonwick obtaining what he was
25 required to obtain as a condition present to entering

1 into the June 7, 2011 retainer agreement.

2 MR. BRIAN BENTZ: Yes. I wish we'd
3 all taken notes from that meeting.

4 MR. GEORGE MARRON: But there's
5 nothing to assist you then in your recall, which goes
6 back from today to the 29th of June meeting.

7 MR. BRIAN BENTZ: Well, I knew that
8 the letter that the mayor had drafted was a precursor
9 to the -- well, that Mr. Bonwick had drafted for the
10 mayor's signature was a precursor to that meeting.

11 And I know that -- you know, I remember
12 where the meeting was held, and I do remember Mr. --
13 Deputy Mayor Lloyd saying that you can't prevent a man
14 from earning an income. And I do remember -- as I
15 said, it was either Mr. Lloyd or Mr. Muncaster saying
16 if anything, it would improve the quality of his
17 response. And we're talking about the response to the
18 RFP. I remember those two (2) things distinctly.

19 And I know that Jeff Lehman was there
20 because he was talking about -- as he had before with
21 the mayor around his experience with the Barrie Hydro
22 merger. So those things I -- I do remember.

23 MR. GEORGE MARRON: All right. Well,
24 was the term and the acronym "RFP," is that what was
25 used?

1 MR. BRIAN BENTZ: Well, it said in
2 response, yes, RF -- that's my recollection.

3 MR. GEORGE MARRON: RFP. Well, that
4 means something to you and it obviously means
5 something to the rest of us in this room now as a
6 result of this Inquiry.

7 But it may not have meant much to other
8 people in the room.

9 MR. BRIAN BENTZ: Possibly.

10 MR. GEORGE MARRON: In fact, it may
11 have meant nothing to Sandra Cooper, and if she'd made
12 some inquiry, I suggest what's an RFP, would show some
13 ignorance on her part. I mean, to you and Jeff
14 Lehman, you were there, her purposes of disclosing of
15 this what -- the reason for you being there.

16 Do you agree with me, in fairness to
17 her?

18 MR. BRIAN BENTZ: That would be for
19 her to answer the question.

20 MR. GEORGE MARRON: All right. But in
21 fairness to her, I mean, that's a possibility?

22 MR. BRIAN BENTZ: It's a possibility,
23 but in a municipal environment, RFPs are issued
24 frequently.

25 MR. GEORGE MARRON: Yes, well I'm not

1 asking if it -- if it happened or if it didn't happen,
2 it is a possibility, I suggest.

3 MR. BRIAN BENTZ: Yes.

4 MR. GEORGE MARRON: All right. And I
5 -- I take it this was a social sort of thing, although
6 you were there for a purpose it wasn't -- it wasn't a
7 sit-down board meeting where -- there was some milling
8 around and --

9 MR. BRIAN BENTZ: It was informal.
10 Yes.

11 MR. GEORGE MARRON: Yes. And -- and
12 prior to -- prior to -- or you indicated after you
13 left you had some review of things with Jeff Lehman
14 and I take it that was on your way over to the
15 Georgian Bay Golf Course where you're meeting up with
16 Paul Bonwick and Ed Houghton for a game of golf?

17 MR. BRIAN BENTZ: Yes.

18 MR. GEORGE MARRON: So -- so there's
19 no reason, I suggest, or is there a reason why Paul
20 Bonwick couldn't have been at the meeting of June
21 29th, 2011?

22 MR. BRIAN BENTZ: I don't know.

23 MR. GEORGE MARRON: But -- but you're
24 aware now of this disclosure issue that's before us
25 all. I mean, if -- if we're dealing with a matter of

1 disclosure and what someone is disclosing and -- and
2 you've had this experience where, you know, you assume
3 this was something that was going to be conducted long
4 before the 29th of June and -- and it was, but you
5 know, this -- I take it this meeting was -- Mr. Nolan
6 said it was important from his review of things, but
7 he wasn't at the meeting, right?

8 MR. BRIAN BENTZ: Yes.

9 MR. GEORGE MARRON: Right. Now, -- so
10 -- so the point is wouldn't you expect Paul Bonwick to
11 attend the meeting if it's all about Paul Bonwick and
12 the disclosure and the fact that he's going to be
13 receiving the benefit of the contract, the retainer
14 contract?

