

INTRODUCTION

Overview

On November 11, 2009, Mississauga City Council adopted a resolution requesting that the Chief Justice of the Superior Court of Justice appoint a judge to conduct an inquiry pursuant to section 274 of the *Municipal Act, 2001*. Chief Justice Heather Forster Smith named me to assume the role of Commissioner.

The Inquiry was asked to look into two broad areas: the first concerned issues in connection with the December 2000 Enersource Hydro Mississauga (Enersource) shareholders' agreement to which the city was a party. In 2000, Hydro Mississauga was newly incorporated and commercially restructured to become Enersource Hydro Mississauga, the second largest electricity supplier in Ontario. The second area involved the acquisition by the City of Mississauga of approximately 8.5 acres of land in the city centre (the City Centre Land). Commission counsel and I determined that, for efficiency, we would examine the Enersource questions in Phase I of the Inquiry, and the City Centre Land questions in Phase II.

In the course of their work, Commission counsel and our investigators interviewed nearly 100 people and collected about 35,000 documents. In the end 35 witnesses testified over 38 days of evidence.

I have found that errors were made in relation to the Enersource transaction. The city manager, David O'Brien, for example, failed to discharge his duty to communicate a significant change in the terms of the city's transaction

with Borealis Energy Corporation to Mayor Hazel McCallion and members of city council. I believe some limited changes to the city's practices need to be made, but I do not find it necessary to make extensive recommendations in relation to the good governance of Mississauga.

The actions of the mayor in relation to the City Centre Land and the proposed hotel and convention centre project raise significant concerns and require substantial recommendations. I have made these findings with a measure of regret. I acknowledge the mayor's unique history of public service to Mississauga and indeed to Canada. I believe that, to some extent, these issues have their beginnings in Mississauga's rapid growth from its origins as an amalgamation of several small towns led since 1978 by the same dynamic mayor. From what I have seen, the city's amenities and certainly its public service are first-rate.

What might be referred to as Mississauga's ethical infrastructure requires modernizing. The city and the mayor had for some time identified the construction of an upscale hotel and convention centre as an important public project for Mississauga. To achieve this end, Mayor McCallion caused negotiations to begin between the co-owners of the City Centre Land and her "preferred group" of purchasers, the corporation World Class Developments (WCD), in the fall of 2005. She was instrumental in attracting an experienced developer to join WCD. After the co-owners had closed their deal with WCD and economic conditions had softened, she exerted pressure on the co-owners to relax certain conditions. When a new investor became involved in WCD, she vouched for him and advanced positions on his behalf.

The mayor's son, Peter McCallion, was a participant in the WCD transaction from the outset. On any view of the evidence, he stood to gain substantially (with a potential upside of tens of millions of dollars) on the successful completion of the hotel and condominium project. The mayor knew at the very least that he was the real estate agent for the purchaser, a role that would, in one fell swoop, have earned her son more money than he would otherwise have earned over the course of many years. I have found that the mayor knew her son had a financial role which extended beyond acting as the purchaser's agent.

Notwithstanding Ms. McCallion's knowledge of her son's involvement, she promoted WCD at every step of the transaction. At one point she contacted the chief executive officer of one of the co-owners to orchestrate a meeting that she

attended with a senior officer of the co-owner and Mr. McCallion.

When the co-owners terminated the WCD transaction and litigation ensued, the mayor became involved once again. She dispatched David O'Brien, a former city manager, to seek a resolution of the litigation, notwithstanding that doing so placed him in an intractable conflict of interest. Mr. O'Brien was also acting as an emissary of one of the co-owners. For reasons that remain opaque to me, the CEO of one of the co-owners then settled the litigation without the knowledge of the other on terms that were quite advantageous to WCD.

None of the mayor's private actions on behalf of WCD was known to members of council, to municipal officials, or to the public at the material time.

Given her son's pecuniary interest in the transaction, it was improper for the mayor to repeatedly use her public office on behalf of WCD, from the perspective both of the common law and of common sense. The mayor ought to have given the WCD project a wide berth. A member of council cannot promote the financial interests of family members and must avoid any appearance of impropriety. Citizens have a right to expect that a mayor will act impartially and without favour, as the oath of office requires. It is no answer to say that a public office holder may advantage a relative to the extent that it is in the furtherance of the greater good. To sanction this principle could, over time, lead only to the erosion of public trust in municipal government.

