



November 13, 2008

**RULING AND RECOMMENDATIONS ON APPLICATION FOR FUNDING BY
FRED DOUCET
IN PART I OF THE INQUIRY**

[1] At the hearing on October 2, 2008, I allowed an application for full party standing made by Fred Doucet (“Mr. Doucet”) on the basis of his direct and substantial interest in the matters being investigated in Part I (“the Factual Inquiry”) of this Commission of Inquiry.

[2] In his application, Mr. Doucet had also applied for funding for the Factual Inquiry pursuant to Rule 17 of the Draft *Rules of Procedure and Practice* of the Commission. I reserved my decision on that aspect of Mr. Doucet’s application. The following are my reasons for deciding to recommend that funding be provided to Mr. Doucet.

[3] By virtue of paragraph (f) of the Terms of Reference set out in Order-in-Council 2008-1092 establishing the Commission, I am given the authority to recommend to the Clerk of the Privy Council that funding be provided to any person granted standing. Such recommendation must be in accordance with the terms and conditions approved by the Treasury Board to ensure the appropriate participation to any person granted standing. Before recommending funding, I must be of the view that the person would not otherwise be able to participate in the Inquiry. In my view, in order for a party with full party standing to participate in the Commission of Inquiry, that participation must be meaningful.

[4] Rules 16 to 18, inclusive, of the Commission's Draft *Rules of Procedure and Practice* provide for applications for funding such as that made by Mr. Doucet. They state:

16. The Commissioner may recommend funding for a party or intervenor to the extent of their interest, where in the Commissioner's view the party or intervenor would not otherwise be able to participate in the Factual Inquiry.

17. A party or intervenor seeking funding shall apply to the Commissioner in writing, demonstrating that he or she does not have sufficient financial resources to participate in the Factual Inquiry without such funding.

18. Where the Commissioner's funding recommendation is accepted, funding shall be in accordance with terms and conditions approved by the Treasury Board respecting rates of remuneration and reimbursement and the assessment of accounts.

[5] In support of his application for funding, Mr. Doucet filed with the Commission an affidavit sworn October 1, 2008.

[6] The uncontradicted evidence before me on this application is that Mr. Doucet is presently 69 years of age. He suffers from a heart condition for which he is being treated by a cardiologist and is on heavy medication.

[7] Mr. Doucet has carried on business as a government relations and business consultant for twenty years. The income Mr. Doucet presently earns from his business is substantially less than it was at one time. Mr. Doucet estimates that his business income in 2008 will be 25% less than it was in 2007. He projects that in 2009, his business income may well drop to zero.

[8] In addition to the income derived from his business, Mr. Doucet has pension income of \$50,000.00 per year from government service, university teaching and the Canada Pension Plan. In addition to his pension income, Mr. Doucet has investment income that is intended for his retirement. It has not escaped my attention that, presently, there is a high degree of uncertainty

regarding investment portfolios. That uncertainty has arisen as a result of the present economic situation, particularly in the United States, but also in Canada, particularly as it pertains to the market. I accept, as Mr. Doucet states in his affidavit, that the financial crisis has caused significant uncertainty regarding the investments he intended for his retirement.

[9] The evidence satisfies me that Mr. Doucet had extensive dealings with both the Right Honourable Brian Mulroney and Karlheinz Schreiber over an extended period of time. His participation during the course of the Factual Inquiry will be both necessary and involved.

[10] I have concluded that Mr. Doucet has an important role to play in the course of the Factual Inquiry both as a witness and as a party with standing.

[11] Based on the submission made on behalf of Mr. Doucet and the evidence adduced in support of his application for funding, the need for Mr. Doucet to be fully represented by capable, competent counsel is obvious. Just as obvious to me is the need to provide Mr. Doucet with funding because without that funding, he would, in my opinion, be unable to participate, in any meaningful way, in the Factual Inquiry.

[12] On September 11, 2008, the Privy Council Office established Terms and Conditions for the Contribution Program for Participant Funding for this Commission of Inquiry. A copy of the Terms and Conditions which are binding upon me is attached as Schedule "A" to this decision.

[13] Pursuant to paragraph 11 of the Terms and Conditions, I confirm that Mr. Doucet has been granted standing and is a participant, as that term is defined under the Terms and Conditions, in the Factual Inquiry.

[14] I also confirm that Mr. Doucet has established to my satisfaction that he would not be able to participate in the Factual Inquiry without funding for legal counsel.

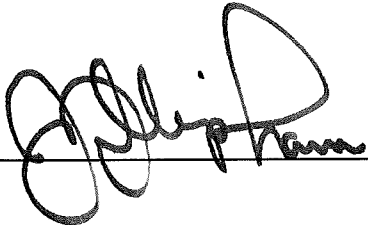
[15] Under the Treasury Board Terms and Conditions, payment of counsel fees related to the attendance at hearings is limited to the hearing days involving the interest of Mr. Doucet as determined by me. I therefore recommend that Mr. Doucet be reimbursed for counsel fees related to the attendance of counsel on hearing days involving the interest of Mr. Doucet. I have recommended a maximum of 100 hours for Mr. Doucet's counsel to be present during the Part I hearings.

[16] It is crucial that legal counsel be given ample time to prepare properly for the Factual Inquiry. I have therefore recommended a maximum of 50 hours of preparation time.

[17] I note that in his affidavit, Mr. Doucet says his counsel will be assisted from time to time by an articling student-at-law. I recommend a maximum of 30 hours for an articling student-at-law for preparation time at the rate set forth in the Treasury Board Terms and Conditions.

[18] In addition to recommending payment of legal fees for counsel for Mr. Doucet, I recommend that all reasonable disbursements and travel costs be reimbursed to Mr. Doucet's counsel.

[19] I will remain open to the possibility of amending these recommendations as circumstances dictate, on application.

A handwritten signature in black ink, appearing to read "Jeffrey J. Oliphant", is written over a horizontal line. The signature is stylized and cursive.

Jeffrey J. Oliphant
Commissaire