

**ORIGINAL**

COURT FILE NUMBER: 1503-03309  
COURT: COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE: EDMONTON  
PLAINTIFFS: CLAUDE COLGAN, ERICKA CLARKE,  
DARLENE MACKENZIE, KURT LUCIA AND  
STEPHEN BUDDO  
DEFENDANTS: CANADA'S NATIONAL FIREARMS  
ASSOCIATION AND SHELDON CLARE

-----  
QUESTIONING ON AFFIDAVITS  
OF  
SHELDON CLARE  
SWORN THE 19TH DAY OF MARCH  
AND THE 23RD DAY OF APRIL, 2015  
-----

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EDMONTON, Alberta  
7 May, 2015

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(Undertakings are provided for your assistance.  
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according to your records.)

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SHELDON CLARE, AFFIRMED AT 1:06 P.M.,  
QUESTIONED BY MR. STOYANOV:

Q MR. STOYANOV: Good afternoon. I just want to confirm that you are the Sheldon Clare who swore an affidavit dated March 19th, 2015 and also on April 25th I believe, 2015?

A I thought it was 23rd.

Q It's hard to read. Yes, maybe 23rd, indeed.

A I am.

Q Okay. And I want to confirm also that you're here in two capacities, one in your personal capacity and an individual named in this application, and also as a representative of the Canada's National Fire Arms Association?

A I am.

Q And your answers you're going to be giving us on behalf of the, on behalf of Canada's National Fire Arms Association are binding on the association?

MR. HEINTZ: That's correct, sir. Insofar as the Rules of Court provide.

Q MR. STOYANOV: Can you give me some background as to the NFA, the National Firearms Association, when it was associated, incorporated, what happened in the early years?

A Well I wasn't there in the early years.

Q I understand that.

A I'm a historian, I suppose I could give you a history lesson if you have lots of time.

Q Just briefly please.

A Okay. The NFA was originally started in the 1970s by a fellow named Bill Jones, along with several other individuals who sought to make changes in Canadian firearms law. They were concerned about particularly laws originating from the 1960s, 1968 in particular out of the Liberal, then Liberal government. They were particularly concerned with the pending Bill C51 which would have come into force I believe in 1978, which among other things would have brought in the firearms acquisition certificate, would have created a prohibited class of firearms, restricted class of firearms and brought in a number of other strictures. The association was unsuccessful in preventing that legislation from moving forward and thus it became defunct for a period of time, after which it was reinstated under a slightly different name in 1984 by one of those founding members, David Tomlinson.

Q What was that name?

A The National Phoenix Communications & Information Association, Firearms Association,

it's not quite correct as I'm saying it but it would be a -- I might actually be able to give you a corrected version of that if I have a copy of that here, kind of a minute book or something.

MR. HEINTZ: Like he says Mr. Stoyanov, I think we've got it here in this binder.

A The National Phoenix (1984) Firearms Information and Communication Association (NFA).

Q MR. STOYANOV: And that was a non-share capital corporation under the Canada Corporations Act?

A I have no knowledge of that at that time, I was not a member.

Q Okay. And currently the name is Canada's National Firearms Association?

A That's correct.

Q And basically it was continued under the Canada Not For Profit Corporation Act on March 26th, 2014?

A 2014? I would have to have a look at the documents, but if you say so.

Q Fair enough. Now, the membership of the NFA, how do you go about becoming a member of the NFA?

A How do you become a member of the NFA?

Q Yes?

A Well membership in the NFA is available to people as stipulated in the bylaws.

Q Do they have to pay a fee of some sort?

A That's correct.

Q A membership fee?

A Yes, or there are other different classes of membership, for example there are business members and life members. Life members don't pay a membership fee. There's, seniors pay different membership fee. We have different categories of membership.

Q How do you become a life member?

A Well it's generally an appointment based on, there's a couple of ways you could, you could pay a life membership fee or you could be granted life membership by the board of directors.

Q Who appoints directors in the association?

A Directors are elected provincially under our current structure by members.

Q By the members, okay. What is the role of the directors?

A Well, it's, the directors are under various governance models and the governance models of course boards of directors tend to set their own patterns. But they do things like set



general policy, oversee those stipulations as contained in the bylaws for directors, I think they're spelled out fairly well in the bylaws what directors do. And oversee the affairs of the association.

Q And do you know who the current directors are by heart?

A Yes I do.

Q Okay, would you please state their names for the record?

A The names of the current directors?

Q Yes?

A Well, the current directors are myself, Sheldon Clare; Jarrold Lundgard. In British Columbia -- Jarrold Lundgard is in Alberta, Ericka Clark is in Alberta. Blair Hagen is in British Columbia. There's a Kurt Luchia from Saskatchewan, there is a Bill Rantz in Ontario, Darlene MacKenzie in Ontario and in the Maritimes we have Robert Bracket. Pardon me, Quebec has Stephen Buddo, and it also has Claude Colgan. I think that's everyone.

MR. HEINTZ: That's 10.

MR. STOYANOV: Very good, yes.

A I'm not able to count on my fingers I'm afraid.

Q The directors my understanding is, appoint the

officers of the association?

A The directors elect the officers of the association.

Q So you are the president?

A That's correct.

Q And Mr. Jarrold?

A Lundgard.

Q Lundgard is the secretary?

A That's correct.

Q Then Bill Rantz is the treasurer?

A Bill Rantz is the Ontario director and treasurer, that's correct, and there is a vice-president in British Columbia as well, which is Blair Hagen.

Q So the vice-president office was in British Columbia only or was it for the entire association?

A The executive officers would be elected for anywhere. He's the executive, or he's the vice-president for the entire association.

Q His name again is?

A Blair Hagen.

Q So that position isn't vacant currently, is it?

A No.

Q Now, all the directors must be voting members of the association?

A Directors, yes.

Q And is there something called an executive committee or an executive?

A Yes.

Q Can you explain what that sort of means?

A Those are presently the executive officers of the organization.

Q Now, in your affidavits there's a reference to the executive, this is paragraph 27?

A In which affidavit are you referring?

Q The March 19th affidavit, 2015.

A Paragraph?

Q 27?

A M-hm.

Q You speak of somebody trying to oust the duly appointed Executive with a capital E, I'm just trying to understand what you mean by that word Executive?

A I think if you look at my affidavit that on attachment E, I think the attachment speaks for itself.

MR. HEINTZ: Just for the record the witness is referring to Exhibit E Mr. Stoyanov.

Q MR. STOYANOV: Perhaps you can help me out, I don't see any reference to the term I guess "Executive" with a capital E, I just want to

understand what that really means, the executive?

A Sure, if you look at paragraph F and paragraph D as well as paragraph E, paragraphs D, E, and F I think that makes it pretty clear.

Q Okay.

MR. HEINTZ: Go ahead and explain.

MR. STOYANOV: Would you please.

MR. HEINTZ: Answer the question fully.

A Certainly. It says, and I mean I didn't write these particular minutes, but it would probably be best to question the person who did. But --

Q Sorry?

A I didn't write this, you'd probably best question the person who did.

Q Actually my question was actually much simpler. Who is the Executive capital E, is it the board, is it the officers, is it --

A The executive officers and executive committee of the association are generally referred to as the executive, they're one and the same.

Q That's what I was trying to figure out.

A Yes.

Q So the executive includes who precisely?

A It would include the president, the vice-president, the secretary and the

treasurer.

Q But not the directors?

A No.

Q Okay. And this is the same as the executive committee then?

A I believe that's what I said.

Q Okay. Just clarifying. Now, we discussed the manner in which the members of the executive are appointed by the directors?

A Elected.

Q Elected. Can you produce the minutes or any other record of the resolution that appointed the current members of the executive?

A Yes, it would be in the minute book. It would be at the annual general meeting in Vancouver of last year, at the directors meeting prior to the annual general meeting. Yes, we have it right here, nomination of the executive is listed on the last page of the minute, would you like me to read it to you?

Q May I have a copy of it?

MR. HEINTZ: Your office has been provided with a copy.

A It was unanimous and uncontested for any position. It's just after directors reports.

Q MR. STOYANOV: Does that resolution --

MR. HEINTZ: It's titled draft executive

meeting 2014, Mr. Knisely.

A That would be I believe on May 23rd, 2014.

Q MR. STOYANOV: Now, I know that it says draft executive meeting, were those documents ever finalized, how does that usually work?

A Well as you're aware, Roberts Rules of Order is one of our governing provisions and since these meetings don't take place on more than a quarterly basis these types of minutes are generally approved by the secretary and the president. They're not brought to the directors, they don't, aren't required to be. That's in Roberts Rules of Order in the, where is it here, on the 11th revised edition which is the current proper one. I think that's at page, I'm having trouble seeing with my glasses I'm afraid, I really should be wearing bifocals but, yeah, it's on page 474, 475, and it says, would you like me to read it for you, it's probably easiest?

Q Sure.

A When the next regular business session will not be held within a quarterly time interval, it makes reference to pages 89 to 90, and the session is not longer than one day or in an organization which there will be a change or replacement of the portion of the membership,

the executive order or committee reported for the purpose should be authorized to approve the minutes. The fact that the minutes are not then read for approval at the next meeting does not prevent a member from having a relevant excerpt read for information nor does it prevent the assembly in such a case from making additional corrections, treating the minutes as having been previously approved, etc. etc. I hope that's helpful. Would you like to have a look at it?

Q That's fine, thank you. I just wanted to confirm these draft minutes were at some point approved.

A I've approved them.

Q You have, okay. And when was that?

A I went through all of the minute books just recently on my visit here today, or actually yesterday when I was looking through them.

Q And that's when you approved them?

A That's when I approved them, yeah.

Q So the powers of the executive committee, is that up to the directors to define or are they set out in the bylaws?

A I think the bylaws are pretty clear about that.

Q Now, the association also employs a general

manager; is that correct?

A Yes it does.

Q What does that person do?

A That person administers and looks after our office and our office staff. That person is responsible for the good order of the NFA offices, in our case that person is also our privacy officer and supervises our bookkeeper and reports to me as the representative of the board of directors and the executive committee.

Q And who holds that position currently?

A That is held by Ms. Ginger Fournier.

Q Now, I was under the impression that she was supposed to report to the vice-president but I guess in the absence of a vice-president?

A In our bylaws the office of executive vice-president was one that we actually used to assign to the manager of the office, that, in our previous manager that person held that particular position. However, we had some problems with that person and the position as defined, so we decided not to utilize that position any longer. So that general manager was no longer, instead of having an executive vice-president who in effect was the general manager, we elected to have a general manager



who managed the office and those affairs and reported to the executive on behalf of the board of directors.

Q So the general manager has taken on some of the responsibilities that would ordinarily be the executive vice-president's?

A That particular section in the bylaw was designed for that particular person except we decided to no longer use that particular title for that particular position.

Q Okay. Now, where is the association's registered office?

A It's in Edmonton.

Q At 45th Avenue?

A That's correct.

Q 9683-45th Avenue?

A I don't know the address off the top of my head but if you're certain of it I'll accept your certainty.

Q Fair enough. And of course the association maintains its official records at that office?

A Yes.

Q So I'm going to read off a bunch of types of documents and I want to confirm that those are in fact kept at that registered office. One, the articles?

A The articles?

Q The articles?

A Can you be more specific the articles,  
magazine articles?

Q No, the articles in the sense of the articles  
of the association?

A Yes, as I understand it they're kept in the  
office.

Q And the association's bylaws?

A Yes, they're electronically kept, they're on  
our web site of course and our paper copies  
would be at the office as well.

Q All the amendments to the bylaws?

A Yes.

Q The minutes of the meetings of the members?

A Yes.

Q A debt obligations register?

A I'm sorry I don't know what a debt obligations  
register is.

Q Okay. Can you undertake to confirm whether or  
not --

A Yes, I could probably find that out.

MR. HEINTZ: Whether or not what?

MR. STOYANOV: A debt obligations register is  
maintained at the registered office of the  
association.

MR. HEINTZ: Can the first part of the  
undertaking Mr. Stoyanov, be to determine if

the debt obligations register is applicable to this association and if so.

- MR. STOYANOV: Certainly.  
MR. HEINTZ: If it's maintained.  
MR. STOYANOV: Yes.  
MR. HEINTZ: Thank you.

[UNDERTAKING NO. 1: TO DETERMINE WHETHER A DEBT OBLIGATIONS REGISTER IS APPLICABLE TO THE ASSOCIATION AND IF SO TO ADVISE IF IT IS MAINTAINED AT THE REGISTERED OFFICE OF THE ASSOCIATION]

- MR. HEINTZ: While, and I apologize while I'm interrupting your questioning, I should just qualify when Mr. Clare is testifying today that the records are kept at the office, right at the moment they're in your boardroom on this table, they're not physically there today.

- MR. STOYANOV: I understand that.

Q A register of directors?

A Yes.

Q A register of officers?

A Yes.

Q A register of members?

A Yes.

Q Accounting records?

A Yes, and they would also be with our accountant.