I have found that substantive legislative reforms are necessary at the provincial level. I have also proposed changes to the Mississauga Code of Conduct and attempted to define a role for an integrity commissioner in Mississauga.

The Principles of the Inquiry Process

Setting Up the Inquiry

The design and operation of the inquiry process pose several unique challenges. The Terms of Reference, which define issues to be investigated and reported on, cannot be expected to advise on how to begin. I was fortunate in that I could look to my colleagues who have spearheaded other public inquiries for guidance.

To assist me in designing our approach, I considered the processes established in other inquiries. I am especially grateful for the clear and concise procedures outlined by Justice Stephen Goudge in his 2008 *Inquiry into Pediatric*

Forensic Pathology in Ontario Report. Justice Goudge recognized the importance of designing a process that best achieved “a fair, efficient, and transparent inquiry.”¹ He detailed his process in the anticipation that many of his ideas might be useful to subsequent public inquiries. For that I am most appreciative. I received considerable guidance, as well, from the inquiries conducted pursuant to the *Municipal Act* by my former colleagues the Honourable Ron Sills (Waterloo Judicial Inquiry – RIM Park Financing Agreements) and the Honourable Denise Bellamy (Toronto Computer Leasing Inquiry / Toronto External Contracts Inquiry).

Public Inquiries

A public inquiry in Canada is an official review ordered by government of specific events or actions. Its dual purpose is to establish the facts and the causes of the subject matter of the inquiry and to make recommendations that might prevent a recurrence of unfavourable features. A public inquiry is not a civil or criminal court of law, and the role of a commissioner is not to reach conclusions regarding the civil or criminal liability of any person involved in the subject matter of the inquiry.

By its very nature, a public inquiry is investigative in its approach. It encourages an open and public process. Every public inquiry is unique, shaped by its mandate, and while prior inquiries do provide guidance, each commissioner must design his or her own rules and procedures. That is a daunting task. Most commissioners of recent public inquiries have looked to three fundamental principles to guide the inquiry process: fairness, efficiency, and transparency. Commission counsel and I adopted these same principles and applied them at each stage of the Mississauga Judicial Inquiry process.

Background to This Inquiry

This Inquiry was conducted in two phases. Phase I focused on the Enersource transaction, and Phase II on the City Centre Land deal. My Report follows the same structure, and my analysis and findings for each phase of the Inquiry are reflected within the body of the Report.

The Inquiry Process

Appointment of Commission Counsel

One of the most important decisions I undertook at the outset of the Inquiry was to appoint capable and qualified Commission counsel to work closely with me through every stage of the process. As noted by Associate Chief Justice Dennis O'Connor, “[t]he commissioner appoints his or her counsel and it is often said, aptly I think, that a commission counsel becomes the alter ego of the commissioner.”²

I am privileged to have been able to appoint William McDowell of Lenczner Slaght Royce Smith Griffin LLP (Lenczner Slaght) as lead Commission counsel to represent the public’s interest at this Inquiry. Mr. McDowell’s considerable experience as a senior public servant in the design as well as the conduct of public inquiries made him a superior choice as Commission counsel. I am grateful for his advice and candour, as well as his insights, professionalism, and sensitivity. His marvellous sense of humour made our days in Mississauga a delight.

I was also fortunate to have two talented and dedicated counsel assisting Mr. McDowell. Naomi Loewith, also of Lenczner Slaght, acted as associate Commission counsel, ably assisting Mr. McDowell in leading evidence at the Inquiry. Yashoda Ranganathan, also of Lenczner Slaght, acted as associate Commission counsel. I am most grateful to them both.

Communications and Media Relations Officer

Peter Rehak was retained as the Commission’s communications and media relations officer. His wealth of experience with public inquiries and excellent media contacts made him an exceptional choice. His duties included drafting press releases, coordinating with the media regarding their attendance during the Inquiry, and responding to the media regarding the inquiry process. In addition, Mr. Rehak was responsible for overseeing the design and operation of the Inquiry’s media room and for designing and maintaining the Inquiry’s website. He also provided assistance to citizen journalists who sought participatory rights in the Inquiry.

