

bc civil liberties association



INTERNAL INQUIRY

MAR 15 2007

ENQUÊTE INTERNE

March 14, 2007

The Honourable Frank Iacobucci, Q.C., Commissioner
Iacobucci Inquiry
PO Box 1208, Station B
Ottawa, Ontario
K1P 5R3

Dear Mr. Commissioner:

RE: BCCLA Application for Standing and Funding

Please find enclosed original Motions and Affidavits for the application of the B.C. Civil Liberties Association ("BCCLA") for standing to participate and funding at the Commission of Inquiry into the Actions of Canadian Officials in Relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin ("Iacobucci Inquiry").

The enclosed documents include two distinct applications by the BCCLA. One set of documents pertains to the BCCLA's application for standing to participate and funding for legal counsel. The second set of documents pertains to the BCCLA's application for funding on behalf of Intervenor Organizations for an Intervenor Coordinator.

These documents were original sent to the Iacobucci Inquiry via email on March 14, 2007. Copies of the relevant emails are also enclosed.

Ms. Shirley Heafey, a member of the Board of Directors of the BCCLA, will appear on behalf of the BCCLA at the hearing scheduled on March 21, 2007 to speak to these applications.

Please contact me if you have any questions.

Yours sincerely,

Murray Mollard
Executive Director

Encl.

HONOURARY DIRECTORS

David Barrett

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Thomas Berger, Q.C., O.C.

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The Right Honourable
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David Suzuki

Milton Wong

**INTERNAL INQUIRY INTO THE ACTIONS OF
CANADIAN OFFICIALS IN RELATION TO ABDULLAH ALMALKI,
AHMAD ABOU-ELMAATI AND MUAYYED NUREDDIN**

MOTION SEEKING RECOMMENDATION FOR JOINT FUNDING

TAKE NOTICE THAT:

THE BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

(Applicant)

HEREBY APPLIES FOR A JOINT FUNDING RECOMMENDATION from the Commission of Inquiry into the Actions of Canadian Officials in Relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin (“Iacobucci Inquiry” or “Inquiry”), as follows:

1. **Funding** The Applicant requests that the Commissioner recommend funding under Rule 14 of the Rules of Procedure, in order to provide for a liaison position which will make it possible to ensure effective coordination of the interveners’ submissions and participation at the Iacobucci Inquiry.¹ Funding would make it possible for the Applicant to support the ability of Intervening Organizations to:
 - (a) frequently exercise any rights of standing they may be granted jointly, including making appropriate joint submissions when submissions are allowed and;

¹ It is anticipated that this funding would go towards the coordination of the participation of the following organizations, if granted participant status: Amnesty International Canada, the British Columbia Civil Liberties Association, the Canadian Council on American Islamic Relations, the Canadian Muslim Civil Liberties Association, the International Campaign against Torture, and the International Civil Liberties Monitoring Group (hereafter referred to as the “Intervening Organizations”). The coordination effort and the administration of this funding would be overseen by the Applicant, the British Columbia Civil Liberties Association.

- (b) communicate with the Commissioner and his staff through a designated coordinator;
- (c) coordinate their ability to observe portions of the Inquiry which are open to it.

The Intervening Organizations would participate in a manner intended to assist the Inquiry to fulfill its Terms of Reference.

INTRODUCTION

- 2. The Intervening Organizations all have a genuine concern about the subject matter of this inquiry and a particular perspective or expertise that may assist the Commissioner. Together, they possess a wealth of experience in the application of international human rights law, civil liberties and the protection of minority groups, as well as the practice and jurisprudence of national and international mechanisms for the protection of human rights, civil liberties and minority groups. We understand that each of the Intervening Organizations will submit an individual submission for participation at this Inquiry under the Rules of Procedure and Practice.
- 3. In order to ensure that the participation of Intervening Organizations is both effective and efficient, the Applicant requests that the Commissioner recommend joint funding to cover the costs of a coordinating liaison between the Intervening Organizations and this Inquiry.

THE APPLICANT

- 4. The British Columbia Civil Liberties Association (“BCCLA”) is a Society duly incorporated on February 27, 1963, pursuant to the *Societies Act*, with its registered office at 550 - 1188 West Georgia Street, Vancouver, British Columbia. The object of the BCCLA is to promote, defend, sustain and extend civil liberties and human rights. The BCCLA advocates for a wide variety of principles that promote individual rights and freedoms. The BCCLA, though provincial in name, undertakes work that has a national scope.

Affidavit of Murray Mollard, Paragraph 2

FINANCIAL NEED

- 5. The Applicant is a non-profit organization relying on limited funds to carry out its work, as are all of the Intervening Organizations. The Applicant does not have

resources to carry out this important coordination work, nor do any of the other Intervening Organizations. Without this support, the ability of the Intervening Organizations to make substantial and constructive contributions to assist the Commissioner in fulfilling the Inquiry's Terms of Reference will be significantly constrained.

Affidavit of Murray Mollard, Paragraphs 4, 6 and 9

6. The Applicant makes this application taking as precedent the funding of the Committee of Organizations with Intervener Status at the Arar Inquiry. In his Report Justice O'Connor noted that he had responded favourably to the interveners' joint request for funding, commending their single coordinated approach which he called "efficient and effective", noting further, "coordinating intervenor participation, to the extent possible, makes sense." Justice O'Connor recommended funding for a coordinator's position stating that "the contribution of the intervenors to date has been useful and their continued participation would be of assistance to the Inquiry."

Arar Report, Vol. II at 648-649.