Q Annual comparative financial statements?

A Yes.

Q The report of the auditor or public accountant on the annual comparative financial statements?

A Yes, where such is available that's kept at the office.

Q Minutes of meetings of the directors?

A Yes.

Q And also minutes of the meetings of the executive committee?

A Yes.

Q Who is responsible at the association to prepare and maintain those records?

A Well the bylaws outline the responsibilities of the various officers, of course some of these, some of the administrative tasks are delegated to staff given that the organization is spread across the country as it is, and officers do not live in Edmonton or daily frequent the office. These things are held in the custody and maintained and looked after by the staff as delegated.

Q So for example the minutes of the meetings of

the directors and the minutes of the meetings of the executive, who at the office would be responsible for maintaining those and keeping them?

A The general manager.

Q Okay.

A Under the supervision of the secretary, who is not at the office.

Q Right. But that is done under the authority that's given to that person by the directors and the executive?

A Yes.

Q They sort of oversee things?

A Yes.

Q And are responsible for complying with whatever legal obligation there is in that respect?

A I'm sorry, you went a long way, I lost the train of your --

Q So the general manager acts on the instructions of the executive and the directors?

A That's correct.

Q As far as making sure that whatever legal requirement there is to keep records that that's being done correctly?

A Yes. They also take the role of telling us

when we're not telling them what we need to tell them sometimes as well, which is something that's quite valuable and important, particularly in a volunteer organization, to assist us in maintaining our fiduciary responsibility.

Q You mentioned you'd reviewed these documents just recently?

A I happened to be in the office so I made sure I had a good look at them.

Q Do you often do that or do you get a chance to review the documents on a regular basis?

A In the office, no.

Q But as it being generated or created throughout the years you would usually --

A I try to keep a finger on things, on the pulse of the things. I of course try to trust my people so I'm not micro managing in any sense of that word, it's not my management style.

Q But you're familiar with the nature of those documents and information they contain?

A Of course, yes.

Q Now, the records that I mentioned earlier all the minutes and the registers and those types of documents, do you have records that date prior to January 1st? Sorry, records between January 1st, 2009 to the present time?

A I believe we do.

Q How far back does it go?

A Well we have a gap I think from 2002 because we had some difficulties with staff in the office which were the subject of another legal matter, and I have my suspicions about where some of those documents went and are being held. And I've tried to take steps to locate some of them but we have a gap during a period of turmoil in the office where some of those records are not available.

Q What time period is that?

A It's about from 2002 to 2009.

Q But since then they're quite consistent and complete?

A Yes. I've tried to make that my role as being president is to professionalizing the office and making sure we're following procedures and making sure that we're following our duties and responsibilities as required by law, and required by good duty to care and fiduciary responsibility of the directors, and always with an aim to act in good faith.

Q And what sort of steps did you take in order to make this actually happen in practice?

A Well when I became president and we engaged, and we had a good team of directors, we tried

to make sure that as a team we appointed good people in roles of executive authority. We made some staff changes. We, one of the people we hired was Ms. Fournier, on the recommendation of one of our consultants at the time, and we proceeded to move our offices from where they were previously, which was a dismal, moldy, filthy little place with torn carpets and burgundy paint on the walls, and just a general horrible horrible place. I found my nose clogging when I came into the place. It was upstairs, it was inconvenient for wheelchair access, it was not what was in the vision of anyone who had been there as to the public face of a national organization. And one of our first instructions to our new general manager was to ensure that she found us suitable lodgings commensurate with the status and needs of the organization, with the goal of providing a happy, productive work place that would be running in an efficient manner commensurate with the needs of the membership, the directors, the executive and the Canadian firearms public frankly.

Q Now, are you aware of any missing documents from that time period or afterwards?

A Oh, I was not aware that earlier documents



were missing until about a year or two later I had been told that we had some problems with a couple of staff members who were long since departed from us, who were let go. And they had been responsible for maintaining documents and looking after them, doing bookkeeping and so on, and the parting was not an amicable one and unfortunately a lot of documents went missing. There was also an executive officer at the time who had to be removed from the organization who was, subsequently had his accountancy designation removed due to bad practices, not related to our particular circumstances, but to other practices and complaints. It's a matter of public record. And we did get some fragments of documents through a director from him which were really not all that helpful, so we did try to take steps to reconstruct those, and we still try to find out where those went. But with the rebranding, development of new bylaws we established a new organization and tried to make sure we could move forward with vigor and with good intent to make sure that that kind of nonsense never ever happened again.

Q Now, so as of recent things have been normal as far as record keeping and --

A We try to do the best we can. We've had a very consensus driven board for the most part, our board has not been one to engage in negativity. Our board, while we've had good discussions, some points of disagreement, we usually come to a consensus and move forward based on that.

Q Has anything changed in the past several months as far as the way you keep records, particularly since February 24th, 2015?

A A change in the way? Well we've become a bit more rigorous about ensuring our transcripts of our meetings are properly documented and in keeping with the requirements of our bylaws in the -- I should point out one thing, one of the things that is a practice and again I refer to Roberts Rules of Order, is the practice of custom, and this has to deal with a particular, if I may indulge, and I refer to page 19 of the 11th edition Roberts Rules of Order newly revised: In some organizations a particular practice may sometimes come to be followed as a matter of established custom. I might interject, the taping of our meetings we wanted to make sure we had good transcript capability of our meetings if it was needed to refer back to points. To continue: So that

it is treated practically as if it were prescribed by a rule. If there is no contrary provision in the parliamentary authority or written rules of the organization the established custom should be adhered to unless an assembly by a majority vote agrees in a particular instance to do otherwise. However, if a customary practice is or becomes in conflict with the parliamentary authority or any written rule, and a point of order, referred to in 23, citing the conflict is raised at any time, the custom falls to the ground and the conflicting provision in the parliamentary authority or written rule must thereafter be complied with. If it is then decided to follow the former practice a special rule of order or in appropriate circumstances a standing rule or bylaw provision can be added or amended to incorporate it.

Q Now when you said you made those changes recently, when did that actually happen?

A Well there were several requests for information and the requests for information were perfectly reasonable and legitimate, and this necessitated the need to ensure that the taped transcripts of our directors meetings

were put on to paper in minute form so that they could be available to those who had requested them. Now this of course does take a bit of staff time, effort and so on but we made efforts to ensure that we could meet with those particular requests.

Q Okay.

A Acting of course in the best interests of the organization and in good faith.

Q Now, does anybody take notes or minutes of the meetings in writing during those meetings?

A Yes. In some instances where there have not been taped transcripts, and I confess that I'm a bit of a fumble finger sometimes with pushing the right buttons on some of these electronic teleconferencing material, then the secretary or a staff member would take the notes and then they would be transcribed into minutes. The secretary of course retaining responsibility for an accurate transcript or an accurate minute of the meeting.

Q And those minutes are, those records are kept at the registered office?

A Yes, they're provided to the registered office when whoever has been responsible for writing them down has been able to do so.

Q And the audio recordings, are they kept as

well or are they discarded once they're transcribed?

A We keep them all.

Q How far back does that go?

A As long as I've been president.

Q The audio recording?

A Yes.

Q Again when did you become president?

A In 2010. We had no such style or manner of doing things before that, not that I'm aware of, anyway.

Q Okay. Now, you had mentioned there had been some requests for information from members or directors that sort of caused you to make those certain changes?

A Yes. We saw that a continuation of our practice had been questioned and as that's the case, well okay, if you want this stuff we're happy to provide it.

Q Very good. I know that Miss Ericka Clark had made a request of a similar nature on February 27th of this year?

A I think I read something to that effect in her affidavit.

Q Okay.

A If you could refer to me where that was.

MR. HEINTZ: Mr. Stoyanov, if it assists,

Miss Clark's affidavit of March 6th, 2015 references the date February 27th, 2015 at paragraph four.

A Paragraph four, yes.

Q MR. STOYANOV: So if you look at that same affidavit, Exhibit A, there's an actual letter?

A Yes, I see that, from Ericka Clark.

Q Do you know who may have received that letter?

A It wasn't sent to me.

Q Okay. She swears it was sent by recorded mail to the registered office.

A Well if she says so and swears so I have no reason to doubt that that would be the case.

Q Is there one particular person at the office who is responsible for receiving correspondence?

A Well our general manager generally picks up the correspondence and distributes it accordingly.

Q Alright.

MR. HEINTZ: I'm just going to refer the witness to Exhibit B of Miss Clark's affidavit Mr. Stoyanov, you're questioning about delivery and your client has testified about delivery in her affidavit.

Q MR. STOYANOV: There's a signature in that

signature box, and there's also --

A Picked up the 2nd month, 27th day, 2015 at 14:18 hours.

Q And then further down it says POD Eric?

A Eric would be one of our staff members at the office.

Q Now have you seen this letter before Ms. Clark served her affidavit?

A I don't recall seeing it before. I notice it also says it was delivered on the 2nd month, 27th day, 2015 at 16:12 hours, it's by, what is it, it has a company name, Axe Express Inc., you have all this I guess.

Q Yes. So you don't really know who received that request, that written request by Ms. Clark?

A You would have to ask someone who received it, I didn't receive it. I can't tell you about things I have no direct personal knowledge.

Q That wasn't, so nobody sent this letter to you at the time?

A No. I don't recall seeing this letter. But I do get a lot of email.

Q Now, Ms. Clark has stated in her affidavit that she attended the registered office of the association on March 2nd to inspect those records.

MR. HEINTZ: Can you just refer the witness to the paragraph you're talking about, sir.

Q MR. STOYANOV: That would be the affidavit sworn on March 6th, and on page two paragraph six on Monday March 2nd.

A M-hm.

Q On Monday, March 2nd, 2015, 9:00 a.m.: I attended the registered office of the association and met the association's general manager Ginger Fournier. Did Miss Fournier advise you of Ms. Clark's visit?

A She advised me of the visit, I don't know, I don't recall if it was on that day or another day.

Q Was it shortly thereafter, was it a week later?

A I'm not sure. That's March 2nd, that's a couple months back in my life at a very busy time.

Q Did Ms. Fournier ask for any guidance or directions from you with regard to Ms. Clark's request?

A No, I don't recall anything like that.

Q So did you at some point authorized or direct anybody to do anything with respect to the request by Ms. Clark?

A I've always instructed that everyone should



have any information that they're entitled to have and certainly directors of the association are entitled to have information.

Q So actually, now, do you say this in general to everyone?

A Yes.

Q Or was it you actually make that statement with respect to a specific request by Ms. Clark?

A I don't recall what specific statement I may have made but I certainly would not have been standing in the way of any of those records being given to Ms. Clark or anyone else entitled to have them.

Q Right. But you had discussed Ms. Clark's request with Miss Fournier?

A I'm sure I did at some point, but I don't recall.

MR. HEINTZ: Well at what point Mr. Stoyanov, I mean it's the subject matter of a lawsuit, obviously he's talked to her about it.

MR. STOYANOV: I'm just trying to figure out at what point did you give directions to Miss Fournier about Miss Clark's access to the records?

A I couldn't say for certain.

Q Now, at some point your lawyer's office forwarded documents to our office, was it at that time that you authorized the release?

A I think I've answered the question.

Q You answered that you don't remember?

A I don't recall the time or date of that, no I don't. It's not in the detail that would appear important to me at any point in time. I'm a very busy person you see.

MR. HEINTZ: If it assists, Mr. Stoyanov, we could undertake to make inquiries of the office.

MR. STOYANOV: If you would maybe undertake to provide correspondence between Mr. Clare and the staff of the registered office with respect to any instructions or discussions regarding Miss Clark's request for the production of documents.

MR. HEINTZ: Can we do that?

A Certainly, of course, happy to cooperate.

MR. STOYANOV: That would be very helpful, thank you.

[UNDERTAKING NO. 2: TO PROVIDE  
CORRESPONDENCE BETWEEN MR. CLARE  
AND THE STAFF OF THE REGISTERED  
OFFICE WITH RESPECT TO ANY  
INSTRUCTIONS OR DISCUSSIONS

REGARDING MISS CLARK'S REQUEST  
FOR THE PRODUCTION OF DOCUMENTS]

- Q MR. STOYANOV: Now Miss Clark, that's paragraph 7 of her affidavit, says that she wasn't able to inspect any documents on that day. What is your understanding why that happened, or didn't happen?
- A Well I would suggest that it's probably due to the busy nature of our office. It's a time when renewals are particularly heavy, there's a lot of work coming in and I think it's not that particularly easy to suddenly be running around gathering documents together at a moment's notice. I think that a reasonable thing to do is make an appointment and come back at a later time when such things could be provided.
- Q Have you got a policy in place regarding such things?
- A I don't think such a policy is written, I think it's just a matter of reasonable practice.
- Q But there is no dispute as to Miss Clark's right to have copies of documents?
- A I don't dispute that, no, of course not.
- Q Now, do you give more latitude to directors of the association as far as access to records to

members?

A Of course. I wouldn't say that I give more access, I think that the access exists independent of what I do.

