

TORONTO COMPUTER LEASING INQUIRY

The Honourable Denise Bellamy, Commissioner

Ruling on Application by Counsel for Tom Jakobek

On September 2, 2004, the Commission received an Application by Alan Gold, counsel for Tom Jakobek, to permit him to examine Mr. Jakobek pursuant to Rule 26 of the Inquiry's Rules of Procedure. Mr. Gold states that such an examination would be more effective and in the best interests of his client. Parties with standing were advised of this Application, and none have made any submissions.

Rule 26 provides as follows:

In the ordinary course, Commission counsel will call and question witnesses who testify at the Inquiry. Counsel for a witness may apply to the Commissioner to lead a particular witness' evidence in-chief. If counsel is granted the right to do so, examination shall be confined to the normal rules governing the examination of one's own witness in court proceedings, unless otherwise directed by the Commissioner.

Having considered Mr. Gold's application, I have decided that Mr. Gold will be permitted to lead Mr. Jakobek's evidence in-chief, contrary to the usual practice whereby Commission counsel conduct the initial examination of each witness. Mr. Gold will examine his client in accordance with the normal rules governing the examination of one's own witness in court proceedings. Cross-examination by Commission counsel will follow. Other parties with standing may cross-examine Mr. Jakobek following Commission counsel. Mr. Gold will be permitted a right of re-examination when all cross-examinations are completed, followed by Commission counsel (Rule 27(d)).

The Inquiry's Rules of Procedure further provide that following an interview, Commission counsel will prepare a summary of a witness' anticipated evidence (Rule 19). The

summary, once approved by the witness, will be shared with people with standing (Rule 20). In this case, since Commission counsel have not interviewed Mr. Jakobek since April 2003 and counsel for Mr. Jakobek will be leading the evidence of this witness, I order that counsel for Mr. Jakobek provide a detailed summary of Mr. Jakobek's anticipated evidence to Commission counsel by 10:00 a.m. on Tuesday, September 7, 2004. Commission counsel will circulate the summary to parties with standing. Since March 2003, Commission counsel have endeavoured to provide affidavits of witnesses to all parties with standing. Accordingly, if Mr. Jakobek prefers to prepare a detailed affidavit as opposed to a summary of anticipated evidence, he may do that by the same date, and, again Commission counsel will circulate this to the parties with standing.

Application by counsel for Tom Jakobek received on: September 2, 2004

Decision released on: September 3, 2004