15 MR. BRIAN BENTZ: We were the party to
16 the contract, so you know, us being there we thought
17 was sufficient at the time.

18 MR. GEORGE MARRON: No, but let's --
19 let's look at the circumstances, I mean you've left
20 the confirmation of the disclosure, and more
21 importantly, I mean that's in reference to the
22 conflict of interest but, more importantly, the
23 disclosure as to the scope of work.

24 I mean, you've left that entirely in
25 the hands of Paul Bonwick to make that disclosure and

1 -- and that's the whole foundation, the whole reason
2 for making the disclosure at this point, you're
3 satisfied that the Municipal Conflict of Interest Act
4 doesn't apply so the -- the reason -- that's the whole
5 reason at this point.

6 MR. BRIAN BENTZ: He -- he had an
7 obligation under the contract to do that.

8 MR. GEORGE MARRON: Right. But that's
9 an obligation he may have kept and may not have kept
10 and you wouldn't have known.

11 MR. BRIAN BENTZ: Well, we did have
12 the letter from the Mayor and we had the email, you
13 know --

14 MR. GEORGE MARRON: Okay, we're going
15 to get into the letter from the Mayor and we're going
16 to do that in the course of this examination.

17 But the letter from the Mayor, if you
18 look at it, it doesn't set out and -- and you were
19 very carefully examined on this and I listened to your
20 answers and you were very forthright in the manner
21 which you testified to Ms. McGrann, but -- but the
22 letter didn't set out the scope of the duties that's
23 set out in the retainer agreement.

24 MR. BRIAN BENTZ: Not the specific
25 scope of duties.

1 MR. GEORGE MARRON: And -- and you've
2 indicated throughout your evidence, and I don't like
3 to generalize, but -- but you know, a number of times
4 I've noted that you've said the whole purpose in
5 retaining Paul Bonwick was in relation to the request
6 for proposals for the transaction.

7 MR. BRIAN BENTZ: And to understand
8 what the Town was -- where they were with respect to
9 deliberations on the sale.

10 MR. GEORGE MARRON: Right. Well, it -
11 - and the contribution that he'd be making to you,
12 what was eventually going to result in a request for
13 proposal.

14 MR. BRIAN BENTZ: Yes.

15 MR. GEORGE MARRON: Right.

16 And -- and you indicated early on in
17 your evidence that, you know, you -- you have this
18 initial contact and you had a meeting in your office
19 that might have lasted for an hour.

20 I take it you didn't make any notes
21 pertaining to the meeting on January 11th -- or
22 January 12th, 2011?

23 MR. BRIAN BENTZ: No.

24 MR. GEORGE MARRON: This was -- and --
25 and this was just sort of a meet and greet -- well, it

1 was a meet and greet. I mean, here's someone who in a
2 non-solicited way writes a letter saying you know,
3 maybe I can be of interest to you, maybe you might
4 want to hire me, and that -- you get that two days
5 later, that's a fairly compressed period of time, but
6 obviously it's indicative of the interest that you
7 showed in the approach that Paul Bonwick made?

8 MR. BRIAN BENTZ: Yes.

9 MR. GEORGE MARRON: Right. So two
10 days later, on the 12th of January or -- you're
11 sitting down, you didn't make any notes of the
12 interview, but it became apparent to you at that point
13 when he said that he was the brother of the Mayor of
14 the Town of Collingwood, it became apparent to you
15 then that there might be a conflict.

16 So you said it -- there was an
17 indication on his part that this had been checked out.
18 And I think -- did he -- he made a statement of fact
19 to you that -- that the Municipal Conflict of Interest
20 Act was not a matter of concern.

21 MR. BRIAN BENTZ: He said that his
22 relationship with the Mayor did not -- was not a --
23 defined as a conflict under the Municipal Conflict of
24 Interest Act.

25 MR. GEORGE MARRON: Right. And was it

1 at that point that he said to you that he had an
2 opinion on behalf of the -- an opinion that the Deputy
3 Mayor of the Town of Collingwood had obtained for him?
4 Was it at that point?