Q And again you're here to testify on behalf of both yourself and the association so I guess my question in this respect was the association?

A I wasn't clear as to that.

Q Fair enough.

A Yeah.

Q What does a director need to do in order to have access to those records?

A Well I think that part of the thing is to attend at the office, is part of that. As with many organizations it's not a very easy thing to be shipping records around the country. We have directors all over the country and to be shipping documents in this sort of form, which are like minute books and sort of thing should not be leaving the facility. I think that the opportunity is to have them in the office. I think in our bylaws the, and you could look this up and see it, I hate to go off the cuff in such references but the general idea of holding the meetings is done in Edmonton except as

otherwise authorized by the board of directors and the board of directors set annual general meetings in a number of other locations some time ago so as to provide opportunities for members to have access to the organization. And certainly providing that access means that we try to do what we can to make sure people have that information.

Q Okay. And you had suggested that it will make sense to make an appointment?

A Yes.

Q Come back later, what sort of time frame would you say is reasonable?

A I would suggest that that would depend on the requirements of the office and staff and everything else that happens at the time, as well as the ability of the particular director to be able to come by and see it. It would kind of be a mutual discussion I would think. When is good for you, that sort of thing, well how about this day at this time, you know, a little bit of back and forth might be able to resolve such a thing quite easily. I would think, I don't think that there should be a need for a micro management of such a thing.

Q But still are we talking about a week, a month, two months?

A I think that given the particular request and the need to have some documents transcribed or taken from transcription, I think that there, in some respects there would be a need for some delay for some of the records, not for all of them.

Q Now, Miss Clark says that Miss Fournier had indicated she would attempt to prepare the records that afternoon or the following day, that's paragraph 7 of Miss Clark's March 6 affidavit?

A But that would be something to ask Miss Clark about I guess, if she says that's so I suppose it's so.

Q I'm just trying to see whether --

A You're questioning me on someone else's affidavit.

Q That wasn't my question, I was just reading it out. My question is this, do you think it's more reasonable to have this sort of request answered within the afternoon or the following day, or to wait two months?

A I think that it depends on the abilities of the organization to be able to produce the documents when they have the ability to do so. If we have to take things from transcript I think that takes a bit more time. If there's

a need to bring in extra staff, we have a very small office with very few people, we take a lot of phone calls on a daily basis. We have requirements to be responsive to our membership and to ensure that their needs are met, and I think as directors and officers of the association we have to find our place in the queue sometimes.

Q Of course I'm just referring to documents that are already kept at the registered office.

A Yes.

Q So they're there already, I presume?

A But there could be some need to pull some out, look at computer files, pull things together, this all takes time.

Q How much room do those records take on a shelf?

A We have some of them right here. I think that the thing, it could be easily determined and gotten to you, I don't have a measure of the shelf or anything like this.

Q Is it several binders, is it 20 bankers boxes?

A Well we have lots of bankers boxes I can assure you.

Q And those contain what sort of documents?

A All sorts of records, batching, membership data. We have, I think I was told we produce

something like, and I could be incorrect about this, but something like 20 per year.

Q But now when I was referring to the documents that are kept and maintained at the registered office, the articles, the bylaws, the amendments to the bylaws, the minutes, the various registers of directors, officers and members, the accounting records, the minutes, those, I can't imagine they're kept in bankers boxes?

A No. No, they would be bound or on computer records. The administration of those is not my purview, the administration is with the staff at the office. And the ability to determine the staffing needs and so on with regards to a specific request or demands is that I think there's a discretion within the office as to how to best allocate time. I don't micro manage the time of our general manager nor of the staff in the office.

Q And I wasn't asking, so no. I'm just trying to get at this, these documents are easily identifiable, you had reviewed them just recently, so I'm just trying to figure out whether it's not possible to simply tell somebody go ahead have a seat and go at it, here is the records?



A I'm not privy to the particular circumstances in the office on that day at that time when Miss Clark came by. But I do understand that it was a very busy time and there were other things that were taking priority.

Q When you reviewed those documents did you have to wait a long time to get access to them, do you have to make an appointment yourself?

A Yes, I did.

Q How far in advance did you make the appointment?

A Well I think I made it last week. When I found out I was coming to Edmonton.

Q Was there a meeting on March 2nd of the directors of the association?

A March 2nd?

Q Yes?

MR. HEINTZ: Are you referring to a particular part of Mr. Clare's affidavit Mr. Stoyanov, or affidavits?

A It does sound familiar as a date for a meeting. I would have to check our minutes to be sure.

Q MR. STOYANOV: I'm referring to a document titled draft minutes of directors teleconference March 2nd, 2015. It should be in the binder.

MR. HEINTZ: I just need you to relate that to the affidavit that you're questioning on, sir.

MR. STOYANOV: It relates to the production of documents.

A Which paragraph?

MR. STOYANOV: And the ability to inspect documents.

A I don't see anything about it in my affidavit.

Q Well it's in the affidavit of Ericka Clark on March 6th, there's a reference to a board of directors, that's paragraph 19.

MR. HEINTZ: Right, but it's not in Mr. --

A That's not in my affidavit.

MR. HEINTZ: In Mr. Clare's affidavit.

MR. STOYANOV: That is correct. What is your objection, I don't understand?

MR. HEINTZ: I was just asking you to refer the witness to the part of his evidence that you are questioning him on, that's all. It's questioning on affidavit, you're bound to the four corners of the affidavit.

MR. STOYANOV: Not the four corners.

MR. HEINTZ: It's not a questioning at large Mr. Stoyanov, certainly you agree with that.

MR. STOYANOV: Well it's relevant because it

concerns the events which led to Miss Clark trying to attempt to obtain those documents, so it's very much related to everything.

MR. HEINTZ: It has to be founded in Mr. Clare's affidavit, so if you can find a takeoff point for that I'd be obliged.

MR. STOYANOV: Okay, let's take a few minutes then. Off record please.

(OFF RECORD DISCUSSION)

Q MR. STOYANOV: I just refer you back to that draft minutes of the directors teleconference March 2nd, 2015?

A Yes.

MR. HEINTZ: He's got it in front of him.

A I have it in front of me now.

Q MR. STOYANOV: During that meeting Darlene MacKenzie proposed and Ericka Clark seconded a motion, or several motions including requiring the secretary to forward his original notes of meetings to the board, meetings of the board and the executive committee to the general manager for distribution of copies to all directors?

A May I correct you on your --

Q Yes.

A The motion was to add that following list to the agenda, that's the only motion that was

made by Darlene MacKenzie at that point. And the motion was defeated.

Q Okay. How did you vote?

A I voted against.

Q And what was your reasoning for that?

A Because I didn't think that that was going to be productive in what was intended to be a meeting of moving forward in a positive way. Especially when the first item on the particular thing was to withdraw support for me as president. It didn't look like something that was going to be very productive or helpful to have a productive meeting. It was also the agenda was set before the meeting. And I'm not the only one that voted that way, as you can see.

Q Now, do you always stick to the agenda as it had been prepared in advance of those meetings?

A We try to.

Q Try to?

A Sometimes things come up, sometimes people want to add things to the agenda and they make a motion to add them and they're accepted or not. In this case it wasn't accepted.

Q Was it your opinion that Ericka Clark should not be permitted to inspect or take copies of

those records?

A I believe I've already answered that.

Q As far as this motion was concerned was it simply a matter of scheduling the agenda?

A The motion was adding it to the agenda, that has nothing to do with that motion. That would be getting into a discussion of the points on the motion.

Q So your voting against it was simply a procedural matter?

A Yes.

Q Are you aware that on March 25th, 2015 Ericka Clark attended the registered office again to inspect the register of members?

A March 25th you say?

Q Yes.

A Is there some reference to that in my affidavit there?

MR. HEINTZ: Can I assist to refresh the witness Mr. Stoyanov?

MR. STOYANOV: Please.

MR. HEINTZ: That's the date that Ericka went to the office after Adam and I had agreed she could go.

A Oh, okay, yes, I understand that that happened, yes.

Q MR. STOYANOV: So you had discussions with

Miss Fournier about Miss Clark's visit?

A I think I probably did.

Q Do you know if Miss Fournier was providing assistance to Miss Clark?

A I'm sure she was.

Q Would she ordinarily be there overseeing?

A If she was there at the time. Her hours are such that she arrives early in the morning and leaves mid afternoon.

MR. HEINTZ: It was arranged between counsel, it was agreed that she be there.

A Yes.

Q MR. STOYANOV: Now, these records are kept on the computer I take it?

A Which records in specific?

Q The register of members?

A Yes.

Q So how does one get access to it, does Miss Fournier control the computer?

A She is the privacy officer as well, so she has responsibility for the custody of members' private information. We take members' information privacy extremely seriously. We have an organization by its very nature who are people who tend to be very protective of their personal privacy and their records, so we've, we wrote a privacy policy, I think in,

I'm going to, it's on our web site, the date of it escapes me but it might have been 2010 or 2009, something like that regarding our privacy policy. So she has custody of that list in the office, yes.

Q So Miss Fournier as she's giving access to the registered members would be withholding certain information or just providing it?

A No, she would give her access to everything.

Q So she will allow the person to sit at the computer and have at it?

A Sure, as long as it's not making any changes. You can't be changing things so that's one of the, certainly have to supervise that. I understand that that's what the case was, that she provided, was able to do that.

Q Now, we've received some records from the association, has the association provided copies to the applicants of all of the official records that it has?

A Pardon me, of which specific official records? We have thousands of records.

Q I'm referring again to the list that I referred to earlier, the articles, the bylaws, the amendment to the bylaws, the minutes of meetings of the members, the debt obligations registry if it exists?

A To the best of my knowledge we've met our requirements to provide all information that was requested.

Q Let's talk about the bylaws.

A Pardon me?

Q Let's talk about the bylaws of the association. We'll mark this as an exhibit.

MR. HEINTZ: Can I have a look at it first.

MR. STOYANOV: Certainly.

MR. HEINTZ: Thanks.

MR. STOYANOV: July 29, 2013 regarding changes to the general bylaws.

MR. HEINTZ: No objections here.

[EXHIBIT 1: Letter dated July 29, 2013]

Q MR. STOYANOV: Now, I'm looking also at a draft minutes of the director teleconference July 31st, 2013 which I believe refers to those same changes in the bylaws, there's a copy of that for your inspection.

A Right, yes.

MR. STOYANOV: Could we mark this as Exhibit 2.

MR. HEINTZ: No objection.

[EXHIBIT 2: Draft minutes of the director teleconference July 21st, 2013]



MR. STOYANOV: If you could sir, review those minutes and let me know whether that's a fair representation as far as your recollection of them, of the meeting?

A Your question again?

Q Do those minutes represent a fair, are they consistent with your recollection of what happened at the meeting?

A They seem to be a fair representation of it, yes, as best that I can recall. It's a long time ago.

Q Do they happen to exclude any significant information or actions taken at the July 21st meeting, 2013?

A I don't think they do.

Q Now, did you provide notice, written or emailed of that meeting to the directors?

A Of this meeting?

Q Yes?

A Yes.

Q Can you undertake to provide that please?

A If I still have it. I cleaned out my email.

MR. HEINTZ: Best efforts.

[UNDERTAKING NO. 3: To provide a copy of the notice to the directors of the July 21st, 2013 meeting]

A I try to keep my, like I say I get lots of email and my file builds up, and sometimes I send things from work and they tell me that I have too much email and things have to be deleted.

Q MR. STOYANOV: I do have an email from July 30th that relates to that meeting, I'm going to show it to you and hopefully enter it as an exhibit as well.

A Okay. You also have the earlier one below it looks like. Or no, that's just a pasting -- oh no, that's the earlier thing.

Q Sorry what is an earlier thing?

A It looks like you have that here just without the header information. It doesn't have the date on which it was sent.

Q Alright.

MR. HEINTZ: Can I interrupt, I just want to take a look at it. I just want to know if the undertaking has been satisfied. We've got a July 30th email, which is a reminder and at the bottom of the first page of the document that I handed the witness it says: Hello, in accordance with bylaws 26 and 44 I wish to give notice of a meeting to be held on Wednesday, July 31st at 6:00 p.m. and so on.

It would appear Mr.

Stoyanov, I'd appreciate it if you'd confirm with the witness that that would satisfy undertaking #3.

MR. STOYANOV: It does appear to reflect some sort of a notice but I'd like to know what date that was sent on so if you could please find the original email.

A I'll do my best to find what we're looking for.

MR. HEINTZ: We know what we're looking for.

Q MR. STOYANOV: So what brought about the need to amend the bylaws?

A Pardon me?

Q What brought about the need to make those amendments?

A I believe bylaws are a living document. One of the things that came up is that it came to my attention that we hadn't actually sent in bylaw changes that had been made in 2010 and that had been sanctioned at a subsequent meeting of members and that that had just not been properly sent in. And when I became aware of that I wanted to make sure that we took the appropriate steps to make sure that was done. As well we had some other changes that we needed to do to better try to reflect

some of our practices because it became apparent that some of our practices were in conflict with our bylaws and I could foresee that there could be difficulties were we to continue with the practices that would appear to be not in accordance with the bylaws. So when that happens in an organization my experience is that perhaps it's time to make amendments to the bylaws, so what you do is you see what you need to do, put it together and propose it.