Document Management

The Commission retained the services of Potter Farrelly & Associates (Potter Farrelly). Kearren Bailey acted as consultant and project manager for Potter Farrelly. Together with the IT team from Lenzner Slaght, Ms. Bailey and Potter Farrelly provided invaluable assistance to the Inquiry from its inception, through the public hearing phase, and afterwards during my preparation of this Report.

The Mississauga Judicial Inquiry is the first fully electronic public inquiry in Canada.* Ninety-eight per cent of all documents used during this Inquiry were created, stored, and exchanged electronically. At the hearing phase, evidence management was conducted in real time. The benefits of this process were evident in the speed and efficiency with which documents were found and presented electronically – a maximum of five seconds to display a requested document to the entire hearing room. In addition, the public gallery and the press were able to view the documents put to witnesses and tendered into evidence. This presentation was facilitated by Elizabeth Miller and Alex Parkes, who acted as e-court directors for the Inquiry, and by Jovana Velimirovic, e-court operator.

Parties granted standing were required to produce all relevant documents in their possession, as well as those having a semblance of relevance to the subject matter of this Inquiry. As a result, the Commission received a considerable volume of materials almost from the outset. In total, 6,373 records formed the Court Book, selected from approximately 35,000 documents submitted by the parties.

Document Management Software

Three applications were used for this Inquiry: Systematics Signature, Signature Court, and Transcend.

Signature

Signature is a case management and document review application. All documents delivered to the Commission by the parties with standing were entered into the Signature system and formed the Inquiry database. Members of the Commission team and the forensic consultants were provided with secure

* Other public inquiries have run electronically in the preparation stage but used paper for the hearing phase.

access to the database. This access allowed them to review, tag, and highlight relevant portions of the evidence and to collect documents used in the interviewing of witnesses and preparation of final witness statements. Signature was used to review all documents delivered to the Commission and to determine their relevance. Audit and statistical reporting was provided to show the review team's progress (the number of documents reviewed versus the number unreviewed or found irrelevant), as well as to indicate why documents had been coded by the review team in a particular fashion.

The Signature system was also used to create a detailed chronology of events, including the evolution of the Enersource agreement for Phase I of the Inquiry.

Once the Inquiry database was established, the Commission team identified and tagged all documents for import into the Court Book for the oral hearings for Phases I and II of the Inquiry. All transcripts, witness statements, and closing submission briefs were imported into the Court Book as well.

Signature's reporting feature allowed full statistical reporting regarding the documents delivered by each party, the number of records included in the Court Book, and the number of records tendered as exhibits during the hearing.

Signature Court

Signature Court is the title given to the court presentation and evidence management module of Signature. Fully secure and private access to the Court Book was provided to counsel for all parties with standing.

Signature Court has a number of useful features. It allowed for the display of evidence to the Commissioner, witnesses, all participating counsel, the public gallery, and the press room. An audit report of the displayed documents, noting the witness, time, and date, was generated. Full and contemporaneous evidence management allowed for exhibit numbers to be added to documents, as well as the witness, tendering counsel, and date. In addition, Signature Court became a repository for cited cases, Inquiry Rules and Procedures, participant details, the Inquiry calendar, and the Inquiry's email address. The system also allowed for the integrated import of additional hardcopy evidence as presented in the hearing room for immediate upload and display. This facility provided Commission counsel and me with great assistance during the hearing phase.

Transcend

Transcend is a transcript management application. Secure and private access was provided to counsel for all participating parties. Transcend was also used by the Commission team in reviewing all transcripts and in importing references for inclusion in the final Report. Transcend allowed members of the Inquiry team to see annotations made by other team members. It also allowed for annotations and coding of the evidence by issue. Through Transcend, the transcript of evidence provided hyperlinks to the exhibits.

Confidentiality Undertakings

All documents received by the Commission were treated as confidential, unless and until they became part of the public record as exhibits.

All summaries of the witnesses' anticipated evidence prepared for the Commission were also subject to confidentiality undertakings. The parties with standing were required to sign undertakings that they would use each witness summary for the purposes of the Inquiry only.

Infrastructure

Hearing Room

Hearings were conducted at 950 Burnhamthorpe Road West in the City of Mississauga (Burnhamthorpe site). The hearing room provided a large public gallery. There was also a separate media room adjacent to the hearing room, where those from the media were able to listen to the testimony and view the proceedings and documents via live video feed. As a result, they were able to observe the proceedings while speaking with each other or their offices, without disturbing the hearings.