7. The Applicant and the other Intervening Organizations believe that the same approach should be taken with respect to funding in the present Inquiry. In particular, they believe that a single coordinated approach will allow the Inquiry to streamline their communication and dealings with all Intervening Organizations in terms of both the process and substance of the Inquiry, as well as making the most efficient use of funds. Moreover, the single approach will also allow the Intervening Organizations to maximize their ability to effectively participate in the Inquiry in a meaningful and systematic way, by coordinating their concerns and avoiding overlap in their submissions.

Affidavit of Murray Mollard, Paragraphs 5, 7 and 8

NATURE OF FUNDING

8. The Applicant will apply any funding received to pay for reasonable fees and disbursements incurred in the course of coordinating the work of the Intervening Organization, including fees incurred by an individual specifically retained to coordinate that work. The Applicant respectfully requests that funding be made available for one Intervenor Coordinator, who will oversee and support the participation of the Intervening Organization in the Inquiry and assist in the drafting of occasional joint submissions.

Affidavit of Murray Mollard, Paragraph 7

9. The Applicant and other of the Intervening Organizations may make separate applications for funding for legal counsel. The responsibilities of the Intervenor Coordinator and legal counsel are distinct.

Affidavit of Murray Mollard, Paragraph 10

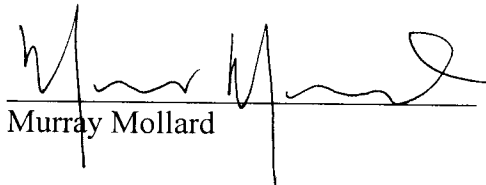
10. The Applicant seeks permission to make oral submissions in support of this request for funding at the participation hearing scheduled for 21 March 2007.

CONCLUSION

11. The Applicant can be contacted through Murray Mollard, directly by email at murray@bccla.org, or by phone at 604-687-3013.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated at Vancouver, British Columbia, 14 March 2007


Murray Mollard

**COMMISSION OF INQUIRY INTO THE ACTIONS OF
CANADIAN OFFICIALS IN RELATION TO ABDULLAH ALMALKI,
AHMAD ABOU-ELMAATI AND MUAYYED NUREDDIN**

MOTION SEEKING STANDING TO PARTICIPATE AND FUNDING

TAKE NOTICE THAT:

THE BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

(Applicant)

HEREBY APPLIES FOR A DECISION AND JOINT FUNDING
RECOMMENDATION from the Internal Inquiry into the Actions of Canadian Officials
in Relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin
("Iacobucci Inquiry"), as follows:

1. The British Columbia Civil Liberties Association (BCCLA) be granted standing to participate in the Iacobucci Inquiry pursuant to Rules 7 to 12 of the Rules of Procedure and Practice Respecting Participation and Funding.
2. Pursuant to Rules 13 to 15 of the Rules of Procedure and Practice Respecting Participation and Funding, the Applicant BCCLA requests that the Commissioner recommend that the BCCLA and the International Civil Liberties Monitoring Group (ICLMG) be granted joint funding for legal counsel to make joint submissions to the Iacobucci Inquiry regarding all matters relevant to their participation at the Inquiry.

Participation: The Genuine Concern and Expertise of the BCCLA

3. The BCCLA has a genuine concern regarding the subject matter of the Iacobucci Inquiry. Furthermore, the BCCLA has a particular perspective and expertise that may assist the Commissioner.

4. The BCCLA is dedicated to the promotion and defence of civil liberties and human rights in British Columbia and Canada. More relevant to the mandate of the Iacobucci Inquiry, the BCCLA has genuine concern and interest in protecting civil liberties in the context of Canada's national security activities.
Affidavit of Murray Mollard, paragraphs 3-5, 8, 10, 11, 15 and 18

5. The BCCLA has developed a strong interest in the prevention of torture. Of particular importance to the BCCLA is the need for accountability of government officials when their actions may have a negative impact on the civil liberties and human rights of individuals that cannot be justified in the name of national security or law enforcement generally.
Affidavit of Murray Mollard, paragraphs 8, 9, 13, 15, 19-21

6. The BCCLA participation in the Arar Inquiry was borne out of a real concern about the actions of Canadian officials and how those actions may have led to the torture of Maher Arar. Given the experience of Mr. Arar and some of the evidence revealed at the Arar Inquiry, the BCCLA has an even greater concern about whether the actions of Canadian officials resulted in improper detention, mistreatment and/or torture of Mr. Almalki, Mr. El-Maati and Mr. Nureddin.

7. Through our work on national security and civil liberties more generally but also specifically through our work at the Arar Inquiry, the BCCLA has developed a particular expertise on many aspects of national security work, including the sharing of intelligence and other information with foreign agencies and national

security confidentiality, that would be of direct relevance to the Terms of Reference of the Iacobucci Inquiry.

Affidavit of Murray Mollard, Paragraphs 12 and 15

Funding:

8. The BCCLA is a non-profit organization that continually struggles to find funding for its basic operating expenses. The BCCLA has no budgeted funding for effective participation at the Iacobucci Inquiry. Without funding, the BCCLA's would not be able to effectively participate in the Iacobucci Inquiry.

Affidavit of Murray Mollard, Paragraphs 2 and 22

9. The similar mandates and our experience working together in the Arar Inquiry and other matters of mutual interest make a coordinated approach to retaining joint legal counsel for the BCCLA and ICLMG the most efficient and wise allocation of resources.