And at the time I recall believing that there were two processes for amending bylaws, and one of them was director driven and the other was member driven. And that the processes still required a general approval of the members but that when you do it you go through it and get it, you get it done by going through the directors first. That's usually a pretty good survey as to whether or not things were happening. I think the content of them speaks to the circumstances but I think what we were trying to do, we were trying to do in looking at these bylaw changes was to reflect the practices we were actually following to bring them in line with our bylaws.

Q So you would change the bylaws to match what had been practiced?

A To what actual practice is, like in keeping with the custom issue because it's fine to adopt a custom but if the custom is in conflict with the bylaws something needs to change. Either you drop the custom or you change the bylaw at some point and that, you know, that's when it's brought up. For example at an annual general meeting or a directors meeting if someone says well, you know we're actually not doing this, we probably should look at changing this or we should stop this practice and do something else, right, so you try to collaboratively look for the best practice and solution.

Q So --

A To act in good faith, to act in fiduciary responsibility of the directors with regards to the operations of the organization.

Q You mentioned the director driven process, is that what you --

A Yeah.

Q -- used to get these bylaws amended?

A Yeah.

Q So what is the, sort of the procedure that you have to follow to do that?

A Well in our bylaws as they stand there is an amending process, I think the bylaws are clear on that, I'm sure you're familiar with that, you probably had a glance at it. And it does refer to them at section 44 which is specifically titled the amendment of bylaws, and it talks about enacting by a majority of members and then sanctioned by an affirmative vote.

MR. HEINTZ: I'm just going to interrupt you Mr. Clark, because Mr. Stoyanov is looking for the record.

A Oh, I'm sorry it would be at paragraph 44 almost the penultimate page of the bylaws.

Q MR. STOYANOV: So these were the bylaws which were in effect at that time?

A These were the bylaws as amended from 2010 which are the current operating bylaws.

Q You mentioned that you realized that some documents which had been filed in 2010 or had which had been created?

A Well they'd be created, voted on, approved by the members, all of the process had been followed except they hadn't been filed. It doesn't change their validity or anything, it's a process that's supposed to happen. So we were taking steps to do that and

concurrently we thought if we're doing that we may as well look at some other things as well. Although I believe we -- well, I'll let you continue.

Q So following the July 31st, 2013 meeting of the directors?

A Right.

Q Your understanding is that the NFA had completed the amendment process in respect to the bylaws?

A Well no. I understood that we also had to take the bylaws to membership for sanctioning. They had to be sanctioned at some point. I think I've got an answer there that looks on the face of it confusing, to question by Phil, but I think it's probably a very poorly composed response. It says no they do not. The bylaw NFA -- it says, the question is: If we all agree on these changes do these have to go to the members for ratifications. And my response there, or the response there is no they do not. In NFA bylaw process we are able to make changes, we do let the members know, the members have to approve the bylaws in the general form, they do have to go to Industry Canada. We have some bylaws that were made a few years ago that were never reported to

Industry Canada and we've been negligent in getting those forward. So we were trying to take corrective action here to correct a deficiency.

Q Now, do you know if the 2010 bylaws had been consented to by the membership?

A Yes they were.

Q Or ratified, okay?

A Well sanctioned I think is the term used in the bylaws.

Q Alright.

A There's ratified and sanctioned, I suppose could have different meanings at different times. I think the bylaw says sanctioned if I remember correctly.

MR. HEINTZ: 44.

A Is it 44? Yes, that's right, sanctioned by an affirmative vote of at least two thirds, that's right. And it says may be enacted by a majority of directors at the meeting of the board of directors.

Q MR. STOYANOV: Now, there's, back to Exhibit 1 which is the July 29th, 2013 letter to Corporations Canada regarding the amendments, was that letter actually sent to Corporations Canada?

A I believe it was. I think the date on it is



incorrect however.

Q That was my next question because the meeting was on July 31st, correct?

A Yes. Silly to have a meeting that takes place before.

Q Now, this is kind of important, do you recall, do you know whether you sent or whether this letter was signed prior to July 31st?

A No it was not. It was probably signed in August sometime, but the date on it is incorrect.

Q Now, at the very bottom of page two of Exhibit 1.

A Exhibit 1?

Q Yes, that letter to Corporations Canada?

A Okay, yes.

Q It says: The amendment was sanctioned by the members of the corporation in accordance with the existing bylaws on July 31st, 2013?

A M-hm.

MR. HEINTZ: Say yes or no for the record please.

A Pardon me, yes, that's what it says.

Q MR. STOYANOV: Did this actually happen?

A I believe the directors are members of the corporation. Now was it a full special meeting called for that purpose, yes. Was it

directors, yes. Was it full membership, no, and I think there's an error in that process.

Q I see.

A Yeah.

Q Now, back to this letter and the question of when and how it was sent to Corporations Canada, is there any sort of internal record of when correspondence goes out?

A I once tried to create a correspondence log and successive managers have told me that has been problematic for them. I remember when I was a B.C. director I asked about creating such a thing, in fact I gave an example that was back in the '90s and my suggestion was rejected. But I am not aware that we keep a correspondence log like that.

Q Do you know how --

A Particularly in the age of email when we have thousands of emails, it just would be an unwieldy project.

Q Did you draft the letter itself?

A Pardon me?

Q Did you draft this letter yourself?

A No. I didn't draft it myself, it was, it would have been drafted for me in the office and then I would have signed it.

Q Did anybody else review the letter before it

was signed and sent?

A It would have just been reviewed in the staff, I don't believe it was given to anyone else to review. I don't recall.

Q Any of the executive or the directors?

A No, I don't recall that being done.

Q After it was sent did anybody else review it or look at it?

A Not to my knowledge.

Q But as far as you were concerned this letter was to inform, Exhibit 1 was to inform Corporations Canada that the NFA had approved the amendments?

A Yes.

Q Was there a notification to the membership at large regarding the July 31st proposed bylaw amendments?

A No, not that I'm aware of. I didn't put one out myself.

Q Was the membership notified after?

A I'm sorry?

Q Was the, were members notified after the July 31st, 2013 bylaw amendments?

A Notified about them?

Q Yes, about the change?

A They were posted, yes.

Q On your web site?

A Yes.

Q How do you ordinarily contact your membership regarding important matters such as --

A We have a number of ways. The membership could be contacted in various ways, not every one of course has electronic mail. We have a varied demographic, some people are on computer some are not. We do mail out, mail people for such things, we put notices in the Canadian Firearms Journal which is the publication of the organization. That's a couple of ways in which that can be done. But it's, you know, we have a fairly large membership.

Q Now, back to Exhibit 2, the minutes of the directors teleconference on July 31st, the question by Phil regarding the need to have the members ratify the changes, what were you basing your sort of opinion on that they do not need to approve it?

A Well I had an understanding, I didn't have the bylaws in front of me ironically enough when I was at that meeting, because I was trying to chair and sitting in front of my, if I recall the meeting I was at my home computer at the time, and it was basically a very quick meeting to deal with the one thing, and it

ended up going into a couple of other points as well that people wanted to add. And I was asked the question, I thought well there's these two processes and I think I was wrong in my, in part of my answer when I gave the answer.

Q Which part was the wrong one, sorry?

A The initial thing, no they are not. But I'm also cognizant of the word sanctioned and ratification are different and I think that probably threw me off when I gave my answer, if that's a full response to it. I think there was a nuance there about it. My understanding of the bylaws at the time was that the directors could make changes to the bylaws without having them ratified because ratifying isn't in the bylaw, it says sanctioning.

Q Sometime later when I guess you wrote to Corporations Canada, and again I'm referring to the last page of your July 29th, 2013 letter, which may have been sent at a later date, it says the minutes was sanctioned by the members of the corporation. I just want to confirm that by that you meant the members meaning all of the members of the corporation?

A I think part of the confusion is that some of

these were sanctioned and some of these were not. Because not all of these were made in 2013. The thing is the one about members meetings at the top was done at a much earlier meeting, I think back in 2010 at the annual general meeting and it was sanctioned by the members.

Q Now, did you at some point realize or understand that the 2013 amendments hadn't been sanctioned or --

A Yes, and this is where I believe I was in error.

Q When did you come to that realization?

A Quite some time after actually. I think this year in looking in it, reviewing the bylaws and realizing that change when people started talking about amending bylaws and such. One of the things about bylaws is nobody really looks at them very much unless there appears to be some kind of a problem.

Q But sometime after that meeting when exactly?

A I'm not sure exactly when. I came to the realization probably earlier this year.

Q Did you take any steps to address a potential issue or problem?

A Well I think --

Q Arising from that?

A You know what, I'm wrong, I came to that realization before the last annual, or the annual general meeting I think the year after, that which would be 2014, and we intended to have that raised as an item on the, at the members meeting. However, that didn't happen and I think, you know, I take responsibility for that, and all the directors take responsibility for that. We had a number of very busy things happening at the meeting and I remember my whip, the general manager telling me we don't have time, we need to keep moving, get moving. And that particular important matter didn't get brought up to be corrected at that point.

Q Now, did you actually get approval from the minister of the changes?

A I believe we did.

Q Did you get a notice of any sort?

A I believe we did. I think I was notified of that, I'm not sure.

Q Could I get a copy?

MR. HEINTZ: I believe it's in here.

A Then again we were trying to correct our flawed process in the best interests of moving things forward in good faith, with the interests of the organization, and without

causing any harm.

MR. HEINTZ: Are we off?

MR. STOYANOV: Sure.

(OFF RECORD DISCUSSION)

MR. STOYANOV: Please provide an undertaking to provide the ministerial approval from Corporations Canada of the July 29th, 2015 bylaw amendments.

MR. HEINTZ: Yes, if it exists we'll find it.

[UNDERTAKING NO. 4: To provide the ministerial approval from Corporations Canada of the July 29, 2015 bylaw amendments]

Q MR. STOYANOV: Alright. Now, you had mentioned earlier, you sort of tried to correct yourself that you actually had realized that there may have been an issue in 2014?

A Yes, because I wanted to make sure we corrected ourselves and put ourselves back into good order, because we weren't in good order prior, so that it could be done at the annual general meeting. But there were a very full agenda, very full plate. This was an important thing, it should have been done and I as the presiding officer certainly should



have been driving that process. But I was being pulled in many directions and unfortunately it just slipped my mind.

Q Were there any communications among you and directors or the executive regarding that deficiency?

A I'm sure there must have been but I can't recall anything specific.

Q Anything in writing, emails, letters?

A Probably phone calls.

Q So no letters, no emails?

A I can have a look and see if I have anything.

Q Can you please undertake to look for any communication in 2014 regarding the fact that the membership hadn't sanctioned the changes to the bylaws?

MR. HEINTZ: Yes, sir.

[UNDERTAKING NO. 5: To look for any communication in 2014 regarding the fact that the membership hadn't sanctioned the changes to the bylaws]

Q MR. STOYANOV: Now, according to the records of Corporation Canada this here is the current version of the bylaws of the association. Can you confirm that?

A I would say that that is not correct. Or hang

on. Hang on a second, let me review this before I --

Q Oh please.

A Right, I was reading the wrong thing. That's correct. No, I would say that this would not be the correct version at present.

MR. HEINTZ: That wasn't the question.

A Sorry, what was the question again?

THE COURT REPORTER: (By reading)

"Q. Now, according to the records of Corporation Canada this here is the current version of the bylaws of the association. Can you confirm that?"

A I would say no.

Q MR. STOYANOV: And what makes you say that?

A Well given the need for sanctioning some bylaw changes this reflects all of these changes as having been made, and if, in terms of if they're not made then this is not the correct version.

MR. HEINTZ: But the preamble to the question was according to the records.

A I'm sure, well I don't have responsibility for the records of Industry Canada but this is, this would need to be updated to the 2010 status, I believe, in my opinion.

MR. STOYANOV: Can we enter as an exhibit please.

MR. HEINTZ: Is that the same document that I just put in front of him, sir?

MR. STOYANOV: Yes it is, the bylaws.

MR. HEINTZ: No objection.

[EXHIBIT 3: Bylaws received from Corporations Canada]

Q MR. STOYANOV: There's a time stamp at the bottom of the document on the first page of Exhibit 3.

A M-hm.

Q Do you know what that refers to?

A I have no idea. I suspect that's an Industry Canada time stamp.

Q Would you agree that's when it was received by Industry Canada?

A I have no idea when Industry Canada received it.

Q When did you send this document to Industry Canada or Corporations Canada?

A Well it would have been sent subsequent to the change but I don't know when this particular one was sent. It's, I would suspect it was sent after our directors meeting in July that we were referring to earlier.

Q Would you be able to undertake to look for the

email dated July 16th, 2014 sending this document to Corporations Canada?

