

**COMMISSION OF INQUIRY INTO THE SPONSORSHIP PROGRAM AND
ADVERTISING ACTIVITIES**

In the Matter of Funding for Participation Before the Commission of Inquiry Into the
Sponsorship Program and Advertising Activities

**MOTION RECORD
OF THE CONSERVATIVE PARTY OF CANADA**

July 12, 2004

Cassels Brock & Blackwell LLP
2100 Scotia Plaza
40 King Street West
Toronto, Ontario M5H 3C2

Arthur Hamilton
Tel: 416.860.6574
Fax: 416.640.3009
Email: ahamilton@casselsbrock.com

Laurie Livingstone
Tel: 416.860.6514
Fax: 416.642.7156
Email: llivingstone@casselsbrock.com

Solicitors for the Intervenor, the Conservative
Party of Canada

**COMMISSION OF INQUIRY INTO THE SPONSORSHIP PROGRAM AND
ADVERTISING ACTIVITIES**

In the Matter of Funding for Participation Before the Commission of Inquiry Into the
Sponsorship Program and Advertising Activities

INDEX

	Tab No.
1. Notice of Motion, returnable July 12, 2004	1
2. Affidavit of Ian Brodie, sworn July 12, 2004	2
3. Written Submissions of the Conservative Party of Canada	3
Appendix A – excerpts from the <i>Canada Elections Act</i> , S.C. 2000, c.9, as am.	A

**COMMISSION OF INQUIRY INTO THE SPONSORSHIP PROGRAM AND
ADVERTISING ACTIVITIES**

In the Matter of Funding for Participation Before the Commission Inquiry
into the Sponsorship Program and Advertising Activities

NOTICE OF MOTION

The Conservative Party of Canada (the "Conservative Party") will make a motion in writing to the Commission of Inquiry into the Sponsorship Program and Advertising Activities (the "Commission"), pursuant to the Commission's *Rules of Procedure and Practice*, to be filed on or before July 12, 2004.

This motion requests that the Conservative Party be granted funding to enable it to participate as an Intervenor before the Inquiry by the Honourable Mr. Justice Gomery of the Superior Court of Quebec, Commissioner appointed by Order in Council P.C. 2004-100 (the "Commissioner").

THE GROUNDS FOR THE MOTION ARE:

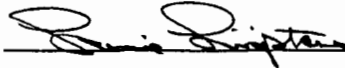
1. The Conservative Party is unable to participate in the Inquiry without funding.
2. The Conservative Party has no alternative means of funding.
3. The Conservative Party has a satisfactory plan for how it intends to use the funds and account for them.

4. The Conservative Party has a sufficient interest and proposed involvement in the Inquiry.
5. The Conservative Party has special expertise and experience with respect to the Commission's mandate.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used in support of this motion:

1. The affidavit of Ian Brodie, sworn July 12, 2004.

July 12, 2004



Cassels Brock & Blackwell LLP
2100 Scotia Plaza
40 King Street West
Toronto, Ontario M5H 3C2

Arthur Hamilton
Tel: (416) 860-6574
Fax: (416) 640-3009
Email: ahamilton@casselsbrock.com

Laurie Livingstone
Tel: (416) 860-6514
Fax: (416) 642-7156
Email: llivingstone@casselsbrock.com

Solicitors for the Intervenor, the Conservative
Party of Canada

**COMMISSION OF INQUIRY INTO THE SPONSORSHIP PROGRAM AND
ADVERTISING ACTIVITIES**

In the Matter of Funding for Participation Before the Commission of Inquiry
Into the Sponsorship Program and Advertising Activities

**AFFIDAVIT OF IAN BRODIE
(sworn July 12, 2004)**

I, Ian Brodie, of the City of Ottawa, Province of Ontario, SWEAR THAT:

1. I am the Executive Director of the Conservative Party of Canada ("Conservative Party"). As such, I have personal knowledge of the matters to which I herein depose.

Nature of the Organization

2. The Conservative Party is a not-for-profit entity that derives its meaningful existence as a registered federal political party pursuant to the *Canada Elections Act*, S.C. 2000, c. 9, as am. (the "*Elections Act*").

3. The Conservative Party has a limited budget made up of an allowance allocated to it pursuant to ss. 435.01 and 435.02 of the *Elections Act* and the contributions it receives from its members and other Canadians. These monetary and non-monetary contributions are used to cover the expenses the Conservative Party incurs to run its national operations and to support the election of its candidates in all 308 electoral ridings in Canada.

4. As Her Majesty's Loyal Opposition, the Conservative Party has caucus budgets in the House of Commons and Senate. However, funds from those budgets are not available to finance participation in this Inquiry as they are fully and exclusively committed to parliamentary activities.

Restrictions on Ability to Raise Funds and Accept Services

5. As a registered political party, the Conservative Party is subject to regulation by the *Elections Act*.

6. Recent amendments to the *Elections Act* have created a new system whereby registered political parties receive a quarterly allowance from the Consolidated Revenue Fund based on the number of valid votes received in the last general election. As a part of the new system, the ability of registered political parties to raise additional funds and to accept non-monetary contributions has been significantly curtailed.