5 MR. BRIAN BENTZ: I believe so, yes.

6 MR. GEORGE MARRON: All right. Well,
7 I mean, he's a layperson, you're not going to accept
8 somebody coming through your door and in the first
9 instance saying to you well there's no conflict of
10 interest here and -- layperson, I mean, you might
11 accept it if it were someone like Mr. McDowell, versed
12 in the municipal law.

13 But you know what I'm saying, you're
14 not -- you're a bright guy, you're not going to accept
15 a -- somebody who virtually is just coming in off the
16 street other than he had Ed Houghton's stamp of
17 approval, let's put it that way. Okay.

18 Okay, so --

19 THE HONOURABLE FRANK MARROCCO: I'm
20 sorry, was there an answer there? I didn't hear an
21 answer.

22 MR. GEORGE MARRON: I thought he
23 nodded his head.

24 THE HONOURABLE FRANK MARROCCO: We'll
25 have a problem on the transcript because we won't

1 capture the nod. We'll have an argument about whether
2 you agreed with it or not.

3 So, what's your response?

4 MR. BRIAN BENTZ: My response is yes,
5 that's true, and that's why we took the additional
6 steps of seeking internal legal advice. We relied on
7 external legal advice, and I also consulted with the
8 Mayors.

9 MR. GEORGE MARRON: All right. All
10 right. I'm trying not to get hung up on the mic and
11 I'm looking at my notes and -- yeah, this -- so I
12 didn't observe the nod or I would have asked the
13 witness to response. And I'll -- so can I ask you to
14 do that then?

15 MR. BRIAN BENTZ: Yes.

16 MR. GEORGE MARRON: And I'll try to
17 stay as far away from this mic as I can without being
18 inaudible.

19

20 CONTINUED BY MR. GEORGE MARRON

21 MR. GEORGE MARRON: Okay, so you
22 indicated to Mr. Bonwick that the audit and finance
23 committee would have to consider his application for
24 employment, that that was a matter that would have to
25 go before them.

1 And -- and you also indicated that, you
2 know, their consideration of this would obviously in
3 the circumstances, necessitate a full disclosure
4 consideration on not only the Conflict of Interest
5 Act, but you know, more perhaps importantly at this
6 point, the indication of a perception of the optics of
7 there being some conflict?

8 MR. BRIAN BENTZ: Yes.

9 MR. GEORGE MARRON: Okay, and okay so
10 you told him that and -- just have your indulgence
11 here.

12

13 (BRIEF PAUSE)

14

15 MR. GEORGE MARRON: Okay. And -- and
16 you indicated that when you were asked by Ms. McGrann
17 that, as concerns his sister, you don't recall that
18 Paul Bonwick advised you that, by virtue of being a
19 mayor of the Town of Collingwood, she would be sitting
20 on the Board of Directors of the Collus group of
21 corporations?

22 MR. BRIAN BENTZ: I don't recall when
23 I became aware that she was on the Board.

24 MR. GEORGE MARRON: Okay. All right.
25 But was this as a result of what -- what someone told

1 you or is it some -- did you -- did you go out and
2 take a look or make some inquiries specifically to
3 learn that?

4 MR. BRIAN BENTZ: At some point, I
5 became aware she was on the Board. When that -- and
6 how that happened I -- I don't -- I don't recall.

7 MR. GEORGE MARRON: But this is a
8 fairly standard procedure, is it not, in -- in a small
9 municipality where the -- the mayor or perhaps even
10 the deputy mayor are sort of automatically placed on
11 the board of any corporation that's owned by the
12 municipality?

13 MR. BRIAN BENTZ: The mayors were on
14 our Board, so, yes, it happens --

15 MR. GEORGE MARRON: Yeah. Yeah.

16 MR. BRIAN BENTZ: -- quite frequently.

17 MR. GEORGE MARRON: And we heard from
18 David McFadden as to the -- the political end of
19 things, that sometimes things might run a little more
20 smoothly if you could get rid of the politicians. In
21 any event, we won't get into that. I won't ask you
22 anything on that angle.

23 Okay. But -- so, on -- as of January
24 the 12th, 2011, when the meeting concludes, that
25 wasn't something that wa -- you weren't alerted to

1 that and that perhaps you ought to look into it, it's
2 something that you learned subsequently?