A Sure.

Q I'm quite certain that that time stamp refers to when it was received by Corporations Canada?

MR. HEINTZ: Can we lay a little more foundation to the undertaking? It's based on the assumption that there was an email from the NFA, right?

MR. STOYANOV: Indeed.

MR. HEINTZ: So we'd be looking for an email from the NFA dated 2014, 07-16, right Mr. Stoyanov?

MR. STOYANOV: That's correct.

MR. HEINTZ: That's what you're thinking is the way it worked?

MR. STOYANOV: Yes.

MR. HEINTZ: Sure, we'll make an undertaking to look for that.

MR. STOYANOV: Thank you.

[UNDERTAKING NO. 6: To search for an email from the NFA dated 2014, 07-16]

Q MR. STOYANOV: Now, the association prepares comparative financial statements on an annual basis; is that correct?

A Yes. We do more than that, I mean we have monthly financial statements, the treasurer communicates regularly with the bookkeeper and with the rest of the directors about the status of our finances.

Q And those statements should reflect fairly the financial position of the association during the particular fiscal period in question?

A Yes.

Q And the cash flows for the year that ended in accordance with accepted Canadian accounting standards?

A General accepted Canadian accounting practices, yes.

Q Are there any gaps in the records as far as those financial statements are concerned, that you're aware of?

A No, not as long as I've been president.

Q Prior to that?

A I already discussed that with you or pointed out that we do have some records missing from years previous which we believe were removed from our possession by disgruntled employees.

Q Now, when accountants prepare these documents they go through certain procedures to ensure that everything is correct I would imagine, there's three levels of assurance let's call

it, notice to reader, compilation of statements and a review engagement?

A Yes. I understand that to be the case.

Q Right, and then also an audit engagement as well?

A Yes.

Q Which of these provides the most assurance as to the correctness of the finances statements?

A Well I'm not an accountant so I don't have expertise in that particular field. So I'm not sure I'm best qualified to answer that question.

Q Do you agree that audit is probably the latest and best step to ensure correctness?

A I think there are different gradations of audit but yes I think auditing is a good way to ensure good practices, yes.

Q Now, who are the individuals in charge of preparing these financial statements?

A The treasurer and the bookkeeper put them together and they become owned by the directors and the members at the annual general meeting.

Q And you have a chartered accountant firm that you retain to assist with that as well?

A Yes, we have an annual financial review done or have had an annual financial review done of

all of our records since 2010.

Q Who is that?

A The name of the firm that we presently use or have used for that purpose is Davidow and Nelson LLP.

Q Now, were they involved in performing also an audit?

A The direction of the membership in 2010, the direction of the directors from that period forward has always been to do a financial review rather than a full audit. This is primarily because of the high cost. One of the things with adopting new bylaws is sometimes people don't look at the financial status of the organization and see if you could actually afford to do what you say you're going to do.

Q Was there any legal obligation to get an actual audit done?

A The bylaws require an audit. The practice or custom that was developed was as approved by the members at every annual general meeting since was to accept the unaudited financial review. I believe this has been explained quite ably by our treasurer at every AGM.

Q So it's just a matter of custom then that you didn't follow the bylaw requirements to get an

audit?

A When you say you, do you mean the National Firearms Association or do you mean Sheldon Clare?

Q Yes, the association?

A It became a matter of importance for the association to ensure that we were putting a check upon our staff by having an accountant go over our figures to see that we were following generally accepted accounting principles. And at a time as accepted by membership and endorsed by the directors the idea was that when we could afford to do an audit, and when that, or if we had an inkling that there was any kind of problem as raised by our accountant then that would be what we would do. This became our custom.

Q Did any of the members or directors or the executive express concern or a desire to actually have a full blown audit?

A When the practice was started we had a very, we had discussions about that but everyone has been perfectly fine with the process as we followed up until this year.

Q To your knowledge did any members, officers or directors request or demand that the NFA appoint an auditor or public accountant?



A Not until this year.

Q And when was that?

A That would have been at the time when the directors requested, some of the directors were requesting that information, I think that's in some of the documents before us. It would be around, after Mr. Bevens was terminated.

Q I understand that you did take steps to actually engage an auditor?

A Right away. I welcome audits.

Q Sorry?

A I welcome audits.

Q When did that actually happen, what date?

A I could find you the date.

Q Would you please?

A I suppose, but I don't know off the top of my head.

Q Would you undertake to --

A Because it was, I recall directing our general manager to find some quotations and I did distribute an email to directors when she had provided me with some quotations about auditors. And from my perspective, given the nature of the current dispute between directors and given some of the accusations that have been flying around I wanted to

ensure that this was done properly with a reputable firm, and to go back as far as the accountant was willing to do to make sure that we were following due process in all of our accounting procedures, that we were acting within our fiduciary responsibilities, that there was no malfeasance, no impropriety, and that we were engaged in the best interests of the organization, directors, the executive, staff, and everyone else ensuring that we were providing full and open records.

Q You mentioned you emailed the directors or the executive with different quotes from a variety of firms?

A Yes, and has been the practice for some pressing issues, I solicited votes on the matter from them.

Q So there was an actual meeting that authorized the appointment of the auditor?

A The, there was not a meeting, there was an email request for voting on the matter. The proposition was put forward as a motion. We've frequently done votes like that. For example when we were proposing that a biathlete be accepted as sponsored by the NFA, which is I think a \$2,500 a year provision we put out a request to the directors whether or

not they supported that or not. And that was unanimously supported by the directors in the same sort of voting pattern.

Q Can you provide us with some record of that voting by email or whatever other means it took?

A Sure, I think that's pretty easy to do. I think some of the directors responded by telephone call so I may not have a written response from them, but others responded by email.

Q Your best efforts?

MR. HEINTZ: Sure. Can we just go back over the last two, I don't think the last undertaking was clear, it was to advise of the date the auditors were engaged in the spring of 2015, right?

MR. STOYANOV: Yes.

[UNDERTAKING NO. 7: To advise as to the date the auditors were engaged in the spring of 2015]

MR. HEINTZ: And then this last one, provide.

A Evidence of voting.

MR. STOYANOV: Record of voting regarding the appointment of the auditor.

MR. HEINTZ: Thanks.

[UNDERTAKING NO. 8: To provide records of voting relating to the appointment of the auditor]

A There were no response from five directors, probably on the advice of counsel I would conjecture.

Q MR. STOYANOV: I won't ask which five.

A Okay.

Q The appointment was authorized by the directors then?

A Well yes, given when one asks for a vote and you receive positive votes from all of the executive and one director and you ask, and the other directors don't respond, that's taken in that sort of voting as an abstention. An abstention doesn't defeat a motion.

Q To go back to the undertaking regarding the votes, I would also like to have the initial email to which they responded, the one mentioning the various quotes?

A Yes, I'm sure we have that.

MR. HEINTZ: Okay.

[UNDERTAKING NO. 9: To provide the email sent regarding the various quotes]

A Certainly you would have some directors who would have that as well.

Q MR. STOYANOV: When you retain an accountant or an auditor there's ordinarily a retainer or an engagement letter of some sort?

A Yes.

Q Did you get one in this case as well?

A Yes.

Q May I have a copy of that please, as an undertaking?

A Certainly.

MR. HEINTZ: Yes.

MR. STOYANOV: Thank you.

[UNDERTAKING NO. 10: To provide a copy of the engagement letter with the auditor]

Q MR. STOYANOV: I'm going to refer you to your affidavit of March 19th, 2015.

A I have it in front of me.

Q Just to get some clarification regarding some of the things to which you deposed, has this been filed with the court yet?

MR. HEINTZ: Yes it has, March 31st. My apologies if I haven't provided you with a filed copy.

MR. STOYANOV: Same question regarding the affidavit of April 23rd, has it been filed?

MR. HEINTZ: I don't think that one has yet, Martin.

MR. STOYANOV: Would you undertake to do that?

MR. HEINTZ: I already have.

MR. STOYANOV: Okay.

MR. HEINTZ: And I previously agreed that it could be used during our application on my undertaking to provide you with a filed copy.

Q MR. STOYANOV: So back to the March 19th affidavit, paragraph 33, it says: I make this my affidavit in opposition to the within application. I'm just trying to figure out whether in this case you were speaking on your own behalf or on behalf of the association?

A On behalf of the association.

Q Do you personally believe that this, did you personally oppose this application as well?

A Which application?

MR. HEINTZ: Well we have to clarify because there's part of the application that deals with the compliance with section 21 of the Canada Not For Profit Corporations Act and another part of the application that requests a restraining order against Mr. Clare personally, and then another part of the application that requires a clarification of the bylaw issue, if I can use that term. But the bylaw issue has already been addressed as

between Mr. Knisely and I, so that leaves the compliance with section 21 which we take the position has been complied with, and the restraining order against Mr. Clare which is objected to.

A Yes.

MR. STOYANOV: Okay.

Q And on what basis does the association object to this application?

A Could you --

Q What is the basis of the opposition to this application?

A The, may I see the application?

Q Certainly.

A Okay, give me a moment. I just want to review this.

Q Certainly.

A Would you read the question back again please.

THE COURT REPORTER: (By reading)

"Q. And on what basis does the association object to this application?"

A Well there are a number of basis for the opposition to this application, I believe I referred to them in my affidavit, you're I think aware of those bases. I think there are a number of them and let's go through a short

list, notwithstanding that there may be other matters that would raise opposition to this application business that I may not consider fully in my answer, it may have reasons to oppose. But certainly the registry of members does contain the information required by law. This is referred to in 9.2, I dispute that. The number 14, the association does keep minutes of meetings of members, directors of it's committees, the fact that these minutes may not be, well I dispute this. The absent rectification, I dispute that the applicants are significantly hindered in their ability to discharge their responsibilities associated with their office, at 15. I dispute that we have failed to notify the director of Corporations Canada about our composition of our board of directors, we've certainly done that. I dispute that I have disseminated among the officers, leadership, and members false and misleading statements, there was, that's addressed in my affidavit, the intent of that, I think this particular characterization of mine is not the same as my response. I dispute that the applicants have not committed any unethical behavior, I believe they have. The holding of a by



election is dependent on suitable candidates coming forward, we have not had that circumstance happen. One of the problems with our organization generally has been finding good people to run, and often seats have been vacant for long period of time. So occasionally we have people express interest but they don't come up with the necessary requirements, nomination papers, so on and that does preclude people from running. The bylaws are clear on that particular circumstance.

I dispute that the applicants have attempted to address the foregoing matters of the board of directors of the association and we failed to act. I think that what I saw was an attempt at a coup in fact, rather than any attempt to engage in dialogue in a responsible way showing duty to care or a concern about the roles of governance or fiduciary responsibility. I dispute that there's been any interest in that by the applicants, despite some of their claims to the contrary.

I believe we've met the remedies that are required in here. Some of these points about the auditor of the

association, we attempted to have auditing done for the full period of time, however, the auditors would only do the previous two years and insisted that that would be more than sufficient to meet any of our needs. The order restraining me, I find that to be really just an offensive idea that it would be continued, I think that has been addressed, that particular issue. About disseminating false statements, I don't think I've made any false statements. I had particular impressions, I refer to them in my affidavit, you have that before you. But I think that's sufficient grounds to oppose this application.

Q Now, just to go back to --

A Notwithstanding that there may be others.

Q Just to go back to what you just said about the auditors telling you that only two years worth of audits are necessary in this case?

A Well the --

MR. HEINTZ: Let Mr. Stoyanov finish his question, Mr. Reporter can't get you both at the same time.

A I'm sorry, please continue.

Q MR. STOYANOV: So the audits are only going to take place for the years ending 2014 and 2013, is that what you're trying to tell me?

A That's my understanding, yes. In my discussions with regards to that is that the audit, they didn't see any need to go back any further than that to meet the requirements of having a thorough examination done of our records. I understand actually that they have gone back further into our records than that but I'm not an auditor so I'm not sure what they actually did.

Q Will that be reflected in the engagement letter which we had referred to earlier?

A I think so, yes. I believe that would be the case. My understanding is that the audit is in its very final stages and we're awaiting a report.

Q What were your instructions initially to the auditors, what did you request them to provide you a quote for?

A I wanted them to go back as far back as they could and to try to do three years I believe is what I had indicated to them. Given the point that we wanted to make sure that we were, this audit is out of synch as it were with the bylaws, it's not one that's been directed by the membership or assigned by the membership at an annual general meeting, the auditor was not named there but it's within

the fiduciary responsibility of the executive given the current division of the board of directors to get this done, to make sure that everything can be seen to be transparent, above board and operating in good faith within the interests of the organization and its membership.

Q Alright. Now back to the affidavit sworn March 19th by you, paragraph two refers to certain purported or supposed directors meetings on February 24th, 2015. Can you give me some background as to your use of these adjectives to describe those meetings?

A Adjectives to describe the meetings?

Q Purported and supposed?

MR. HEINTZ: Just to be fair to the witness I think there's an allegation that there was one meeting Mr. Stoyanov.