Affidavit of Murray Mollard, Paragraphs 15-17

10. The BCCLA in conjunction with the International Civil Liberties Monitoring Group seeks joint funding for legal counsel. The responsibilities for joint legal counsel would include legal and strategic advice, representation before the Iacobucci Inquiry and the preparation and advocacy of substantive submissions.

11. In his Ruling on Standing and Funding, Commissioner O'Connor of the Arar Inquiry found that the BCCLA was "... a prime candidate to receive a grant of funding. I was very impressed with their presentation and their history of protecting civil liberties in a national security context."¹

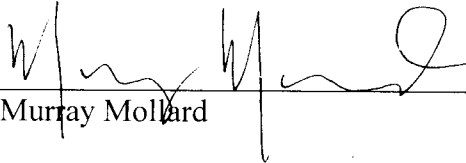
¹ Report of the Events Relating to Maher Arar, Factual Background, Volume II, Appendix 3(B), Ruling on Standing and Funding 609 at 635.

12. The BCCLA requests permission to make oral submissions in support of this application for standing and funding at the participation hearing scheduled for March 21, 2007.

13. The Applicant can be contacted through Murray Mollard, directly by email at murray@bccla.org, or by phone at 604-687-3013.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated at Vancouver, British Columbia, 14 March 2007


Murray Mollard

**COMMISSION OF INQUIRY INTO THE ACTIONS OF
CANADIAN OFFICIALS IN RELATION TO ABDULLAH ALMALKI, AHMAD ABOU-
ELMAATI AND MUAYYED NUREDDIN**

**BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION
APPLICATION FOR STANDING AND FUNDING**

AFFIDAVIT OF MURRAY MOLLARD

I, Murray Mollard, Barrister & Solicitor and Executive Director of the B.C. Civil Liberties Association (“BCCLA”), of 550 – 1188 West Georgia St., Vancouver, British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. I am the Executive Director of the BCCLA, and accordingly have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated to be on information and belief, and, as to such facts, I verily believe the same to be true.
2. I have been the Executive Director of the BCCLA for more than six years. As Executive Director, I have responsibilities for managing all financial aspects of the organization including drafting and reporting on annual budgets and fundraising. Prior to my position as Executive Director, I was the Policy Director of the BCCLA beginning in 1994.
3. The BCCLA is a Society duly incorporated on February 27, 1963, pursuant to the *Societies Act*, with its registered office at 550 - 1188 West Georgia Street, Vancouver, British Columbia. The object of the BCCLA is to promote, defend, sustain and extend civil liberties and human rights. The BCCLA has at present approximately 1,000 members and contributors involved in various professions, trades or callings.
4. The BCCLA has demonstrated a long-standing, genuine and continuing concern with the rights of the citizens in British Columbia and in Canada to liberty and freedom. In various fora, we advocate for principles which promote individual rights and freedoms, including

freedom of thought, belief, conscience, religion, opinion and expression, equality rights, and autonomy rights generally.

5. The BCCLA is a provincial organization in name only. It is Canada's oldest active civil liberties organization. It can lay claim to being this country's pre-eminent civil liberties organization. The BCCLA has played an important and prominent role on every significant national civil liberties issue for over 40 years. As the information in this affidavit attests, nowhere is the BCCLA's national presence and expertise more evident than in the roles it has played in the development of policy and in assisting individual complainants on security-intelligence and policing matters.
6. One of the distinguishing features of the BCCLA, and a key reason why it has been able to play such a prominent national role, is that it has a committed volunteer board of directors with a wide range of expertise related to its mandate. Although the BCCLA is one of an extremely small number of civil liberties organizations with a full-time staff devoted exclusively to civil liberties work, it remains very much a board-driven organization. Thus, it has been able to tap the expertise and energies of a wide range of academics, professionals, and lay persons with expertise in civil liberties work. This has given the BCCLA a unique status in this country as the only truly grass-roots citizens' organization with the resources of a full time staff devoted exclusively to civil liberties. As a consequence, the BCCLA has also had a range of resources that has allowed it to play an informed and constructive role on complex and diverse subjects related to civil liberties. Again, this is nowhere more evident than in the BCCLA's contributions on issues and matters related to security-intelligence and policing.
7. The BCCLA works to achieve its mandate through four program areas:
 - a. Public Education: through media work, its website, public presentations, public events and the distribution of publications, the BCCLA educates the public about

civil liberties,

- b. Complainant Assistance: the BCCLA provides free assistance to individuals who have civil liberties concerns about the laws, policies or actions of government or private sector institutions,
- c. Law and Policy Reform: the BCCLA meets with public and private officials and makes formal submissions, written and oral, to all levels of government and private institutions, and
- d. Litigation: when other forms of moral suasion do not succeed, the BCCLA will go to court to protect civil liberties. Aside from trial and first appeal courts, the BCCLA is regular intervenor and party before the Supreme Court of Canada regarding cases that have a national scope. More recent examples of these cases include:
 - i. *May v. Ferndale Institution* 2005 SCC 82 (availability of *habeas corpus* in provincial superior courts)
 - ii. *Reference Re Same-Sex Marriage* [2004] 3 S.C.R. 698 (constitutionality of same-sex marriage legislation)
 - iii. *R. v. Malmo-Levine, R. v. Caine* [2003] 3 S.C.R. 571; *R. v. Clay* [2003] 3 S.C.R. 735 (the Marijuana case)
 - iv. *Chamberlain v. Surrey School District No. 36* [2002] 4 S.C.R. 71 (the banning of books depicting same sex couples)
 - v. *Babcock v. Attorney General (Canada)* [2002] 3 S.C.R. 3 (challenge to section 39 of the Canada Evidence Act (Crown Privilege provision))

