

**THE COHEN COMMISSION OF INQUIRY INTO
THE DECLINE OF SOCKEYE SALMON IN THE FRASER RIVER**

Ruling on Application for Two Counsel to Attend Final Submissions

The Honourable Bruce I. Cohen, Commissioner

1. On October 28, 2011, senior counsel for the Area D Gillnetters and Area B Seiners, Mr. Rosenbloom, wrote to commission counsel, Mr. Wallace, requesting that both senior and junior counsel for this participant group be permitted to be paid under the contribution program for their attendance at final submissions on November 7 and 8, 2011. As clause 10(b)(iii) of the Terms and Conditions of the Contribution Program indicates, this is a matter for my determination:

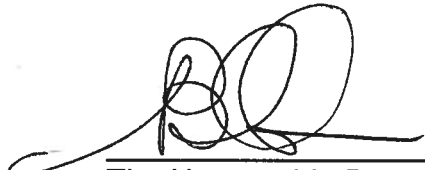
Payment of counsel fees related to attendance at hearings under this Program is limited to the hearing days involving the interest of the particular Recipient as determined by the Commissioner. Recipients may claim legal costs for only one legal counsel to attend any particular day of hearings unless otherwise authorized by the Commissioner. [emphasis added]

2. Mr. Rosenbloom's reasons for requesting an exception to this rule were that junior counsel, Ms. Pacey, had exclusive conduct of the participant group's involvement with the aquaculture topic; Mr. Rosenbloom desired that Ms. Pacey deliver the group's final submissions on that topic; and that, to do so, he said she must be present to hear other participants delivering submissions on that topic.
3. While there is no prohibition to more than one counsel attending on behalf of a funded participant, only one counsel may claim legal fees for attendance on behalf of that group for any particular day of hearings. I am unable to find anything exceptional in the circumstances identified that would justify me authorizing an exception to this rule. Many participant groups were faced with the same challenge of having funding for only one paid counsel to appear at final submissions, despite having split work for different hearing themes among different counsel. I expect that several of the counsel appearing may have

benefited from having their juniors or co-counsel attend with them, and I find nothing exceptional about this participant group. Mr. Rosenbloom would have had the able assistance of Ms. Pacey in reviewing the submissions and reply submissions of other parties as well as the daily transcripts of the hearings.

4. I appreciate that having both senior and junior counsel present for closing submissions would be, for many lawyers, optimal. However, the Contribution Program sets the ground rules for the public funding of legal fees for participants in this Inquiry. In my view, in order for me to authorize an exception to those ground rules, the circumstances must indeed be exceptional. In this case, the circumstances are typical rather than exceptional, and I therefore decline the participant's request.

Dated Nov 21, 2011.



The Honourable Bruce I. Cohen
Commissioner