MR. STOYANOV: Yes, the February 24th meeting.

MR. HEINTZ: Thanks, 2015.

A Well I don't believe that there was a duly constituted meeting at that time, despite the best efforts of that group which decided to convene, and as I characterized it earlier, hold a coup. But I think that that's been -- there's, if you read my statement it's right

there in the affidavit, in my opinion it's dishonest and misleading due to its failure to disclose the fact that the applicants herein purported to hold a directors meeting on February 24th, 2015 at which inter alia they purported to depose the current duly appointed executive, should be duly elected frankly, and that they then primarily via social media misled the membership of the National Firearms Association by propounding the legitimacy of the supposed board meeting. I believe that to have been a highly inappropriate response, highly emotionally based, highly irregular and far beyond any interests of the organization. In fact I believe it to have been reprehensible.

Q Emotions and motives aside, what in particular about the manner of this meeting was called, was not legitimate?

A Well there had been a meeting originally called and the meeting had been cancelled.

Q By whom?

A By me as the presiding officer and the person who set the meeting initially. It's a common practice for us to change meetings when some people indicate they aren't available. And again, the agenda and the need to discuss the

circumstances with Mr. Bevens with everyone I felt it was important to make sure that every director was present. And that was made apparent to me it was not the case that everyone could be present, or at least fully participate.

Q Is there a requirement that there's a full quorum, that all the directors are present for a meeting to be duly constituted?

A The importance of the meeting I believed to have been of such importance that I thought it was necessary that all be there. And since all could not be there I decided to change the meeting to a time when they could be, which was waylaid by the fact that some folks decided to get together and have a chat outside of the due process.

Q And the decision to cancel that meeting was yours and yours alone?

A Yes.

Q How did you communicate it to the --

A By electronic mail as has been the practice.

MR. HEINTZ: It's Exhibit C to the affidavit you're examining him on right now, sir.

A Yes. You have it before you?

Q MR. STOYANOV: Yes.

A Do you want me to read it out?

Q No, that's okay, thank you. Turning to paragraph D of the same affidavit.

A Paragraph?

Q D as in David, the March 19th affidavit.

A Okay, Exhibit D, yes. Not a document I produced.

Q Okay --

A Claude Colgan, who was purporting to be the president of the National Firearms Association produced that document, based on the coup attempt of the meeting the day before.

Q Okay. And so your opinion of this memorandum is that it is --

A Of no force and effect, and void, ultra vires.

MR. HEINTZ: Just answer the question.

MR. STOYANOV: Thank you. You in essence finished my question for me and I appreciate that.

A I'll try not to do it again.

Q Now, in paragraph 11 of your affidavit of March 19th you state that: Ericka Clark has attached my email calling the meeting but she has not attached my email cancelling the meeting. I consider these antics to be artful and misleading on the part of Miss Clark. Can you elaborate on that?

A Well I think it's in effect misleading by not providing all the information, not engaging in full disclosure.

Q Paragraph 12 of the March 19th affidavit:  
Miss Clark to my personal knowledge published the minutes referred to above on social media including the NFA Facebook page. What do you base this knowledge on?

A The letter Exhibit D indicates that, pardon me, that's not the correct exhibit, the minutes.

MR. HEINTZ: Probably E.

A Yes, the minutes of the meeting at Exhibit E contain a number of directions and votes and so on, again which I regard to not be of any force or effect, but were acted upon by these individuals. To, where is it here, towards the end.

Q Oh yes.

A At H: Be it resolved that the president, meaning at that point Claude Colgan, is instructed by the board of directors to immediately take steps to secure the property of the association including without limitation the association's financial accounts, social media accounts, records and data. And at the time of the meeting I recall



doing some maintenance on the social media pages and I was engaged in a conversation by Miss Clark on a Facebook chat, which was quite unusual, because it hadn't happened, before and concurrent with my conversation I was removed as an administrator from the social media pages and the said minutes and so on were put up very, you know, shortly after I was removed from administrative capability, as were all of the duly constituted administrators, or most of them, and in effect that directive was acted upon. So I regard that Miss Clark and others associated with her enabled that to happen.

Q Alright. Turning to paragraph 13 of that same affidavit, March 19th, 2015, you had made a statement or you began disseminating the statement that Miss Clark and Darlene MacKenzie had been removed as directors for unethical behavior. What steps did you take to inform anyone that Ericka Clark and Darlene MacKenzie were not directors of the association or that they had committed unethical behavior?

A I think the only thing I did is I sent them each a message that in my opinion they had removed themselves by their unethical

behavior. I think you have a copy of that particular screen shot. And while I was still a member, or was a member of one of the administrative pages I posted a copy of that there, and I don't recall doing very much else. These would have been highly limited.

Q Now, as far as the association is concerned at the present time are Ericka Clark and Darlene MacKenzie directors?

A Yes.

Q They are. So they were so to speak reinstated?

A I sought -- no, I don't think they were ever removed. I think that I reacted in a very, well I reacted based on what had happened with some anger and emotion and I think I was probably mistaken at that point in time as to my interpretation of the bylaws. But I sought legal advice to make sure that I could be seen to be acting in all due care and fiduciary responsibility, in good faith and in the best interests of the organization.

Q Were any steps taken or any consultations done with the executive and the board regarding the removal of Ericka Clark or Darlene MacKenzie?

A No. I don't think we've had any discussions, or had any discussions at that time about

that. There was certainly some discussion about unethical behavior and that effect upon their status.

Q And was there any confirmation issued following your earlier statement that they have removed themselves, in essence was there any confirmation that they were in fact directors regardless of that prior statement?

A Yes there was. We posted and distributed fairly widely I think, much more widely than anything else was posted, a copy of our legal opinion of our solicitor in the matter which was accepted by the executive and so on as being the case. I presume it was also accepted by the concerned directors.

Q In paragraph 15 you say that the theme of Miss Clark's affidavit is that the NFA is being mismanaged?

A Yes. Well in particular, well sorry, do you want to finish your question?

Q That's okay. Where in her affidavit does she say that, or what in her affidavits are you referring to when you make that statement?

A Well let's have a look at it here and I think this is the affidavit of March 6th, and I think what it is is the general flavor of the affidavit goes after lots of minutia of

process and procedure, demands for documents, demands for information, status of directors. The attachments talk about the status of the executive, the status, my status as president, in particular the comments made, if you wish I can go through a number of paragraphs here. Well the whole flavor of the affidavit is resplendent with such tone that imply that there's a belief that the executive and the president are not managing the organization well. I mean the efforts of the group to hold a coup is I think self-evident, the minutes of that are attached to her affidavit.

Q You have acknowledged today that there are some significant issues with respect to the bylaws being amended properly?

A Oh, I freely acknowledge that there's a concern with this. I don't think that that represents significant mismanagement.

Q And that although the bylaws require that audits be conducted on an annual basis those hadn't been done for probably decades?

A Well the bylaws that are in place from 2010 are not the same bylaws that were in place before that.

Q Fair enough.

A I think that the bylaws that were in place

before that did not have the same requirements.

Q Okay.

A But I'm not, we're not here to discuss that but your characterization of it being decades I don't think is quite accurate.

Q So the requisite audits for the past several years hadn't been conducted?

A No. And again I referred you to the issue of custom, even in conflict with a particular aspect Roberts Rules is referred to in our bylaws and it does discuss custom and its role, and when custom is challenged how it dies and fades away until it's corrected.

Q Does custom trump the written bylaws?

A Well no, that's the point. What does trump though, it's things like suspension of rules and so on, is the fact that the membership was apprise of this and supported the practice by accepting these unaudited statements at each annual general meeting. And if you look, again I read out the practice of custom and I don't need to read it again I don't believe, but when the custom becomes something that's challenged certainly then one must take steps to put things in order, and I believe that we've acted in the best interests of the

organization to make sure that that practice, the practice of having audits is put back in place. And by having an audit immediately upon the raising of the concern, trying to correct that, I think we've acted in good faith with the best interests of the organization and in keeping with the fiduciary responsibilities of the directors. The simple fact of the matter is whether there is any harm, and I don't think there is any harm to the organization by this particular failure. The situation doesn't change the effect of any decisions made or anything that's been done. There's no harm. The harm is happened by the inability of some to work collaboratively to come to a common resolution of common problems.

Q How would you know if no harm was done if there was no audits to the finances of the organization?

A When I have the full record from the auditors I'll be happy to discuss that with you further.

Q That will be in the future, right?

A Yes. I am, if I was aware of any harm then I would be certain to be bringing it up, but I am not.

Q Now, turning to paragraphs 24, 28 of your affidavit dealing with the termination of Sean Bevens?

A Yes.

Q Is there any relationship between the termination and the duty of the NFA to for example prepare and maintain official records at its registered office?

A No.

Q Anything to do with the ability of the directors to inspect its records at its registered office?

A No.

Q To permit them to take copies of those records?

A No.

Q To elect or appoint a public accountant?

A No.

Q Or to cause a financial statement to be audited?

A No.

Q To disclose that audit to the members?

A No.

Q Prior to being terminated Sean Bevens was the executive vice president of the association?

A Not in the same status as implied in the bylaws, although the bylaws were intended to

try to address his particular circumstances. He was basically an employee engaged to lobby and to provide business advice. I think I discussed that in my materials.

Q Now, would his appointment and termination be reflected within the register of officers of the association?

A No. Given that he, although titled as an officer and having certain trappings thereof, I think I've discussed this in here as well, he in effect is an employee with a title to help open some doors, or was an employee.

Q You would agree that after he was terminated there was a controversy among the membership as to whether or not a resolution of two thirds of the NFA's directors was required to remove him as an officer?

A Oh, I'm aware of a controversy that's been generated by some directors who were unhappy with this decision, yes.

Q And your position in general terms, your personal position is that the director approval was not required in this case?

A The position of the National Firearms Association, and my position is that the board of directors gave me, as president and chief executive officer, they assigned me this



particular role, the authority to hire and discipline and supervise Mr. Bevens along with Ms. Fournier who have an administrative role and supervision. That is very very clearly intended to include all aspects of discipline which includes everything that was done and reported to the board of directors on several occasions. That includes the various, the written letters of reprimand, one of them based on his participation in a directors meeting while he was drunk in which the board of directors were present and heard it. Now some of the directors who are currently directors were not directors at that time and operational matters such as cautions and warnings are not necessarily things that are in the governance role of a board of directors. They don't need to know about that except perhaps in general terms. But when there are, it's basically what it is is you engage in the discipline, then you report the discipline to the directors is how I see it. That has been the practice that we followed in keeping with the role that I was assigned in supervising Mr. Bevens when he was hired.

Q I'm still a little confused about his appointment and why it wasn't done in the

ordinary manner where the board has to approve it or the directors have to vote or elect him?

A He wasn't elected, he's not that kind of an officer. The only ones that get to be elected are people who are directors. The bylaws are clear about this. His particular role was an employee, he was a salaried employee. He was given a title to enable him to do a particular job. The supervision of that employee was assigned to me, at all phases of that.

Q Was that part of the bylaw amendments?

A No. That was done at a directors meeting and I think I refer to that, on May 8th, 2013, that's at point 26 in my affidavit.

MR. KNISELY: Can we go off the record.  
(OFF RECORD DISCUSSION)  
(BRIEF ADJOURNMENT)

Q MR. STOYANOV: So would you undertake to provide to us a copy of the?

MR. HEINTZ: Minute of the directors meeting referred to in paragraph 26 of Mr. Clare's March 19th affidavit?

MR. STOYANOV: Right.

MR. HEINTZ: Yes, sir.

[UNDERTAKING NO. 11: To provide a copy of minute of the directors meeting referred to in paragraph

26 of Mr. Clare's March 19th  
affidavit]

Q MR. STOYANOV: Now, would you agree that without the ability to inspect the association's official documents and minutes there would be no way for the applicants to know why -- sorry, there would be no way for the applicants to know who the executive of the association was and whether or not they were appointed?

A Elected.

Q Elected, and whether or not that election was lawful?

A No, I would not agree with that. I think that they had full access to that information, it's published and well known and I believe that that information was of common knowledge.

Q What information are you referring to specifically?

A The director, the members of the executive, who they were and it's published in our journal, comes out every couple of months, I think that it's common knowledge.

Q But are the underlying motions and meetings, are those available publically as well?

A The motions, publicly, no. But they are available to the directors.

Q For inspection?

A Yes. As I discussed.

Q The way Miss Clark tried to go and look at those in early March?

A Well I think we've talked about how Miss Clark did that and I pointed out and you've got my response to that on, in my affidavit on page two at paragraph, well section A paragraphs three through to seven.

MR. HEINTZ: Here's your opportunity opportunity to actually give that evidence Mr. Clare.

A Okay. Well I think that it's pretty clear that that information is available, it was well known. They have participated in meetings with the members of the board of directors, we're well aware of who was presiding at the meeting. If they had a question about that they're more than welcome to ask, if there's some sort of concern or problem that could have been easily raised but instead what we saw were these ambush type events, attending at the office at times when other things are underway, rushing in, making demands. And this is not good business practice to be engaging in, this is not the kind of behavior one expects of a director who

is concerned with fiduciary responsibility, it's the kind of thing one expects that's consistent with the people who engaged in this coup.

