



# VENTURE LAW GROUP LLP

Our file number: 61480

April 24, 2015

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Barristers & Solicitors  
#830, 10020 – 101A Avenue  
Edmonton, AB T5J 3G2

**Attention: Adam Knisely**

Dear Mr. Knisely:

**Re: Canada's National Firearms Association**





Enclosed please find Sheldon Clare's sworn Affidavit.

Yours very truly,  
**VENTURE LAW GROUP LLP**




*Edi for:*

**KENNETH G. HEINTZ**  
KGH:ep  
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COURT FILE NUMBER 1503 03309

COURT COURT OF QUEEN'S BENCH OF ALBERTA

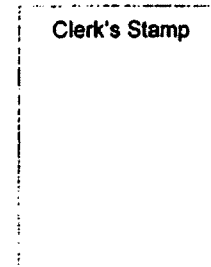
JUDICIAL CENTRE EDMONTON

PLAINTIFFS (APPLICANTS) CLAUDE COLGAN, ERICKA CLARKE, DARLENE MACKENZIE, KURT LUCHIA and STEPHEN BUDDO

DEFENDANTS (RESPONDENTS) CANADA'S NATIONAL FIREARMS ASSOCIATION and SHELDON CLARE

DOCUMENT AFFIDAVIT

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT Venture Law Group LLP  
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Attention: Kenneth G. Heintz  
File No. 61480



**AFFIDAVIT OF SHELDON CLARE**

Sworn on April \_\_, 2015

I, SHELDON CLARE, Educator, of Prince George, British Columbia, MAKE OATH AND SAY THAT:

1. I am the President of Canada's National Firearms Association (NFA), one of the Respondents herein and i am the individual Respondent herein and as such I have a personal knowledge of the matters hereinafter deposed to except where stated to be based upon information and belief.
2. This Affidavit is made in response to an Application brought by the Applicants in this action for an Order that Ginger Fournier comply with the Notice of Appointment for Questioning served on April 10, 2015 to attend for Questioning on April 23, 2015.
3. The evidence to be relied upon at the Application consists of three Affidavits of Ericka Clarke, filed March 6, March 30, and April 15, 2015, respectively, as well as the Affidavit of Service of Adam Knisely filed April 15, 2015.

**I. Ginger Fournier is Not an Appropriate Witness in this Action**

**4. The remedies sought in the within Originating Application are as follows:**

- a) An Order that the Association deliver copies of the Official Records to the Applicant Ericka Clarke forthwith;
- b) An Order that the Association prepare minutes of the meetings of its directors and members from 2011 to the present, and comply with its obligation to do so on an ongoing basis.
- c) An Order that the Association appoint an auditor within 15 days of the Order, failing which the Applicants may apply to the court for the appointment of an auditor;
- d) An Order that the auditor of the Association, within a reasonable period of time after the appointment, report on the financial statements of the Association for the fiscal years ending 2011, 2012, 2013 and 2014;
- e) An Order that the Association rectify its register of directors and file the appropriate Notice of Change of Directors with the Director of Corporations Canada forthwith;
- f) A declaration that the Applicants Ericka Clarke and Darlene MacKenzie are directors of the Association and were never removed as directors whether for unethical behaviour or otherwise, and that any statements by the Respondent Sheldon Clare to the contrary were unfounded;
- g) An Order restraining the Respondent Sheldon Clare from disseminating the false statement about the Applicants Ericka Clarke and Darlene MacKenzie.
- h) An Order that the Association conduct an election for the Manitoba director forthwith;
- i) Costs of the Originating Application.

**5. On April 1, 2015 the Applicants amended their Originating Application and the amendment included the addition of one additional remedy as follows:**

A declaration as to the bylaws of the Association that have been in force since July 29, 2013.

**6. This issue has been resolved.**

**7. Ms. Fournier is, notwithstanding any titles or descriptions that may suggest otherwise, the office manager of the NFA.**

8. She has no discretionary powers whatsoever outside of the authority given to her by the Board to run the office. She has no decision making authority. Ms. Fournier, is, at all times subject to the direction of the Board, the Executive Committee and the President. Depending on the subject matter being dealt with, Ms. Fournier may take direction from any or all of those entities pursuant to the powers given to them in the bylaws of the Association, directly or through delegation.

9. With respect to the remedies sought by the Applicants, Ms. Fournier, in my opinion, does not have any information that would further the ends of the Applicants. My comments in that regard are as follows:

a) An Order that the Association deliver copies of the Official Records to the Applicant Ericka Clarke forthwith:

Ms. Fournier has no authority to deliver copies of the official records to the Applicant or anyone else;

b) An Order that the Association prepare minutes of the meetings of its directors and members from 2011 to the present, and comply with its obligation to do so on an ongoing basis:

Ms. Fournier has no discretion as to whether or not to prepare minutes of meetings of directors;

c) An Order that the Association appoint an auditor within 15 days of the Order, failing which the Applicants may apply to the court for the appointment of an auditor:

Ms. Fournier has no discretion or authority to appoint an auditor;

d) An Order that the auditor of the Association, within a reasonable period of time after the appointment, report on the financial statements of the Association for the fiscal years ending 2011, 2012, 2013 and 2014:

Ms. Fournier has no control over the auditors of the Association;

e) An Order that the Association rectify its register of directors and file the appropriate Notice of Change of Directors with the Director of Corporations Canada forthwith:

Ms. Fournier has no discretion with respect to the corporate filings;

f) A declaration that the Applicants Ericka Clarke and Darlene MacKenzie are directors of the Association:

Ms. Fournier has no authority whatsoever to appoint or remove the directors of the Association;

**II The Affidavits of Ericka Clarke Sworn March 30, 2015 and April 15, 2015**

10. In paragraph 3(d) of her Affidavit sworn March 30, 2015, in reference to being supplied with the NFA Club Membership Count and NFA individual count at my instruction, Ms. Clarke states, "... I suspect that they are being provided in response to my request for the Association's Register of Members, and that this is a deliberate scheme on the part of Ms. Fournier to delay my inspection and receipt of a copy of the true Register of Members."
11. In my opinion, this statement is inflammatory and intentionally misleading. In fact, pursuant to an agreement between Counsel, Ms. Clarke attended at the NFA offices on March 25, 2015 to be shown the Membership List. Further to my concerns about the application of privacy legislation to the publication or distribution of the Membership List, it was agreed between Counsel that Ms. Clarke would only review the list but would not request a copy thereof, and that is exactly what happened.
12. In paragraph 6 of her Affidavit sworn March 30, 2015 Ms. Clarke states, in reference to her review of the Membership List, "... it did not appear to contain dates on which members became or ceased to be members, and therefore did not appear to comply with section 2(3) of the Canada Not-For-Profit Corporations Regulations.
13. I have no knowledge of what Ms. Clarke remembers seeing during her attendance at the NFA office on March 25, 2015 pursuant to agreement between Counsel. I instructed Ms. Fournier to show her the Membership List, and Ms. Fournier advises me, and I believe, that she did so.
14. In any event, the Membership List does contain dates on which members became or ceased to be members and in all respects, to the best of my knowledge, it complies with the requirement of the Canada Not-For-Profit Corporations Regulations.
15. In paragraph 4(d) of her Affidavit sworn March 30, 2015, Ms. Clarke makes a series of inaccurate and misleading statements. She states that I admit that the Association failed to facilitate her inspection of any of the official corporate records on March 2, 2015. In fact, in my Affidavit of March 19, 2015 I explained that Ms. Clarke delivered her demand letter to the NFA office at 4:12 PM on the afternoon of Friday, February 27, 2015, when she would have known that Ms. Fournier had left the office at 3:00 PM, and then appeared at the NFA office 9:00 AM on the morning of Monday, March 2, 2015 demanding that Ms. Fournier abandon all her other duties and comply with the demand that she had no notice of.
16. In my opinion, the foregoing was a staged event designed by Ms. Clarke to enable her to accuse the Association of non-compliance.
17. In paragraph 4(d)(ii) of her Affidavit of March 30, 2015, Ms. Clarke states that I admit that I impetuously sent false messages with respect to Ms. Clarke and Darlene MacKenzie. I made no such statement and I find it extremely offensive that Ms. Clarke

would presume to put words into my mouth. Notwithstanding her misleading allegations, in my Affidavit sworn on March 19, 2015, filed in this action on March 31, 2015 I state that the Directorships of Ms. Clarke and Ms. MacKenzie have been confirmed.

18. In paragraph 4(d)(iii) of her Affidavit sworn March 30, 2015, Ms. Clarke states that I admit that the Association is deficient in its corporate records, in particular the lack of audited financial statements. I stated in my Affidavit sworn March 19, 2015 that there may be some deficiencies, and that the Executive is currently reviewing the same and taking all necessary remedial steps.
19. In her Affidavit of April 15, 2015 Ms. Clarke states that she believes that Ms. Fournier would be a first hand witness to whether or not the bylaws were amended in 2013. She states, "I am informed by the Applicant Stephen Buddo and verily believe that he saw Ms. Fournier at the 2013 Annual Meetings of the Directors of the Association and of the Members of the Association on May 3, 2013 at Woodstock, Ontario.
20. The bylaws were not amended at the 2013 Annual Meetings of the Directors of the Association and of the Members of the Association on May 3, and 4, 2013 at Woodstock, Ontario.

## **II. Alberta Rules of Court 3.13, 6.16 and 6.38**

21. The above noted Rules are cited as the applicable Rules in the within Application.
22. I am advised by my solicitor and do verily believe that ARC 3.13(1) states as follows:

The following persons may be questioned by a party adverse in interest;

  - a) A person who makes an Affidavit in support of an Originating Application;
  - b) A person who makes an Affidavit in response;
  - c) A person who makes an Affidavit in reply to a response.
23. The fact of the matter is that Ms. Fournier is an employee of the NFA. She is not a party in the within litigation and she is not adverse in interest to the Applicants.
24. Further, it is a fact that Ms. Fournier has not sworn an Affidavit in support of the within Originating Application, in response thereto, or in reply to a response thereto.
25. I am advised by my solicitor and do very believe that ARC 6.16 deals with the contents of a Notice of Appointment for Questioning. The Respondents do not dispute any of the content of the Affidavit of Adam Knisely Affirmed on April 15, 2015.
26. I am advised by my solicitor and do verily believe that Rule ARC 6.38 states that the Court may order a person to attend Questioning if the person is required to be questioned under the Rules, was served with a Notice of Appointment, was provided with an allowance and did not attend the Appointment or attended but refused to answer the questions fully.