- vi. *Sauve v. Canada (Chief Electoral Officer)* [2002] 3 S.C.R. 519 (prisoner voting rights)
 - vii. *Trinity Western University v. British Columbia College of Teachers* [2001] 1 S.C.R. 772 (extent of religious freedom in private college)
 - viii. *R. v. Sharpe* [2001] 1 S.C.R. 45 (child pornography)
 - ix. *R. v. O.N.E.* [2001] 3 S.C.R. 478 (publication ban on operational methods and identity of undercover police officers)
 - x. *Little Sisters Book and Art Emporium v. Canada (Minister of Justice)* [2000] 2 S.C.R. 1120 (customs power to ban expressive material)
 - xi. *R. v. Cuerrier* [1998] 2 S.C.R. 371 (fraud in failing to disclose HIV status vitiating consent in assault)
8. The BCCLA has a long history and involvement with national security intelligence, anti-terrorism legislation and police accountability in Canada. The positions taken by the BCCLA are based on the guiding principle that restrictions on basic rights and freedoms can only be justified if they are necessary ultimately for the sake of those very same rights and freedoms.
- a. In 1978 and 1979 the BCCLA made submissions to the McDonald Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police specifically regarding the role of the Secret Service in Canada. The BCCLA argued that security must include security in our basic democratic rights and freedoms. One aspect of the BCCLA submission was that, so far as possible, the security service

should be integrated into the regular force of the RCMP. This would put security threats in their proper context in relation to other threats of criminal activity and would negate the accountability problems created by unique lines of authority.

- b. In 1980, the BCCLA made submissions to and was invited to appear before the Joint Senate-Commons Committee reviewing proposals for the *Canadian Charter of Rights and Freedoms*.
- c. In 1983 the BCCLA made submissions on the proposed *Canadian Security Intelligence Service Act*. The BCCLA was concerned that the Bill gave the Canadian Security Intelligence Service (“CSIS”) “a mandate too broad, powers too intrusive, and democratic controls too limited”. The government responded to these criticisms with a new Bill in 1984. The BCCLA again made submissions, acknowledging the improvement in the second Bill but raising concerns regarding routine monitoring of “domestic subversion”; the relationship between CSIS as a civilian agency and other intelligence agencies including the RCMP; and the continued breadth of the CSIS mandate.
- d. In 1988, the BCCLA made submissions to the government regarding Bill C-77, a proposed *Emergencies Act* which would replace the *War Measures Act*. Though the BCCLA did not oppose in principle the creation of legislation that would temporarily suspend some civil liberties in times of true national emergency, the BCCLA, among other criticisms, expressed concerns that the bill had no clear definition of “emergency” nor provided adequate parliamentary oversight of invocation of extraordinary state powers at the expense of civil liberties.
- e. In 1989 the BCCLA participated in the five year parliamentary review of the *Canadian Security Intelligence Service Act*. The essence of the BCCLA submission was that there needed to be greater oversight, control and accountability of the

security-intelligence activities of CSIS and of other agencies and that the mandate of CSIS should be narrowed and clarified. In this regard the BCCLA made a number of specific recommendations for creating a balance between security-intelligence activities and the fundamental democratic rights and freedoms of Canadians.

- f. In 1991 the BCCLA submitted a complaint to the Security Intelligence Review Committee ("SIRC") regarding CSIS questioning of members of the Arab and Iraqi communities in Canada during the Gulf War. To communicate its response to this complaint, and as an example of its trust and confidence in the BCCLA, SIRC took the unusual step of sharing with the BCCLA, on a strictly confidential basis, a draft copy of its Annual Report in 1992.
- g. The BCCLA has been influential in the creation of a civilian oversight mechanism for the Canadian Security Establishment ("CSE"). CSE is a part of the Department of National Defence and has a mandate to gather intelligence regarding the capacity of foreign states, corporations or persons in support of Canada's foreign and defence policies. CSE also provides advice to government regarding federal government telecommunications security and data processing. In its work, CSE will intercept communications of Canadian citizens and landed immigrants.
- h. The BCCLA was a principal complainant before the Commission for Public Complaints Against the RCMP (the "PCC") during its public hearing into complaints about the RCMP's conduct before, during and after the 1997 Asia-Pacific Economic Cooperation ("APEC") conference. The BCCLA was represented by counsel at every day of the APEC hearings, which took almost two years to complete, including both the initial hearings chaired by Commissioner Gerald Morin (as he then was) and the subsequent hearings conducted by Ted Hughes, Q.C. The BCCLA played an important role in those hearings including cross-examining witnesses, participating in judicial review proceedings arising from preliminary matters, and providing both

written and oral final argument.

- i. Following the events of September 11, 2001, the BCCLA made both oral and written submissions to the House of Commons Standing Committee on Justice and Human Rights on Bill C-36 (the *Anti-Terrorism Act*). In those submissions, the BCCLA recognized that a re-balancing of security interests with privacy and other civil rights and liberties may be necessary when confronting extraordinary threats. However, we submitted that the guiding principle should be that any restrictions on basic rights and freedoms can only be justified if they are necessary ultimately for the sake of those very same rights and freedoms. In our submission this principle required that the restrictions be as limited as possible and that they be accompanied by a commitment that they would come to an end. We recommended a sunset clause of 5 years, pointing out the possibility of mistakes:

...The likely effect of these proposals on the Canadian Muslim community affords another compelling reason for a sunset clause. For the main burden of this legislation is going to fall almost exclusively on Muslim Canadians, particularly on those of Arab descent.