Q Now the question was how would Miss Clark know whether or not the members of the executive were elected properly?

A She could ask.

Q Without reviewing the documents that she was seeking in March?

A Well I think as I said that information is generally available to Miss Clark should she have chosen to ask for it before causing a big problem.

Q A big problem meaning what?

MR. HEINTZ: To be fair to the witness Mr. Stoyanov, I think in essence your question is how would she know if these corporate actions had taken place if she couldn't review the minutes.

MR. STOYANOV: Correct.

MR. HEINTZ: Is that being fair to you?

A Oh, I see.

MR. HEINTZ: And he's obviously, the answer would be she couldn't. But the second part of the answer would be so then she could go look at the minutes.

A Which she endeavored to do and which we allowed her to do, and told her that we were happy to provide minutes, they were going to have to get typed up.

Q MR. STOYANOV: What about the other records, it took quite awhile for her to get access to them, correct?

A Well --

MR. HEINTZ: That's not correct Mr. Stoyanov. You know a lot of this has gone between Mr. Knisely and I and we got the first batch of documents and it's set out in Mr. Clare's affidavit, within a few days after being served with the originating application. And as soon as Miss Fournier was able to get the rest put together she brought it to my office and I phoned your office and said it was there, come and look at it. That didn't happen for a week. The witness, and I'm sorry to be in essence giving evidence, but the witness has repeatedly testified that they have never, your clients have never been denied access and that every effort has been made to accommodate them, but you keep repeating the question apparently in an effort to have him admit that that hasn't been the case.

Q MR. STOYANOV: Now, you had mentioned that no one has stepped forward to become, to want to be a director from Manitoba association?

A I'm not aware of anyone who has fulfilled any requirements as laid out in the bylaws to put themselves forward as a director. We've tried finding people. I know other members of the association have looked. I've talked to our former director from Manitoba in that regard, but persons who had initially expressed interest faded away or lost interest. Some stepped away because of health issues, some on being interviewed were frankly really not interested or what they, you know, they were concerned about what their role was, what they would do, when they found out there was certain expectations and they stepped away from it. There's been nobody come forward as a candidate.

Q Nobody qualified or nobody whatsoever?

A Nobody's come forward, not that I'm aware of, that's for sure.

Q Okay. Let's go to your affidavit of April 23rd, 2015?

A M-hm.

Q Turning to paragraph five?

A Yes.

Q And paragraph six you state that this issue has been resolved, meaning the issue surrounding the amendment of the bylaws?

A I believe it has, yes.

Q Okay. How has it been resolved, in what sense?

A Well we've become aware of the problem with sanctioning of the various, the bylaws and in looking at the bylaws it would seem that the amendments to 2010 are in force and effect and the others at present are not. Though they would have been in effect for the time period up until which they should have been sanctioned.

MR. HEINTZ: Well again in fairness to the witness, he's talking about the remedies sought in your originating application and your originating application seeks, quote: "A declaration as to the bylaws of the association that have been in force since July 29th, 2013". And then as you know, Mr. Knisely and I have discussed this matter a number of times and I've told Mr. Knisely that I've given my opinion to the NFA and that it accepts the opinion that it's what we refer, what we've been referring to as the 2009 bylaws that are actually the current bylaws



with the 2010 amendment.

Q MR. STOYANOV: Has Corporations Canada been informed of this?

A They, well they received the, that amendment along with those other amendments but they have not been informed, to my knowledge, of the problem with the bylaws to this point. One of the possibilities that I think is worthwhile is to see, like one of the things we did is we tried to strike a bylaw committee to review bylaws, to try to sort everything out, to make sure it's clear, transparent and in the interests of the organization.

Q But in the interim what has been done to ensure that as far as Corporations Canada is concerned they have the latest and valid bylaws in their records?

A Well given the particular situation as it exists right now, I think that we haven't done anything to contact Industry Canada about doing anything like changing this or changing that to make, because we want to make sure that whatever is put forward is correct, accurate, and in keeping with the bylaws as they are, the requirements of the bylaws, which are unaffected by any of the amendment changes.

Q Right, so your position is that the 2009 bylaws are the currently valid bylaws of the association?

A The 2009 bylaws as amended to 2010 are the current and accurate bylaws is my understanding and position.

Q Okay. So knowing that, why haven't you written to Corporations Canada to let them know that this is the case?

A It's an excellent idea and probably something we should do quite soon.

Q Might I suggest this may be a legal requirement to do so?

A Well thank you for the suggestion. I appreciate the legal advice, I hope I'm not going to get a bill for it.

Q I'm not giving legal advice I'm just thinking out loud. Your lawyer is very well qualified to do that on your behalf.

Paragraph eight of the same affidavit refers to the discretionary powers or the lack thereof of Ms. Ginger Fournier. What directions if any have been given to her and by whom concerning any of the matters raised in this application?

A Well, the primary contact, the point of contact for Miss Fournier for supervision is

from me as the representative of the board of directors and the executive. And my directions to her have been to give everything to the directors that they're entitled to have under the bylaws and to cooperate fully, that's what we're trying to do.

Q Paragraph nine of the same affidavit you say that she does not have any information that would further the end of the applicants. But she's aware of these matters, correct?

A Of which matters?

Q Of the matters arising out of this application?

A I believe so, yes.

Q She's got, she's had to communicate with you and the officers and directors?

A Yes.

Q Regarding these matters; yes?

A Yes.

Q And she has personally observed events in the office, in the registered office of the association that relates to those matters?

A Well I'm not sure what you mean by events in the office that relate to those matters, could you be more specific?

Q Well for example, the creation and keeping of records and documents?

A Yes.

Q And you would agree that she is primarily responsible for preparing and maintaining the official records of the association?

A I'm sorry?

Q Do you agree that she's primarily responsible for preparing and maintaining the official records of the association?

A The responsibility for minutes is that of the secretary and the presiding officer, but certainly the staff have roles which have been directed to them from the board of directors through me.

Q Who maintains the actual official records of the association?

A In the office?

Q Yes?

A The staff.

Q The staff being?

A The people employed in the office to do things like maintain the register of members, take membership information in, give people memberships or remove people or are no longer members and so on under the direction of the manager as assigned within the parameters given her through her authority by the managers and the board of director and the

executive.

Q So Ms. Fournier would be the one overseeing the staff or the employees in that regard?

A Yes.

Q And as far as dealing with requests for copies or inspection, is she the point person, the contact person for that as well?

A For, I'm sorry, for copies of?

Q As far as requests to inspect documents or to get copies of documents?

A Provided that she's been given authority to release such information yes, which she has been.

Q Thank you. Does she have a general responsibility to attend the meetings of the directors?

A Yes.

Q Committees, and to tape those meetings as well?

A There are two people who are capable of taping those meetings, one of these is Miss Fournier and the other is myself.

Q Now when you are talking about looking for different quotes from accounting firms for the audits did you do all the research yourself or did you delegate some of that to her?

A I delegated that to Miss Fournier. As you're

aware I'm a volunteer and I receive no compensation for anything I do as the elected director for British Columbia who has been elected to be the national president and chief executive officer of the NFA.

Q How long has she been with the association?

A She's been there since, to about 2010 and she replaced a previous employee.

Q Is she assigned with a task to send correspondence to Corporations Canada and other governmental offices?

A In terms of the administration of those things, yes. When we're aware of that and in keeping with all the other many things that have to happen. As was made clear there are a lot of different things going on in that office at different times and I mean some of them take more priorities at particular points in time than others. Many of them have legal requirements around them.

Q Now, there was a change of directors after the December 1st, 2014 election?

A There's, December 2014, the election, the elections usually take place in the fall and usually half the board of directors is elected in particular, roughly half, not always, but I don't know how familiar you are with our

processes, but the directors have been pretty stable for a good bit of time. We have had a few changes. The main change, the largest change has been this recent one. Now, some directors were acclaimed in which case they are in pretty much right away. The others where there were elections, and those elections went through their processes, and then the association carries on with all of that in place.

Q Now, was Corporations Canada advised of the change of directors after this?

A I believe it was.

Q Most recent election? Is there some record of it?

A I'm sure we can find that for you.

Q Perhaps you can undertake to provide a copy of that correspondence?

MR. HEINTZ: May I just have a moment.

MR. STOYANOV: Sure.

MR. HEINTZ: I think it's the first document in the binder, Adam.

(BRIEF ADJOURNMENT)

Q MR. STOYANOV: Now, can I enter this as an exhibit.

MR. HEINTZ: No objection, sir.

[EXHIBIT D-4: Form 4006 changes

regarding directors of the  
association]

Q MR. STOYANOV: When reviewing the original I sort of noted that your signature appears somewhat pixilated in a different color than anything else, I'm just trying to figure out what the procedure usually is for you placing your signature on these documents?

A It's an excellent question. As you are aware it's, I am not in Edmonton on a regular basis, I live in Prince George, British Columbia. And from time to time there are documents that need to have my signature affixed such as certificates and so on, as in my role as president of the association, and with that in mind I had a stamp created to allow the general manager with my permission, and checked every time, to affix my signature with authorization. So she would in practice send me an email and I would authorize yes okay, you know, yes please sign this or I would direct her to affix my signature on something that needed to be sent in. And it's been a pretty workable process. It seems to be, seems to meet our needs, the kind of practice that's common in many organizations for stamping cheques and other legal documents,



that sort of thing. My father is a bookkeeper and I've observed him use a stamp to run cheques for payroll for many many years. It seemed to me to be a workable solution rather than going to the expense of priority posting documents back and forth.

Q So this was signed with a stamp?

A Yes, in effect it's a signed --

Q When was this documentation created and signed?

A I don't recall exactly when this was. I guess we can look into it. We haven't received, as far as I'm aware, a receipt from Industry Canada yet regarding it's been filed.

Q So do you have any record of it being sent to Industry Canada?

MR. HEINTZ: If it assists Mr. Stoyanov, in the documents that we provided to you, I think right underneath that one Mr. Knisely, it appears that Miss Fournier sent it just on April 23rd, I think that's the fax copy. Can we just go off for a second.

MR. STOYANOV: Sure.

(OFF RECORD DISCUSSION)

Q MR. STOYANOV: So just to confirm this document Exhibit 4, which is the form 4006 changes regarding directors, that was

initially sent to Corporations Canada in March of 2015 and then again in April, April 23rd, 2015?

A That appears to be the case from the documents, yes.

Q And you don't have yet any registration of that?

A I'm not aware of one being received yet. That's not surprising though.

Q Now, paragraphs 10 and 11 of your April 23rd affidavit deal with Miss Clark being supplied with the association's membership count at your instruction?

A It says association's registered member and membership count, yes.

Q Sorry, come again?

A I'm just reading it here, I'm sorry, I'm thinking out loud a bit.

Q That's okay. So what had she been actually provided, just the count or was she given access to the register as well?

A She was given full access to the register. As I understand it she sat at Miss Fournier's computer and was allowed to peruse the full membership list.

Q So she could see it but she couldn't take a record of it with her?

MR. HEINTZ: That was the agreement made between Mr. Knisely and I.

Q MR. STOYANOV: Would you agree that the agreement, that this agreement between counsel concerning Miss Clark's inspection of the membership list was without prejudice as to any of the applicants' entitlement to inspect or obtain copies of this register of members at a future time?

MR. HEINTZ: To be fair to him sir, that's probably a legal question and I think it's fair of me to answer in the affirmative to your question, these were without prejudice discussions.

MR. STOYANOV: Okay, thank you.

Q Paragraph 13 deals with, well my question is did you or anyone else give any instructions to Miss Fournier about how the inspection was to take place?

A No.

Q Did she provide a report back to you after the inspection took place?

A She, I believe we talked on the telephone and she informed me that she had been there and she looked at it, she didn't stay very long, and had a look at it and left.

Q Did you discuss any details as to what

transpired?

A She said there was not much conversation and that was that.

Q Alright. Now, paragraph 17, Miss Clark, you write that Miss Clark states that: I admit I, that I impetuously sent false messages with respect to Miss Clark and Darlene MacKenzie. Now the word impetuous, as far as I understand, means acting quickly or without thought or care. Isn't that how you actually described your initial reaction was sort of a hasty reaction to the situation?

A I didn't characterize it as impetuously, I think I've discussed this with you already.

Q So how does the word impetuous conflict with your earlier evidence?

A Well I don't think I acted without thought or care. I may have acted in a bit of haste.

Q Paragraph 27 deals with the executive again, capital E, having instructed its solicitor to object to the production of Miss Fournier. Was there an actual vote of some type that led to this, who decided to object to her being produced as a witness?