3 MR. BRIAN BENTZ: Her being on the
4 Board? Yes.

5 MR. GEORGE MARRON: And -- and you
6 can't indicate to us how -- how far down the road that
7 was?

8 MR. BRIAN BENTZ: No.

9 MR. GEORGE MARRON: All right. Well,
10 would you have known that in the month of June 2011?

11 MR. BRIAN BENTZ: Probably.

12 MR. GEORGE MARRON: All right.

13 MR. BRIAN BENTZ: Yeah.

14 MR. GEORGE MARRON: So -- okay. So --
15 so, there -- but there wasn't any explicit or exact
16 requests made of Sandra Cooper to deal with the fact
17 that she was a member of the Board of Collus and
18 whether that would present a difficulty and her
19 brother, Paul, being an agent?

20 You indicated in your evidence you
21 considered Paul Bonwick to be an agent of PowerStream?

22 MR. BRIAN BENTZ: Yes.

23 MR. GEORGE MARRON: All right. So --
24 so, there wasn't any consideration to basically asking
25 for a waiver on Sandra Cooper's part in reference to

1 that?

2 MR. BRIAN BENTZ: No.

3 MR. GEORGE MARRON: Or -- I said a
4 "waiver" perhaps -- it's pro -- more properly referred
5 to as a declaration that, you know, she knows and --
6 and there wasn't anything like that?

7 MR. BRIAN BENTZ: No.

8

9 (BRIEF PAUSE)

10

11 MR. GEORGE MARRON: Okay. So, now,
12 you -- you next indicated that -- and -- and perhaps I
13 have this wrong, but did -- did you ask Paul Bonwick
14 that he make a draft proposal so that you could take
15 something to the Board?

16 You told us at the Board meeting with
17 the three (3) mayors on the Board was on January the
18 18th, 2011. So, when you went in on the Board meeting
19 did you actually have the Compensos's draft propo --
20 draft proposal or is it something that came later or
21 do you recall?

22 MR. BRIAN BENTZ: The -- the meeting
23 on January 19th wa -- wa -- was an audit and finance
24 committee meeting.

25 MR. GEORGE MARRON: All right.

1 MR. BRIAN BENTZ: And I met with the
2 mayors, I think, prior to that meeting. We didn't
3 discuss -- at the audit and finance committee, which
4 was not a board meeting, we didn't discuss the
5 Compenso transaction at that point. I had only -- was
6 dis -- discussing it with the mayors at that point.

7 MR. GEORGE MARRON: Okay. Well, thank
8 you for clearing that up. All right. So -- so this
9 was something that was an aside then to the -- to the
10 actual Board meeting then?

11 MR. BRIAN BENTZ: It was an audit and
12 finance committee meeting.

13 MR. GEORGE MARRON: Yeah, no, you told
14 me that. But I'm saying this --

15 MR. BRIAN BENTZ: Yes.

16 MR. GEORGE MARRON: -- this
17 conversation about Paul Bonwick and the approach and -
18 - was this -- was this just a conversation amongst the
19 four (4) of you, you --

20 MR. BRIAN BENTZ: Yes.

21 MR. GEORGE MARRON: -- you and the --
22 so, it wasn't part of the Board meeting?

23 MR. BRIAN BENTZ: No.

24 MR. GEORGE MARRON: All right. It
25 wasn't on the agenda?

1 MR. BRIAN BENTZ: No. But it was
2 brought forward in the March, I think, 8th audit and
3 finance committee meeting and certainly the April, I
4 think, 26th Board meeting. It was brought forward
5 then.

6 MR. GEORGE MARRON: Okay. Okay.

7

8 (BRIEF PAUSE)

9

10 MR. GEORGE MARRON: All right. So,
11 you indicated that -- that, at some point, in
12 reference to this conversation you were having with
13 Mr. Bonwick as to providing disclosure, that there was
14 an indication that -- that came to you that -- that
15 Paul Bonwick had spoken to Ed Houghton about this?

16 MR. BRIAN BENTZ: Yes.

17 MR. GEORGE MARRON: And -- and you
18 indicated that that was -- that was a little bit of a
19 surprise in the sense that, you know, you would expect
20 that he would have spoken to you, and not Ed Houghton,
21 I mean, some indication as to the fact that it might
22 have been -- I don't want to use the word 'improper',
23 but it -- it caused a bit of surprise that he'd speak
24 to Ed Houghton about this and not you?