Only the most naive and uninformed observer could think that exercises of preventive detention, investigative hearings, and prosecutions for financing or abetting terrorism that are contemplated by this legislation will not at times be mistaken, sometimes seriously and with tragic consequences. Thus, as the Muslim Canadian community becomes the main locus of investigation, and as genuine controversies arise and mistakes are made, it is practically inevitable that Muslim Canadians will ask questions about their government's commitment to respect their rights to fundamental freedom and equality alongside their

Canadian brothers and sisters. These are social costs that we must do all in our power to avoid...

- j. On November 22, 2001, the BCCLA wrote to Prime Minister Jean Chrétien to express its concerns about the breadth of the definition of terrorist activity contained in the *Anti-Terrorism Act*. In that letter we expressed our concern that failure to find the appropriate balance between the proposed security measures and respect for fundamental rights and freedoms would threaten and undermine the legitimacy of the fight against terrorism.
- k. The BCCLA has had a generally positive and constructive relationship with the SIRC. The BCCLA has met and corresponded regularly with SIRC, often at SIRC's invitation, to discuss matters of general and specific concern regarding the conduct, oversight and accountability of CSIS. Meetings between the BCCLA and SIRC have occurred in 1989, 1991, 1993, 1998, and 2002. SIRC has expressed its appreciation of the BCCLA's expertise in the area of security-intelligence and the utility of these meetings for SIRC.
- l. In 2002, the BCCLA wrote to then Solicitor General Lawrence MacAulay in regards to the powers granted to SIRC under the *Security of Information Act* in relation to the "public interest defence". In our letter, we explained that it is an offence under that *Act* for a person permanently bound to secrecy to communicate or confirm "special operational information", or information that would be "special operational information" if it were true. However, it is a defence if a person establishes that he or she acted in the "public interest". The BCCLA was concerned that the legislation did not give SIRC the explicit power to authorize an individual to divulge information in the "public interest".
- m. In December 2002 the BCCLA made submissions to the Department of Justice in

response to its consultation document on access by law enforcement and national security agencies to information and communications in the face of new technologies. The consultation document proposed an expansion of the government's ability to carry out electronic surveillance. The BCCLA raised a number of privacy concerns as well as raising doubts as to whether the proposed measures would actually be effective in preventing organized crime or terrorism. Since that time, the BCCLA has continued to be actively involved in the federal government's consultations regarding "lawful access".

- n. On January 30, 2003, the BCCLA made both oral and written submissions to the House of Commons Legislative Committee on Bill C-17 (the *Public Safety Act, 2002*). The BCCLA made a number of specific recommendations in accord with the guiding principle that restrictions to established basic rights and freedoms can be justified only if they are necessary ultimately for the sake of those very same rights and freedoms. The BCCLA made a further submission to the Senate regarding Bill C-7 (formerly C-17) essentially repeating our concerns in our prior submission to the House of Commons Committee.
9. In addition to a specific focus on security-intelligence work of the RCMP, CSIS and CSE regarding matters of national security, the BCCLA is perhaps Canada's foremost public advocate for police accountability generally. The BCCLA has continually played an instrumental role in the creation and reform of police civilian oversight agencies including the Office of the Police Complaint Commissioner of British Columbia (municipal police forces in B.C.) and the Commission for Public Complaints Against the RCMP (CPC), formerly the RCMP Public Complaints Commission. In this work, the BCCLA regularly meets with and makes submissions to government, including special legislative committees reviewing legislation, the Police Complaint Commissioner of B.C and the Chair of the CPC, Chiefs and Superintendents of Police, representatives of rank and file police officers and special bodies charged with reviewing mechanism for police accountability including the

Oppal Commission of Inquiry into Policing in B.C. (1994) and Josiah Wood, Q.C.'s Review of the Police Complaint Process (2007).

10. As one of its core programs, the BCCLA will provide assistance to individuals who have concerns and complaints about law enforcement and national security agencies, including the RCMP, and CSIS. The BCCLA has assisted hundreds of individuals to file complaints regarding these agencies. For example, the BCCLA will assist individuals from the Muslim community who are looking for legal advice after a call from CSIS to meet. The BCCLA's assistance to complainants is important because of the various cultural, linguistic and political barriers to members of minority communities making complaints about the police and security-intelligence agencies.
11. In 2004, the BCCLA initiated meetings with leaders of the Muslim community in British Columbia to seek their guidance and assistance in assessing the impact of changes in law enforcement and security-intelligence law and policy on members of their community. As part of this initiative, the BCCLA visited Mosques throughout the Vancouver area to provide general information and respond to questions or concerns from the local community.
12. The BCCLA has expertise and experience in matters relating to the issue of disclosure of documents where objections to disclosure are made by government based on national security confidentiality. For example, in addition to the BCCLA's direct participation at the APEC PCC hearings, the BCCLA was also a party to an action in the Federal Court of Canada (*Singh et al. v. Canada (Attorney General)* (23 June 2000), Ottawa DES-2-99, DES-3-99, DES-4-99, DES-5-99 Federal Court of Canada, Trial Division) to obtain documents relevant to the APEC hearing over which privilege was claimed by the federal government under then sections 37 and 38 of the *Canada Evidence Act* which dealt with objections to the disclosure of documents on the grounds of harm to international relations and national defence or security. The BCCLA was also an intervenor in *Babcock v. Attorney General (Canada)* [2002] 3 S.C.R. 3 before the Supreme Court of Canada which considered

the proper interpretation and application of section 39 of the *Canada Evidence Act*, the section that deals with claims for absolute Crown privilege over confidences of the Queen's Privy Council for Canada.