The hearing room was able to accommodate approximately 18 counsel. Each counsel table had three electronic monitors that displayed the documents which were before a witness. I wish to reiterate my appreciation to the document managers for their assistance in this regard.

Transcripts were prepared daily by Wendy Warnock of TScript. The court reporter was Sue Kranz. The transcripts were posted on the Inquiry's website within an hour or two of each hearing date. I am indebted to them both.

The proceedings were televised live by Rogers Television. A live-stream feed was available on the Internet through the Inquiry's website. I would also like to

extend my appreciation to Rogers and its manager Jake Dheer for setting up a process by which interested members of the public who were unable to attend the Inquiry in person were able to watch on their televisions or computers. Rogers Television covered the entire Inquiry at virtually no cost to taxpayers. This availability in my view truly reflected Rogers' desire to serve as a community television network.

Offices

The Commission's working offices were located within the offices of Lenczner Slaght at 130 Adelaide Street West, Suite 2600, Toronto, Ontario. Contact information regarding the Commission's offices was posted on the Inquiry website.

The Commissioner and Commission counsel also had dedicated offices at the Burnamthorpe site, together with a large meeting room. These rooms provided an excellent working space for meetings among counsel and for witness preparation.

Mississauga Judicial Inquiry Website

It is my hope that the Mississauga Judicial Inquiry website will remain live for five years from the release date of the Report. Although my Report is intended to be comprehensive, the intrepid reader wishing to understand the breadth of matters under discussion, see everything a witness said on a subject, or read the technical wording of a particular document under discussion will find it all on the website that was created, maintained, and hosted by Djordje Sredojevic of Autcon.

Provision was made for those interested to watch the proceedings live on Rogers Television through the Commission's website. In addition, video of the proceedings was archived on the Rogers website and transcripts were posted on the Inquiry's website.

Terms of Reference and Rules of Procedure

On November 11, 2009, the Mississauga City Council adopted specific terms of reference as set out in Resolution 0271-2009. Following my appointment as Commissioner of this Inquiry, and following my appointment of Commission counsel, we established Rules of Procedure to guide this Inquiry's process. In the main, many of our rules were collected from other inquiries.

The Terms of Reference are reproduced at Appendix A, and the Rules of Procedure at Appendix B to this Report. They can also be found on the Inquiry's website.

Standing and Funding

Those persons, groups, corporations, or organizations who wished to participate in this Inquiry were encouraged to seek standing before the Inquiry. Requests for funding were made before me at the hearing on standing.

Applications for Standing and Funding

Our Rules of Procedure (Rules) required those wishing to apply for standing and funding to provide written submissions explaining the reasons for their request and to present their submissions to Commission counsel by Thursday, December 10, 2009. The Rules also ensured that I was able to exercise my discretion in considering subsequent applications. Each application was reviewed for confidentiality issues, following which it was posted on the Commission's website.

In addition to written submissions, all who applied for standing and funding were provided with an opportunity to appear in person before me to explain the reasons for their request. Oral submissions on the applications for standing and funding* were heard on December 14, 2009, at the Burnhamthorpe site.

Decisions on Standing and Funding

I delivered my Ruling on Standing on December 14, 2009, and it is attached as Appendix C to this Report. I granted standing to six of the nine parties who applied on the basis that those six had a substantial and direct interest in the subject matter of the Inquiry.

Pursuant to the Terms of Reference, I did not have the jurisdiction to order the City of Mississauga to provide funding for legal counsel. However, I felt it was my duty to make recommendations to the city regarding the issue of funding for certain individuals whose participation at this Inquiry was integral to my mandate.

The issue of funding in relation to one party, first requested on March 2, 2010, was raised again in a subsequent application on December 1, 2010. My

* Requests for funding were made before me at the hearing on standing.

rulings on both applications, delivered March 4 and December 3, 2010, respectively, were released and posted on the Inquiry's website.

Investigation

Document Production

Commission counsel strove to provide to both witnesses and parties with standing all documents that were likely to be referred to during examination of a witness at least five days in advance of that witness's testimony. In addition, with the assistance of the document managers, the documents were displayed via monitors at the counsel tables.

Before receiving any documents to be used during the Inquiry, witnesses and parties with standing were required to sign undertakings that they would use the documents for the purposes of the Inquiry only.

All exhibits filed at the Inquiry were posted on the Inquiry's website to provide the public with access to all aspects of the proceedings.