25 MR. BRIAN BENTZ: I had asked him to

1 speak to Mr. Houghton about the fact that we -- we
2 were thinking of engaging his firm and him, so I
3 expected him to speak with him.

4 MR. GEORGE MARRON: Okay.

5 MR. BRIAN BENTZ: The question was
6 reviewing the proposal in detail, which I -- I said I
7 would have preferred if he had brought me the proposal
8 first.

9 MR. GEORGE MARRON: Oh, I -- oh, I
10 see. Okay.

11 MR. BRIAN BENTZ: Yes.

12 MR. GEORGE MARRON: All right. So --
13 so, there was an indication to you then that -- that
14 Paul Bonwick's proposal which was being made at
15 PowerStream was something that was reviewed by Ed
16 Houghton, who was employed by Collus?

17 MR. BRIAN BENTZ: Yes.

18 MR. GEORGE MARRON: And -- and -- or
19 is this whole idea of the proposal at that point --
20 did that -- did that raise some red flag in your mind
21 as to putting you in a spot where -- raise any red
22 flag at all?

23 MR. BRIAN BENTZ: Well, I mean, I had
24 some concerns that the -- that the proposal had been
25 reviewed with -- with Mr. Houghton before it had been

1 reviewed with me, and it's not exactly what I asked
2 him to do.

3 But, you know, in hindsight, you know,
4 if he's going through some of the scope of the work
5 that he was considering and emphasizing the
6 disclosure, then I didn't have a problem with it.

7 MR. GEORGE MARRON: All right. But
8 the whole purpose in reference to this proposal was to
9 hire Paul Bonwick to go out and obtain information
10 that would be used -- potentially used in your RFP and
11 -- and that -- I mean, at this point, you're
12 interested in Paul Bonwick because of the Collus
13 situation?

14 MR. BRIAN BENTZ: Yes.

15 MR. GEORGE MARRON: Yeah. I mean, you
16 weren't gi -- hiring him or giving serious
17 contemplation to hiring him in relation to any of
18 these other strategic -- the strategic growth, and
19 that was something down the road?

20 MR. BRIAN BENTZ: It was primarily
21 down the road, yes.

22 MR. GEORGE MARRON: Yeah, yeah. But -
23 - but you were hiring him, as you've indicated. And,
24 once again, you're pretty candid. I've got it
25 recorded, at least two (3) or three (3) instances,

1 where you said, yeah, the -- the primary purpose was,
2 you know, the dealing with Collus and the targeting of
3 Collus by way of an RFP?

4 MR. BRIAN BENTZ: Yes.

5 MR. GEORGE MARRON: Yeah. Okay. So,
6 you -- so the fact that he was reviewing a document
7 with Ed Houghton that had everything to do with
8 PowerStream and his relationship with you, that --
9 that didn't cause any concern on your part?

10 MR. BRIAN BENTZ: It caused some
11 concern, yes. But, like I said, I had asked him to do
12 it.

13 MR. GEORGE MARRON: Okay.

14

15 (BRIEF PAUSE)

16

17 MR. GEORGE MARRON: And you felt that
18 that was proper in the circumstances, to make that
19 request?

20 MR. BRIAN BENTZ: As I said, I would
21 rather have had him told me in advance, let's say, and
22 reviewed the proposal with me first.

23 THE HONOURABLE FRANK MARROCCO: I
24 think the witness has answered this question.

25 MR. GEORGE MARRON: I'll -- yeah, I'll

1 move on.

2

3 CONTINUED BY MR. GEORGE MARRON:

4 MR. GEORGE MARRON: So, was this -- at
5 -- at this point, I believe, in your evidence where
6 you indicated that you were -- you considered and put
7 Paul Bonwick in the light of an agent of PowerStream?

8 MR. BRIAN BENTZ: Yes.

9 MR. GEORGE MARRON: All right. Okay.
10 So, I'd like to call up document ALE059.

11

12 (BRIEF PAUSE)

13

14 MR. GEORGE MARRON: This is a -- this
15 is an email from Paul Bonwick to you, Mr. Bentz, and
16 it's dated the 20th of January, 2011.