A Well let me see. I don't recall exactly who we discussed this with. As you understand when you have a fragmented board of directors

you're not discussing that with everyone, but I certainly didn't see that Miss Fournier's attendance was necessary or required given that she acts only under the authority of the executive and the board of directors. I think I may have said that but I do believe I did discuss it with other members of the executive. I don't think we had a meeting about it and voted on it.

Q But the decision was yours then?

A Well --

Q As the president?

A I think so, yes. I think that's a fair characterization. I am the spokesperson for the executive and that's the tenor of things, you know. I did recall discussing this with the other executive members but I don't think we had a meeting, a formal meeting about it. I get a little meeting'd out after awhile frankly.

Q Turning to paragraph 28 you allege that questioning Miss Fournier is evidence of bad faith and abuse of process on the part of the applicants. Doesn't your own evidence support the fact that she is the best witness as to the official records, the auditor and the audited financial statements?

A No, I disagree.

Q Okay.

A She is an employee acting under direction.

Q Who among the employees or the officers of the association has the most complete knowledge of the records being kept at the registered office?

A The most complete knowledge?

Q Yes?

A I think that that information is, in what terms of that do you mean?

Q In other words --

A Where they are on the shelf?

Q Where they are on the shelf, when they were generated, filed, indexed, when correspondence to various government offices was sent, who is in charge of all these minutia?

A The minutia, the administrative work, well that could be in terms of the staffing of that, and the staff doing it, Ginger does that on our direction, yes, informing me as to what she's doing.

Q Of course. Turning to paragraph 29, is it your evidence that if Ginger Fournier was to be questioned on her knowledge of the matters raised in the application her evidence would not support any of the alleged facts?

A Excuse me?

Q Is it your contention that her evidence wouldn't support any of the allegations in the application?

MR. HEINTZ: That's asking him to assess evidence Mr. Stoyanov, evidence that hasn't been given.

**OBJECTION:**

Q MR. STOYANOV: Okay. Now, at some point documents were sent to our office through your lawyer's office, once in March, I think March 12th, 2015 and then again on April 27th I believe, of 2015. Did you personally review those records before they were being sent to us?

A Pardon me?

Q Did you personally review those record before they were sent over to us?

A I would have discussed all of the records with my counsel prior to sending any of that forward, yes.

Q Did you actually review them physically?

A Well not --

Q Electronically?

A Electronically if at all, yes, and I would suggest that I would have reviewed all of them at some point, yes.

MR. STOYANOV: Let's take a little break, I'll review my questions and I think we're almost done here.

(BRIEF ADJOURNMENT)

Q MR. STOYANOV: Now, how many members are there in the association?

A Well, I can't give you an exact number.

Q Please, average, roughly?

A And I want to preface this by saying we have a number of categories in membership including members of clubs who are what we term associate members who are primarily there for the insurance. At our current membership is approximately 71,000 members.

Q When you first started how many were there, when you became president?

A I think about 45,000.

Q So it's grown steadily ever since?

A Yes, thank you.

Q I just realized that I probably took a little longer than I expected so just a couple of quick questions but I'm afraid I'm going to have to adjourn till the next time we meet to complete this questioning.

MR. HEINTZ: Well I'm not sure I'd be comfortable with that. He's been produced here today for an examination, we're here for



the duration.

A I'm here till midnight if you want me, my plane doesn't leave till tomorrow morning.

MR. HEINTZ: Subject to Mr. Reporter's requirements, he's already told me that he's got some time.

MR. STOYANOV: Alright. Well now, you had mentioned earlier that you had contacted and emailed Ericka Clark and Darlene MacKenzie, again that's regarding their ceasing to be directors because of their conduct.

A I believe it was a Facebook chat message but I could be wrong about that.

Q Okay. Did you communicate that to anyone else other than Ericka Clark and Darlene MacKenzie?

A At that point no. I do believe that I may have posted a screen shot of that or someone did on our administration page, which had I think at the time 12 administrators for one of our sites.

Q Okay. But it wasn't you who posted that?

A I don't think I did but I can't recall exactly. I wasn't very interested in disseminating it very widely, I wanted to make sure that they knew I was very disappointed in their conduct.

Q Do you have any sense as to who may have

posted it then?

A I think they did, on that site, that would have been one of the administrators, but that page has undergone a lot of turmoil and change because there have been a lot of people who have been taking sides in these issues and some of those sides taken have led them to do rather unfortunate things.

Q Were Ericka Clark and Darlene, or Darlene MacKenzie administrators at that point in time?

A There was some back and forth until the page was, control of the page was regained to its rightful authority.

Q But at the time --

A I was kicked off for awhile and then --

Q I just want to confirm that you hadn't sent this to anybody else personally that you hadn't sent it or posted it?

A I may have mentioned this to some of the executive members but it wasn't my intention to be flashing this all over the internet. I'm not a dirty laundry in public person.

Q I want to refer you back to the necessity to amend the bylaws back in 2013, at some point you had realized that the practices as they were at the time didn't quite confirm to the

bylaws?

A M-hm.

Q Can you give me a precise date or time when that realization arose in your mind?

A I couldn't do that, no. I mean this, bylaws are an ongoing thing, I think about them frequently. I mean I played a fairly major role in writing these bylaws along with a committee, who I vetted them, I think I went through 17 different drafts before we put something forward to the members and had it voted on which was done universally, it was done as a vote of the entire membership.

Q Sorry, the members voted, what are you referring to exactly?

A When we adopted new bylaws it was in the 2009, 2010, I was basically chairing the bylaws committee to make sure that that was done.

Q Okay. And regarding the 2013 amendments, when did you realize that you had to also address these issues as well?

A Well it was before the Vancouver AGM last year. It was apparent to me that, you know, I think maybe I had been reading them for something else, I can't say when or when it was, and it became apparent to me that contrary to my opinion at the time, the

directors cannot unilaterally change the bylaws, you know, they had to go to the membership for sanctioning. And what sanction meant and what ratification meant, the differences between those terms I was pretty fuzzy on frankly. And I mean when we were preparing the bylaws we had a number of people who had input into them, we were raising some template, boilerplate language in some aspects of them, some of the Industry Canada materials we used, some of them we didn't. We had input from former members of the executive and so on and, you know, it became apparent to me that this was a problem, I realized, okay, we've got to get this dealt with. But I think I discussed the rest of that with you already.

Q Actually what I was referring to was prior to that July meeting of the directors to vote on these new bylaws, when did you sort of realize that they needed to be changed yet again?

A Oh, I think that had to do with our practice changes when we hired Mr. Bevins and the need to clarify the role of the president. Because we've been operating on the need to have a boss, right, because in the absence of a boss who is the boss, and there needs to be a single report for people, otherwise you have,

I would say unwieldy and difficult circumstances of having employees reporting to multiple bosses which I think any of us would find very very unpalatable. And we had this meeting that we referred to that we've undertaken to provide you the minutes of, which appointed me to be the supervisor CEO and on so on to make sure that there was a boss, because there had to be a boss.

Q So there was some streamlining or consolidation of power?

A Well it's not consolidation of power, I think streamlining is a better way of characterizing it. The power's in the board of directors, it always has been and remains so. I think the bylaws are very clear about that. And I want to add, for many years we operated under a set of bylaws that were very central controlled in we had a model of governance that involved an extremely strong president and all authority was vested in the president. And I think I recall bylaw three if, you know, if there's any question about any interpretation of the bylaws the president's interpretation is the correct interpretation and will be deemed final. And I hated that. I found it anti democratic, I found it destructive to the best

interests of the association and I long tried to propose changes to that, those bylaws to bring them in line with 21st century ways of doing things and proper governance policies. I'm a great believer in governance, I've been on many boards and I believe that due process is really important. And when I looked at creating a new set of bylaws as part of the process to re-brand and rebuild and invigorate the organization and build it from what it was to what it is today. Part of that was to have a much more involved governance system, so that's what that's about. So it's not about consolidating power in the hands of the president, in fact it's exactly the opposite.

Q Now, I think my question was when did you decide to amend those bylaws, or when did you come to the realization that let's do this?

A I think there were others who were looking at how we were doing things. I mean we had conversations with the telephone. You've got to understand that my time in doing this volunteer job involves me doing this 20 to 30 hours a week on top of my family, my job, and everything else I do as volunteers. I volunteer in other organizations and quite frankly it involves not sleeping sometimes I

think some of you might be familiar with that from your own activities. So the idea that, this has been something that's been discussed with people and, you know, we need to be making changes so it wasn't a surprise to the directors at the time that there would be something brought forward to make changes in bylaws because we knew that our bylaws were not reflecting our actual operating practices. And the idea is do you change the practice to fit the bylaw or do you change the bylaw to fit the practice, and usually you try to change the practice to fit the bylaw because bylaws by their nature should not be easy to change, and if you did that you would be flipping around back and forth. But given these are in effect relatively new bylaws there's bound to be some growing pains, there are bound to be some structural issues that need to be dealt with on an ongoing basis. And this has all been about trying to make that process work to the best interests of the organization and in keeping with the fiduciary responsibility of the directors acting in good faith for the benefit of the organization.

Q But then again the knowledge that the practice was inconsistent with the bylaws, was that

always there throughout your tenure as president?

- A Probably. Probably there was, well I mean for example the nature of requiring an audit, we realized very quickly after adopting the bylaws we couldn't afford an audit. We looked at this and we said what do we do, well we'll take it to the members at the AGM. Guys, we're supposed to have an audit, what we've got is a financial review, is everybody okay with that and, you know, there had been, you've got to understand that the organization's records in previous years had been very poorly regarded, there had been no annual general meetings for a long time in a number of respects, and all kind of gross travesties. And I think that the membership was pleased to see the executive, the directors and officers all taking action to try to take something that would be getting off the rails and putting it back on the rails, cleaning it up, and making it run like a well oiled machine. So when? Ongoing. I look at bylaws all the time. I think about them all the time. You know, I think in this particular room there are actually people who would understand that.



Q So you were involved in drafting those initial amendments?

A The initial bylaws, yes, for the then president Blair Hagen.

Q What made it necessary to have yet another round of amendments in 2013?

A Well the idea was that we were changing our structure, we had this new employee, we had a need to clarify processes to make it clear since we had gotten rid of assigning the manager the title of executive vice-president, that was really a dead kind of position. We didn't have anybody doing that title with that job. The general manager was kind of, was doing the supervision of staff on behalf of the board of directors but it became kind of confusing as to who was the boss because we were relying on this directive that okay, well Sheldon, you're the boss, right, you're supervising these key employees. And that is fine as far as it goes, but it isn't very clear and I think that's possibly some of the issue with some of these directors that there's, they're not clear about that. And having changes to the bylaws to get some clarity is important. The bylaws should be clear.

Q Okay. Just one last request, I'd like to see a copy of the registered officers if you would undertake to provide that, I don't think we have it produced just yet?

MR. HEINTZ: I don't think there is one that complies to the letter with the regulations Mr. Stoyanov.

MR. STOYANOV: That's okay, whatever you have.

MR. HEINTZ: Miss Fournier has been instructed to prepare one when she gets a chance but notwithstanding that as I've advised your office a list of the officers appears in every Canadian Firearms Journal and those are available in hard copy and electronically.

MR. STOYANOV: Okay. Can we just have a copy of what was currently, you know, what had been kept at the registered office.

A We'll endeavor to meet your request.

MR. HEINTZ: Well we will but we might be able to meet it right now. You know, we've got the May 14 minutes where the executive are appointed.

A Elected.

MR. HEINTZ: Elected, thank you. So --

A That's true, that's there.

MR. HEINTZ: Tell me, beyond that I don't know what, there is nothing I can give you at the moment.

MR. STOYANOV: Right, what I'm trying to get is in essence the registered officers for the past say five years.

MR. HEINTZ: Right, it will have to be created.

MR. STOYANOV: Alright.

MR. HEINTZ: And I can't give you an undertaking to give you something that hasn't been created yet, but I can tell you that the process has been instructed, the staff have been instructed to engage in the process and at the moment at least your clients are entitled to see those records.

MR. STOYANOV: Alright. Can you undertake to provide it once it's created?

MR. HEINTZ: Sure.

MR. STOYANOV: Thank you.

MR. HEINTZ: If it's created.

MR. STOYANOV: Okay.

MR. HEINTZ: I'm not trying to be cute.

[UNDERTAKING NO. 12: To provide a copy of the list of registered officers for the past five years if and when it is created]

MR. KNISELY: Let's go off the record for a second.

(OFF RECORD DISCUSSION)

MR. STOYANOV: Mr. Clare, thank you for attending, and subject to any undertakings, subject to any answers to undertakings this concludes my examination today.

(WHICH WAS ALL THE EVIDENCE TAKEN AT THIS EXAMINATION)

(5:06 p.m.)

CERTIFICATE OF TRANSCRIPT

I, the undersigned, hereby certify that the foregoing pages are a complete and accurate transcript of the proceedings taken down by me in shorthand and transcribed from my shorthand notes to the best of my skill and ability.

Dated at the City of Edmonton,  
Province of Alberta, this 14th day of May, 2015.



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Richard D. Jacobs CSR(A)  
Official Court Reporter

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