Witness Interviews

Commission counsel, as well as staff lawyers designated by Commission counsel, undertook to interview all persons appearing to have information or documents bearing on the subject matter of this Inquiry. Legal counsel for those interviewed were entitled, but not required, to be present during the interview process. To make the process more efficient and to remove any room for disagreement about what was said, interviews were transcribed with the consent of the witness. Almost all the witnesses consented. Copies of transcripts were maintained in confidence by the Commission, with a copy going to the witness and his or her counsel. I found this process to be an effective way of marshalling evidence about complicated matters in preparation of live testimony.

Following each interview, Commission counsel, or the staff lawyer to whom the task was delegated, prepared a summary of the witness's anticipated evidence. The witness (or counsel, where the witness was represented) received a copy of the summary for review and comment, following which it was shared with the other parties with standing at least five days before the witness's testimony.

A great number of people were interviewed by the Commission's investigators but were ultimately not interviewed by Commission counsel. In some

instances the matters of concern to those involved lay outside the Terms of Reference. In others, Commission counsel, after meeting with investigative staff, determined that the information did not advance the purposes of the Inquiry. I met with Commission counsel regularly during the investigative phase.

Notices of Alleged Misconduct

The Terms of Reference and the Canadian jurisprudence about inquiries do not allow me to make any findings of misconduct on the part of any person unless that person had received reasonable notice of the substance of the alleged misconduct and had been provided with an opportunity during the Inquiry to be heard in person or through counsel. My counsel issued a number of notices on a confidential basis.

The *Public Inquiries Act*³ was amended in 2009 to provide the following:

- 34(6) No finding of misconduct on the part of any person shall be made against the person in any report of a person or body conducting the inquiry after the inquiry unless that person had reasonable notice of the substance of the alleged misconduct and was allowed full opportunity during the inquiry to be heard in person or by counsel.⁴

This provision, as well as the balance of the *Public Inquiries Act*, has been in force only since June 1, 2011.

The Commission, nevertheless, followed this principle, given that such notices are issued by commissions of inquiry in order to conform to the common law principles of natural justice.⁵ These principles were incorporated into Rules 40 and 41 of the Inquiry and stipulated that notices would be issued on a confidential basis. During the course of the Inquiry, I directed that a number of notices be issued to witnesses coming before the Inquiry. Each notice was accompanied by a letter explaining the basis on which the notice was being issued. The recipient was assured that the delivery of the notice in no way signalled that any finding would be made against the witness. The witness was invited to respond by retaining counsel (most witnesses in any event had appeared with counsel). The notice recipient was also entitled to call further evidence or make submissions.

Commission counsel made every effort to issue notices of alleged misconduct

well before the recipient testified. I believe the process of providing notices worked well in this Inquiry.

Hearings

Documentary Evidence

The Inquiry collected approximately 35,000 documents and relied on a large number of them during the hearings. The document managers were present in the hearing room every day and were able to upload documents in a way that immediately enabled counsel to view them. In the course of the Inquiry, 726 documents were filed as exhibits. A List of Exhibits is attached as Appendix D to this Report.

Oral Evidence

All hearings were open to the public. I retained the discretion to hold hearings in the absence of the public where there were matters that might involve public security issues, intimate financial or personal details, or other matters where the desirability of avoiding public disclosure outweighed the desirability of an open hearing.* However, we did not encounter any situations where we felt it necessary to hold any portion of the hearings in the absence of the public. I directed in the standing and funding portion of the Inquiry that Peter McCallion be permitted to file a confidential affidavit concerning his resources and that he be cross-examined in private on this evidence. At the same time, Commission counsel was permitted to file any of this evidence that was relevant to the matters set out in the Terms of Reference.

As previously noted, the hearings were held at the Burnhamthorpe site. My opening remarks are attached as Appendix E to this Report. Scheduled hearing dates were set Monday through Thursday from 10 a.m. to 4:30 p.m. I would like to thank all participants for their commitment to our schedule.

Those testifying provided their evidence under oath or affirmation. Each witness was entitled to have his or her own counsel present while testifying, and this counsel was granted standing for the purpose of that witness's testimony.

Given that this Inquiry was conducted in two different phases, some witnesses were required to testify more than once.