17

18 (BRIEF PAUSE)

19

20 MR. GEORGE MARRON: It indicates here
21 -- and I would refer you to the first paragraph, Mr.
22 Bentz:

23 "I wanted to be perfectly clear on
24 my understanding of the conflict
25 guidelines contained in the

1 Municipal Act.

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

7 Now, just -- just considering that for
8 a moment, the Town solicitor would give you no
9 difficulty. That would be a lawyer retained by the
10 Town of Collingwood?

11 MR. BRIAN BENTZ: He was referring to
12 the Town clerk, I believe, inadvertently.

13 MR. GEORGE MARRON: Well, no, but the
14 -- the memo or the -- excuse me, the email says
15 something otherwise, doesn't it?

16 MR. BRIAN BENTZ: Yes.

17 MR. GEORGE MARRON: It says, "The Town
18 solicitor"?

19 MR. BRIAN BENTZ: Yes.

20 MR. GEORGE MARRON: Right. And you'll
21 agree with me there's a distinction and a difference
22 between a solicitor, who's a lawyer, and a -- and a
23 clerk who works for the Town of Collingwood?

24 MR. BRIAN BENTZ: Yes.

25 MR. GEORGE MARRON: I mean, the clerk

1 could be a lawyer. But, in this case, you didn't
2 believe that Ms. Almas, who's the Town clerk and was
3 at the time, was a lawyer?

4 MR. BRIAN BENTZ: I don't know if I
5 knew whether she was a lawyer or not at this point.
6 Subsequently, I did know --

7 MR. GEORGE MARRON: Okay. Well --

8 MR. BRIAN BENTZ: -- that she was not
9 a lawyer.

10 MR. GEORGE MARRON: Well, I'm -- I'm
11 going to suggest that, if -- if it were the Town clerk
12 who provided the opinion, you'd be misled if someone
13 states it was the Town solicitor?

14 MR. BRIAN BENTZ: Yes.

15 MR. GEORGE MARRON: You'd agree with
16 that? All right. And it goes on to say that:

17 "The Town solicitor provided a legal
18 opinion to the deputy mayor."

19 And you were examined on that earlier
20 by Ms. McGrann and -- I believe you were examined on -
21 - on it earlier, but the -- maybe I better -- could I
22 leave that? I -- I better look at that a little more
23 carefully. And you'd...

24

25 (BRIEF PAUSE)

1 MR. GEORGE MARRON: Let -- let me come
2 back to that, Your Honour. The other thing is, it
3 says here my -- if you look at the second sentence of
4 the first line:

5 "I wanted to be perfectly clear on
6 my understanding of the conflict
7 guidelines contained in the
8 Municipal Act."

9 And you're aware that there's a
10 distinction between the Municipal Act -- the Ontario
11 Municipal Act and the Municipal Conflict of Interest
12 Act.

13 MR. BRIAN BENTZ: M-hm.

14 MR. GEORGE MARRON: All right. And
15 the conflict that you were concerned in, on behalf of
16 PowerStream, was the Municipal Conflict of Act (sic)
17 concern.

18 MR. BRIAN BENTZ: Yes.

19 MR. GEORGE MARRON: So that's an error
20 as well then. And then it goes on in the
21 second paragraph, second line of that:

22 "I also wanted to provide some
23 background on the direction that I'm
24 proposing as it relates to public
25 messaging."

1 Then it says:

2 "Ed and I --"

3 You know, "Ed" would be Ed Houghton.

4 MR. BRIAN BENTZ: Yes.

5 MR. GEORGE MARRON:

6 "Ed and I have had detailed
7 discussions relating to the overall
8 proposal that I have prepared and
9 the contacts of involvement in
10 timing."

11 And that's -- that gave you notice of
12 the difficulty that you and I just went through.

13 MR. BRIAN BENTZ: Yes.

14 MR. GEORGE MARRON: Okay. Okay.

15

16 (BRIEF PAUSE)

17

18 MR. GEORGE MARRON: I'd ask you to
19 look at the final paragraph. And this is a suggestion
20 that's being made to you in this correspondence that
21 said: "I would purpose --" I'm suggesting it's, I
22 would propose --

23 "...PowerStream consider engaging my
24 company on a much broader level,
25 eliminating the potential accusation

1 that our business relationship is
2 somehow predicated on family
3 contacts."