13. The BCCLA advocates for legislation and policies that promote the principle that Canada and Canadian officials do not participate in or encourage, explicitly or implicitly, torture. In addition, the BCCLA believes that it is vital in our democracy to have fair and efficient mechanisms for ensuring the accountability of government officials with respect to their national security activities in order to protect civil liberties and human rights while preventing torture.
14. As part of the Government of Canada's five year review of the *Anti-Terrorism Act* (ATA), the BCCLA produced a major brief with recommendations on several aspects of the ATA as well as the security certificate provisions of the *Immigration and Refugee Protection Act*. In 2005, the BCCLA was a witness before both the House of Commons and Senate Committees reviewing the ATA.
15. The BCCLA has been extensively involved in the Maher Arar matter in various ways including advocating for the creation of an inquiry to address the issue of the actions of Canadian officials in relation to Mr. Arar. As well, the BCCLA was an intervenor before the Arar Inquiry in both the Factual Inquiry and the Policy Review. The BCCLA made extensive submissions to Commissioner O'Connor in both areas both in our own right in joint submissions along with other intervenors. The focus of the BCCLA's individual and joint submissions included all aspects relevant to the mandate of the Arar Inquiry including the sharing of information with foreign agencies and national security confidentiality.
16. Through our work at the Arar Inquiry and in other matters, the BCCLA has forged strong, collaborative relationships with other Arar Inquiry intervenors including the International Civil Liberties Monitoring Group, Amnesty International, the Canadian Council on

American Islamic Relations, and the International Campaign Against Torture. The BCCLA worked extensively with other intervenors during the Arar Inquiry. This cooperative exercise included coordinating the exchange of information, strategy and substantive submissions. The BCCLA found this to be a very productive and efficient approach to participation at the Arar Inquiry. Given the Association's base of operations in British Columbia, this approach also proved effective in maintaining a presence in the Arar Inquiry notwithstanding we were physically far removed from the Arar Inquiry hearings and offices. Through this experience, the BCCLA anticipates that it would be very productive and efficient for the BCCLA as well as the Iacobucci Inquiry for the BCCLA and these other organizations to coordinate their work and their submissions as much as possible to the Iacobucci Inquiry.

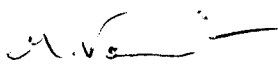
17. The BCCLA and the International Civil Liberties Monitoring Group have particularly mutually complementary mandates that would make coordination of our submissions more efficient for both organizations.
18. The BCCLA was an intervenor before the Supreme Court of Canada regarding the constitutional challenge to the security certificate provisions of the *Immigration Refugee and Protection Act: Charkaoui v. Canada (Citizenship and Immigration)* 2007 SCC 9.
19. As a follow up to Factual Inquiry report of the Arar Inquiry, the BCCLA created a draft *Prevention of Torture Act (PTA)*. The PTA seeks to ensure that there are adequate systems and incentives for Canadian officials to avoid complicity in torture by aiding or abetting torture as well as ensuring obligations to assist Canadians who experience or are threatened with torture in other countries. The BCCLA has received the explicit support of more than fifty organizations and persons who represent a broad spectrum of human rights groups and Muslim/Arab organizations. The BCCLA has been very active advocating for the adoption of the PTA by the Parliament of Canada.

20. In 2007, the BCCLA, along with Amnesty International, filed for a judicial review of the Canada-Afghan Prisoner Transfer Agreement (the “Agreement”) in the Federal Court of Canada (File No. T-324-07). The BCCLA’s challenge is based on the concern that the Agreement may make Canadian officials complicit to torture given credible reports that prisoners transferred to the Afghan national security forces and police face a substantial risk of torture.
21. Also in 2007, the BCCLA and Amnesty International (“AI”) filed a joint complaint before the Military Police Complaints Tribunal. The BCCLA and AI’s complaint is that the Canadian Military may have aided and abetted torture because of the provisions of the Canada-Afghan Prisoner Transfer Agreement which provides for the transfer of prisoners by Canadian military to Afghan national security forces and police. The BCCLA and AI are particularly concerned that prisoners are being transferred when there are credible reports that such prisoners face a substantial risk of torture and there are no effective safeguards against such torture nor Canadian military practices which monitor the condition of prisoners who have been transferred to Afghan authorities. On February 26, 2007, Peter Tinsley, Chair of the Military Police Complaints Commission, issued a letter which accepted the BCCLA/AI complaint and ordered an immediate independent investigation of the complaint.
22. The BCCLA receives funding from three primary sources: an operating grant from the Law Foundation of British Columbia, a small but always uncertain grant from gaming revenues from the province, and private financial support from members and supporters. The Association perpetually struggles to find adequate finances to cover its modest costs including five full time staff. The BCCLA anticipates that 2007 poses a significant fundraising challenge to balance the budget. The BCCLA has not included any expenses for participation in the Iacobucci Inquiry as part of our 2007 budget. The BCCLA has limited resources for fundraising. Currently, all of those limited resources are being deployed to raise funds to cover the basic operating costs of the BCCLA. The BCCLA does not have

further resources to fundraise specifically for the Iacobucci Inquiry. The Association would not be able to properly participate in the Iacobucci Inquiry without financial assistance. A copy of the BCCLA's 2006 Auditor's Report and Statement of Operations and Changes in Fund Balances is attached to this Affidavit as exhibit "A".