* As per the Rules of Procedure, any party with standing requesting that any part of the hearing be held in the absence of the public was required to make the request in writing at the earliest opportunity.

Generally, the process involved Commission counsel calling and questioning the witnesses who testified at the Inquiry. The following order of examination was, in the main, followed by all parties:

- 1 Commission counsel led the evidence of each witness and was entitled to ask both leading and non-leading questions.
- 2 Parties with standing then had an opportunity to cross-examine the witness. The order of cross-examination was determined on the basis of the examining party's interest in the particular witness's testimony. In other words, the examining party with the greatest interest was permitted to question the witness later than other less-interested examining parties.
- 3 Counsel for a witness examined the witness last, unless he or she questioned the witness in chief, in which case there was a right to re-examine.
- 4 Commission counsel retained the right to re-examine last.

Counsel for a witness was entitled to apply to lead his or her client's evidence-in-chief. I granted the right to lead their evidence-in-chief to Mayor McCallion's counsel and to Peter McCallion's counsel. Michael Nobrega, CEO of OMERS, was examined in chief by OMERS' counsel, and Tony DeCicco was examined in chief by counsel to WCD. In these instances Commission counsel cross-examined with a view to challenging but also clarifying the evidence of the witness in important areas.

The expert witnesses provided their evidence as a panel, as discussed below.

In total, 35 witnesses were called and provided oral evidence at this Inquiry. Some witnesses testified during both Phase I and Phase II. Specifically, 10 witnesses were called during Phase I, and 25 during Phase II. All efforts were made to ensure that the transcripts and evidence were made available as soon as possible for public viewing and were posted on the website accordingly. A list of witnesses is found in Appendix F to this Report.

Expert Panel

The Commission was fortunate to have the assistance of three experts in ethics, municipal governance, and administrative law. Commission counsel recommended that we call our expert witnesses as a panel. Although not sworn, they provided their evidence together at the conclusion of the oral hearings. Having the experts provide their evidence in this way enabled us to

focus and elicit opinions on the main issues that needed to be addressed for the City of Mississauga. Much of their evidence provided important insight for my recommendations.

The panel was composed of Professor David Mullan, Dean Lorne Sossin, and Dr. Greg Levine. They testified on December 15 and 16, 2010. All three gentlemen are scholars with extensive experience in municipal government, notably as integrity commissioners.

Commission counsel questioned the panel as a whole, asking each witness in turn to comment on specific issues. Each party's counsel then had the opportunity to pose questions to the panel in general or to individual panellists. All counsel posed thoughtful questions in a non-partisan exploration of the issues.

Pursuant to the Rules of Procedure, a copy of any expert witness report was required to be served on all parties at least 14 days before the appearance of the expert at the public hearings. Professor David Mullan prepared a report, which was served on all parties in accordance with the Rules, was marked as Exhibit A in the Inquiry, and was made available on the Inquiry website. I am deeply grateful to our three experts for their insight, resourcefulness, and guidance.

Cross-Examination

Where documents were to be used in cross-examination (or otherwise), parties were advised in advance. The documents were then provided to Commission counsel, the witness, and parties with standing.

Mayor Hazel McCallion's Evidence

We recognized at the outset that Mayor McCallion's evidence had to be presented fairly and with as little inconvenience to her as a hands-on sitting mayor in a busy metropolis. We were able to accommodate the mayor's schedule, and her evidence was heard toward the end of each phase of the Inquiry.

Questions from the Commissioner

I did not hesitate to ask questions of witnesses and counsel to help clarify the testimony or submissions. I believed that seeking clarification, where needed, would help to focus the parties and counsel on the issues in which I was particularly interested.

Submissions

The parties with standing delivered written submissions based on a list of questions provided by Commission counsel, and a total of five days of the hearings were devoted to oral submissions, which were delivered at the end of Phase I and again at the end of Phase II. I sought further submissions from all parties concerning the mayor's gala and related events. That was done in the spring of 2011 through the production of further documents from the city and the development of an agreed statement of facts.

Addendum

The release of this Report was to some extent delayed in order to enable the Commission to consider an issue relating to the mayor's gala. As a result of concerns first raised by the media, it became evident to the Commission that evidence given at the Inquiry regarding the mayor's gala might have been inaccurate or incomplete. I therefore felt obliged to comment. Ultimately, an agreed statement of facts was entered into among the parties. That statement is attached as an Addendum to this Report.