4 All right? So did this statement cause
5 you any concern?

6 MR. BRIAN BENTZ: I gave that evidence
7 towards this earlier to Inquiry counsel and talked
8 about the fact that I didn't have a problem with the
9 statement because broadening the scope of the -- of
10 the engagement would assist us with the regional
11 consolidation strategy and that we -- you know, we
12 would -- we were willing to disclose the relationship
13 in any event.

14 MR. GEORGE MARRON: All right. And
15 you've told us -- I mean, your -- your consideration
16 was to err on the side of providing disclosure rather
17 than minimizing it or providing just what was standard
18 procedure.

19 I mean -- and Mr. McDowell went through
20 that with you in his examination that it -- that, you
21 know, if -- you could have basically proclaimed to the
22 Town Council what the situation is, I mean, as far as
23 PowerStream was concerned. You'd be quite content and
24 happy to do that. But that didn't happen in this
25 case.

1 MR. BRIAN BENTZ: Yes.

2 MR. GEORGE MARRON: Yeah. And I mean,
3 you're very busy, and you've explained to us what you
4 were doing at this point in time. And it ended up
5 that at some point, you delegated this whole issue of
6 disclosure and what was arising from it.

7 You had delegated that to Dennis Nolan?

8 MR. BRIAN BENTZ: Yes.

9 MR. GEORGE MARRON: Yeah. And --
10 well, your executive team, or was it someone specific,
11 like Dennis Nolan?

12 MR. BRIAN BENTZ: Mr. Nolan amended
13 the Compenso proposal to include the disclosure
14 language.

15 MR. GEORGE MARRON: Okay. Well, yeah.
16 He told us that he drafted the contract.

17 MR. BRIAN BENTZ: Yes.

18 MR. GEORGE MARRON: But I'm talking
19 about this generally. Did you -- this whole issue of
20 disclosure and providing some proof or to the effect
21 that what was going on or what was occurring, this
22 concerns the disclosure. Was this just something that
23 was generally given to you executive team, or was it
24 assigned to one person specifically?

25 MR. BRIAN BENTZ: It was the executive

1 team prior to the contract.

2 MR. GEORGE MARRON: Okay.

3 MR. BRIAN BENTZ: We worked
4 collectively on this.

5 MR. GEORGE MARRON: All right. So
6 Mr. Bonwick then could have felt free to talk to any
7 one of the executive team members.

8 MR. BRIAN BENTZ: Yes.

9 MR. GEORGE MARRON: And you indicated
10 to us that including you, there were five (5) --

11 MR. BRIAN BENTZ: Yes.

12 MR. GEORGE MARRON: -- members of the
13 team? Okay. All right.

14 And in fact, that's exactly what the
15 email correspondence indicates. I mean, there's --
16 you've got John Glicksman involved in this; you've got
17 Dennis Nolan involved in this; you've got, I think,
18 even Mark Henderson at one point. And they're all in
19 a position where they can freely communicate or
20 respond to Mr. Bonwick and his -- in Mr. Bonwick's
21 attempt to provide satisfactory proof of the
22 disclosure --

23 MR. BRIAN BENTZ: Yes.

24 MR. GEORGE MARRON: -- in the scope of
25 the disclosure. All right.

1 (BRIEF PAUSE)

2

3 MR. GEORGE MARRON: And then at the --
4 just to conclude this, Your Honour, there's the
5 statement made about two (2) or three (3) lines up
6 from the bottom of the -- of the email message. It
7 says:

8 "This approach would in no way
9 detract from the LDC opportunity
10 presently being discussed."

11 You see that?

12 MR. BRIAN BENTZ: Yes.

13 MR. GEORGE MARRON: All right. And --
14 but when you consider that statement in light of what
15 is said, it is in this regard that I'm considering
16 that you should engage my company on a much broader
17 level, eliminating the potential accusation that our
18 business relationship is somehow predicated on family
19 contacts -- this statement -- this approach would in
20 no way detract from the LDC opportunity presently
21 being discussed. It's -- what he's offering up here
22 is a bit of a fudge, isn't it?