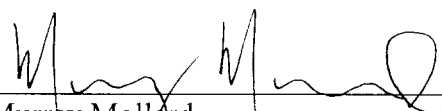
23. I make this affidavit in support of the BCCLA's application for participation and funding for the Iacobucci Inquiry and for no other purpose.

SWORN BEFORE ME at the City)
of Vancouver, in the Province of British)
Columbia, this 14th day of March,)
2007.)



A Commissioner for taking Affidavits)
in and for the Province of British Columbia)

MICHELE VENIN
500 - 1185 WEST GEORGIA
VANCOUVER, BC V6E 4M2



Murray Mollard

This is Exhibit " A " referred to in the
affidavit of.....*Wesley Wallace*.....
sworn before me at.....*Vancouver*.....
this.....*17*.....day of.....*August*..... 20.....*07*.....

[Signature]
A Commissioner for taking Affidavits
within British Columbia

FINANCIAL STATEMENTS

**BRITISH COLUMBIA CIVIL
LIBERTIES ASSOCIATION**

December 31, 2006 and 2005

***TOM* TOMPKINS, WOZNY, MILLER & CO.**
Chartered Accountants

A partnership of incorporated professionals.

AUDITOR'S REPORT

To the Members

British Columbia Civil Liberties Association

We have audited the statement of financial position of the **British Columbia Civil Liberties Association** as at December 31, 2006 and 2005 and the statements of operations and changes in fund balances, financial position and cash flows for the years then ended. These financial statements are the responsibility of the Association's management. Our responsibility is to express an opinion on these financial statements based on our audits.

Except as explained in the following paragraphs, we conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In common with many not-for-profit charitable organizations, the British Columbia Civil Liberties Association derives revenue from memberships and donations, the completeness of which is not susceptible of satisfactory audit verification. Accordingly, our verification of those revenues was limited to the amounts recorded in the records of the organization and we were not able to determine whether any adjustments might be necessary to memberships and donations, excess of revenue over expenses, assets and net assets.

In our opinion, except for the effect of adjustments, if any, which we may have determined to be necessary had we been able to satisfy ourselves concerning the completeness of the memberships and donations referred to in the preceding paragraph, these financial statements present fairly, in all material respects, the financial position of the Association as at December 31, 2006 and 2005 and the results of its operations for the years then ended in accordance with Canadian generally accepted accounting principles. As required by the Society Act of B.C., we report that these principles have been applied on a basis consistent with that of the preceding year.

Tompkins, Wozny, Miller & Co.

Vancouver, Canada

February 2, 2007

Chartered Accountants

**STATEMENT OF OPERATIONS AND
CHANGES IN FUND BALANCES**

As at December 31

	2006				2005	
	General Fund	Stabilization Fund	Trust Fund	Little Sister's Fund	Total	Total
	\$	\$	\$	\$	\$	\$
REVENUE						
Membership & donations	181,231	—	—	—	181,231	136,761
Law Foundation of B.C. – operating grant	157,800	—	—	—	157,800	144,300
Specified grants & donations earned <i>[note 6]</i>	47,762	—	—	8,677	56,439	31,566
Gaming revenue earned <i>[note 6]</i>	53,530	—	—	—	53,530	52,574
Investment income	171	9,297	2,856	—	12,324	6,211
Realized gains on dispositions	—	9,032	17,329	—	26,361	31,472
Endowment distributions <i>[note 5]</i>	4,583	—	—	—	4,583	4,159
Miscellaneous and special events	2,092	—	—	—	2,092	1,066
Amortization of deferred contributions related to capital assets <i>[note 7]</i>	428	—	—	—	428	771
	447,597	18,329	20,185	8,677	494,788	408,880
EXPENSES						
Salaries & benefits	280,460	—	—	—	280,460	210,723
Rent & utilities	37,024	—	—	—	37,024	37,762
Office operating	26,839	—	—	—	26,839	26,018
Contract services	31,485	—	311	4,235	36,031	30,732
Insurance	1,223	—	—	—	1,223	1,222
Bank charges	2,212	—	—	—	2,212	2,087
Fundraising	7,238	—	—	—	7,238	6,963
Publications & printing	8,216	—	—	—	8,216	14,110
Legal defense	6,891	—	—	—	6,891	6,008
Miscellaneous and special events	5,607	—	—	—	5,607	6,038
Amortization	3,108	—	—	—	3,108	2,726
	410,303	—	311	4,235	414,849	344,389
Excess of revenue over expenses	37,294	18,329	19,874	4,442	79,939	64,491
Fund balances, beginning of year	31,032	170,498	91,174	1,625	294,329	229,838
Interfund transfers	(2,866)	(2,134)	5,000	—	—	—
Fund balances, end of year	65,460	186,693	116,048	6,067	374,268	294,329

See accompanying notes

Approved by:

Treasurer

Director

**INTERNAL INQUIRY INTO THE ACTIONS OF
CANADIAN OFFICIALS IN RELATION TO ABDULLAH ALMALKI,
AHMAD ABOU-ELMAATI AND MUAYYED NUREDDIN**

**BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION APPLICATION FOR
JOINT FUNDING ON BEHALF OF INTERVENORS**

AFFIDAVIT OF MURRAY MOLLARD

I, Murray Mollard, Barrister & Solicitor and Executive Director of the B.C. Civil Liberties Association (“BCCLA”), of 550 – 1188 West Georgia St., Vancouver, British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. I am the Executive Director of the BCCLA, and accordingly have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated to be on information and belief, and, as to such facts, I verily believe the same to be true.
2. The BCCLA is a Society duly incorporated on February 27, 1963, pursuant to the *Societies Act*, with its registered office at 550 - 1188 West Georgia Street, Vancouver, British Columbia. The object of the BCCLA is to promote, defend, sustain and extend civil liberties and human rights in British Columbia and Canada. The BCCLA has a long history of advocating for principles that promote civil liberties throughout Canada.
3. I have been the Executive Director of the BCCLA for more than six years. As Executive Director, I have responsibilities for managing all financial aspects of the organization including drafting and reporting on annual budgets and fundraising. Prior to my position as Executive Director, I was the Policy Director of the BCCLA beginning in 1994.

4. The BCCLA is dependent for its operating budget on funding it receives from the Law Foundation of British Columbia, Gaming funding, memberships dues and private donations. The BCCLA constantly struggles to find adequate finances to covers its modest costs, including funding a modest staff of five full time staff. The BCCLA anticipates that 2007 poses a significant fundraising challenge to balance the budget. The BCCLA has not included any expenses for participation in the Commission of Inquiry into the Actions of Canadian Officials in Relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin (“Iacobucci Inquiry”) in our 2007 budget.


5. The BCCLA is prepared to play a lead role in coordinating the work of any of the following organizations who may be granted participant status at this Inquiry: Amnesty International Canada, the British Columbia Civil Liberties Association, the Canadian Council on American Islamic Relations, the Canadian Muslim Civil Liberties Association, the International Campaign against Torture and the International Civil Liberties Monitoring Group (the “Intervenor Organizations”). The BCCLA worked closely in a coordinated manner with these organizations previously, in the course of the public inquiry into the case of Maher Arar. The BCCLA has discussed our initiative to coordinate the work of the Intervenor Organizations and has received the support of all of the Intervenor Organizations to undertake this coordinated effort.


6. The BCCLA would not be able to properly carry out the work of coordinating the work of the Intervenor Organizations without financial assistance from the Iacobucci Inquiry. The organization has limited fundraising capacity, which is currently being used to support its operating budget. A copy of the BCCLA’s 2006 Auditor’s Report and Statement of Operations and Changes in Fund Balances is attached to this Affidavit as exhibit “A”.

7. The BCCLA will apply any funding received as part of its joint funding application on behalf of the Intervenor Organizations to pay for reasonable fees and disbursements incurred by an Intervenor Coordinator, who would act as a liaison between the Intervenor Organizations and the Commissioner and his staff, as well as assisting to coordinate the involvement of the Intervenor Organizations in the Inquiry, including the preparation of occasional joint submissions. Given our experience in the Arar Inquiry, the BCCLA believes that this is the most effective way to streamline the participation of these organizations, allowing them to participate fully in the Inquiry through a coordinated voice.
8. Moreover, the BCCLA believes that this approach will best assist the Inquiry to ensure that the process goes ahead efficiently, harmoniously and without any unnecessary repetition or delay.
9. I have been informed by a responsible representative in each of the Intervenor Organizations and do verily believe that none of the Intervenor Organizations has the financial capacity to fund an Intervenor Coordinator as outlined in paragraph 7.
10. In addition to this funding application, the BCCLA will apply in conjunction with the International Civil Liberties Monitoring Group for separate funding for legal counsel. I understand that other organizations of the Intervenor Organizations may also apply for separate funding. The roles of an Intervenor Coordinator and legal counsel are distinct. The Intervenor Coordinator will play an important role in the day-to-day coordination of the Intervenor Organizations with each other and with Iacobucci Inquiry staff. The Intervenor Coordinator will also prepare joint submissions of the Intervenor Organizations when possible and appropriate. The Intervenor Coordinator may also assist legal counsel with various matters. In contrast, legal counsel will represent the sole interests of particular organizations and prepare more complex submissions for the Inquiry. The availability of an Intervenor Coordinator will likely reduce the demands on the time of legal

counsel. The model of funding both an Intervenor Coordinator and legal counsel is one that was utilized with success in the Arar Inquiry.

11. On behalf of the Intervenor Organizations, I make this affidavit in support of the BCCLA's application for joint funding for coordinating the work of the Intervenor Organizations in the Iacobucci Inquiry and for no other purpose.

SWORN BEFORE ME at the City of)
Vancouver, in the Province of British)
Columbia, this 14th day of March, 2007)
)
A Commissioner for taking Affidavits)
in and for the Province of British Columbia)


Murray Mollard

#SSD - 1188 WEST GEORGIA ST.
VANCOUVER, BC , V6E 4A2

This is Exhibit "A" referred to in the
affidavit of Murray Mollard
sworn before me at Vancouver
this 14th day of March 2007.

[Signature]
A Commissioner for taking Affidavits
within British Columbia

FINANCIAL STATEMENTS

**BRITISH COLUMBIA CIVIL
LIBERTIES ASSOCIATION**

December 31, 2006 and 2005

***TOM* TOMPKINS, WOZNY, MILLER & CO.**
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A partnership of incorporated professionals.

AUDITOR'S REPORT

To the Members

British Columbia Civil Liberties Association

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Tompkins, Wozny, Miller & Co.

Vancouver, Canada

February 2, 2007

Chartered Accountants

STATEMENT OF OPERATIONS AND
CHANGES IN FUND BALANCES

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See accompanying notes

Approved by:

Treasurer

Director