23 In other words, let's make it a broad
24 engagement so that we can fudge the fact that, you
25 know, the focus is on the LDC of Collus, and we can

1 later on say, oh, no, no. This has got everything to
2 do with anything that PowerStream might ever want to
3 touch in the province of Ontario.

4 MR. BRIAN BENTZ: I didn't view it
5 that way.

6 MR. GEORGE MARRON: Well, did you --
7 did you look at it at all and consider that whether it
8 amounted to a bit of a smokescreen or a fudge?

9 MR. BRIAN BENTZ: I think I gave
10 evidence before that -- that I thought this had value
11 in terms of our regional consolidation strategy.

12 MR. GEORGE MARRON: Well no, I
13 understand that. But he's making the suggestion. He
14 wouldn't at this point in time have -- well, would he?
15 Would he have had a full appreciation of the strategic
16 plan of PowerStream?

17 MR. BRIAN BENTZ: We had conversations
18 about our strategy at the January 12th meeting. So
19 yeah, he would have been aware that we were looking at
20 a broader strategy. This is something that the
21 initial conversation I had with -- with Mr. Houghton
22 on December 3rd, he talked about it.

23 So I would have conveyed it to him at
24 that January 12th meeting.

25 MR. GEORGE MARRON: But he uses the

1 term that this approach would "in no way detract."

2 You see that?

3 MR. BRIAN BENTZ: Yes.

4 MR. GEORGE MARRON: Doesn't that
5 phrase give you some -- some difficulty along the
6 lines that I'm suggesting it would and looking at it
7 objectively? It's a smokescreen.

8 MR. BRIAN BENTZ: I think he's saying
9 that he would still provide, you know, service with
10 respect to the Collus transaction. It wouldn't -- it
11 wouldn't impact it.

12 MR. GEORGE MARRON: Now, this is --
13 this is an email, and it's sent the 20th day of
14 January 2011.

15 MR. BRIAN BENTZ: Yes.

16 MR. GEORGE MARRON: And when you
17 started having the difficulties in obtaining the proof
18 you wanted that disclosure had been made or, I mean,
19 did you -- did you think back? I mean, that was in
20 June -- early June, late May.

21 Did you think back to the 20th of
22 January and the fact that you had this and...

23 MR. BRIAN BENTZ: No.

24 MR. GEORGE MARRON: No. So it's
25 something you get in January, and the difficulties

1 that arise and ensue from late May and early June in
2 reference to the disclosure issue. They're five (5)
3 months apart at that point in time. Well, not quite
4 but -- well, they are. They're five (5) months and a
5 bit.

6 MR. BRIAN BENTZ: Yes.

7 MR. GEORGE MARRON: All right. All
8 right. Okay. I'm going to be a little while. I'm
9 going to moving on to another area. I anticipate
10 probably --

11 THE HONOURABLE FRANK MARROCCO: I
12 think -- I think actually we'd agreed to -- or
13 Mr. McDowell entreated us to stop at 5:00.

14 So it's four (4) minutes to 5:00. We
15 started at 9:00. We'll continue Monday at 10:00 in
16 the morning, I would have thought, rather than --

17 MR. GEORGE MARRON: Yeah.

18 THE HONOURABLE FRANK MARROCCO: Since
19 you're about to go into a different area anyway,
20 there's no point in getting started for three (3) or
21 four (4) minutes and then stopping.

22 MR. GEORGE MARRON: Yeah. And I'm
23 going to be a little while on Monday, as well. So...

24 THE HONOURABLE FRANK MARROCCO: All
25 right.

1 MR. GEORGE MARRON: Thank you.

2 THE HONOURABLE FRANK MARROCCO: All
3 right. I just give you that, Mr. Bentz, you should be
4 careful about -- I'm sure Mr. Watson is experienced
5 enough to have told you, but you can't discuss your
6 evidence. It could give rise to an improper inference
7 being suggested.

8 MR. BRIAN BENTZ: Understood.

9

10 (WITNESS RETIRES)

11

12 --- Upon adjourning at 5:00 p.m.

13

14

15 Certified Correct,

16

17

18 _____

19 Wendy Woodworth, Ms.

20

21

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23

24

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