7. The *Elections Act* sets limits on who registered political parties may accept contributions from and the maximum amount that any individual may contribute within any one calendar year. Registered political parties can only accept contributions from Canadian citizens or permanent residents and, with limited exceptions, can not accept contributions in excess of \$5,000 from any one person in any one calendar year. Contributions from corporations and trade unions are entirely prohibited. Contribution is defined in the *Elections Act* as including both monetary and non-monetary contributions.

8. Subject to limited exceptions, the *Elections Act* requires non-monetary contributions to be accounted for at their commercial value. As a result, the Conservative Party is not able to accept services, such as legal services, that are offered free of charge, unless the commercial value of those services is less than \$5,000 per person, per year and that person has not made other monetary or non-monetary contributions to the Conservative Party.

9. These restrictions on contributions make it effectively impossible for the Conservative Party to raise the funds necessary to participate in this Inquiry and entirely impossible for it to obtain legal representation on a *pro bono* basis.

Inquiry Timing

10. As is required by the *Elections Act*, the fiscal year of the Conservative Party is the calendar year.

11. The 2004 budget for the Conservative Party was completed and its available funds were committed and/or expended in advance of this Commission commencing its proceeding and inviting the participation of interested parties on May 7, 2004. The expenses associated with participating in this Inquiry are not expenditures the Conservative Party anticipated, or could have anticipated, when it prepared its financial plans for 2004. Consequently, there are no funds allocated in the Conservative Party's 2004 budget to participate in this Inquiry.

12. 2004 is the first calendar year in which the statutory allowances have been granted and the new, more restrictive regulations on contributions to registered political parties have been in force. For 2004 only, the statutory allowance to registered parties was paid in one lump sum in the month of January. The Conservative Party will, therefore, not be receiving any additional allowance funds until January 2005.

13. Additionally, a general election took place on June 28, 2004 and was preceded by an intense five week campaign. Those individuals who would be inclined to contribute to the Conservative Party have already done so to support election efforts.

Counsel

14. The counsel chosen by the Conservative Party are Arthur Hamilton and Laurie Livingstone of Cassels Brock & Blackwell LLP in Toronto. Mr. Hamilton

and Ms. Livingstone have acted for the Conservative Party and one of its predecessor parties in the past and the Conservative Party has full confidence in their ability to effectively and efficiently act as counsel before this Commission.

15. Mr. Hamilton is a partner with a wealth of experience in multiple party, multiple issue, lengthy public hearings. In addition to his experience at public hearings, he has conducted numerous complex civil litigation matters and has the experience and expertise to efficiently manage matters with large volumes of documents and documents of a technical nature.

16. Ms. Livingstone is an associate who, despite having only been called to the bar in 2002, has assisted senior counsel at multiple public hearings before the National Energy Board and has participated in large, document intensive, civil litigation matters. Ms. Livingstone has experience and demonstrated abilities in efficiently managing large volumes of documents and transcripts. She is able to work independently so as to minimize any overlap with senior counsel.

17. In their prior work for the Conservative Party, both Mr. Hamilton and Ms. Livingstone have shown themselves to be in the practice of keeping detailed, daily time entry dockets describing what work has been completed, by whom and at what hourly rate. They have committed to providing the same detailed dockets for work before this Commission and to conforming to and complying with the requirements of the applicable Treasury Board Guidelines.

Plan for Use of Funds

18. The Conservative Party is only seeking funding for its necessary counsel fees and its necessary disbursements. A detailed plan is included in the written submissions. The plan is designed to minimize expense while ensuring that the Conservative Party is able to participate in the Inquiry and to do so in such a way as to enhance the work of the Commission.

19. The Conservative Party is seeking funding for its counsel to review the relevant documents filed with and disclosed to the Commission, to be of assistance to Commission counsel by suggesting witnesses and areas of examination, to follow the daily proceedings by reviewing the daily transcripts and exhibits and by preparing and delivering closing submissions. The Conservative Party is only seeking funding for the purchase of transcripts and copies of exhibits that are not otherwise available to it without cost and is only seeking funding for its counsel to appear in person at the hearings when they will be otherwise unable to access the evidence presented.

Conclusion

20. The Conservative Party does not have the funds to finance its participation before this Commission and, due to the timing of this Inquiry and the limitations imposed by the *Elections Act*, the Conservative Party has no alternative means of funding its participation. Absent a grant of sufficient funding, the Conservative Party will not be able to participate in this Inquiry.

21. This affidavit is sworn in support of the Conservative Party's motion for funding to participate before the Commission of Inquiry Into the Sponsorship Program and Advertising Activities and for no other or improper purpose.

SWORN BEFORE ME at the City of
Ottawa, Ontario on July 12, 2004.



Commissioner for taking affidavits

P.K. Lepsae



IAN BRODIE

**COMMISSION OF INQUIRY INTO THE
SPONSORSHIP PROGRAM AND ADVERTISING
ACTIVITIES**

In the Matter of Funding for Participation
Before the Commission Inquiry into the
Sponsorship Program and Advertising
Activities

**AFFIDAVIT OF IAN BRODIE
(sworn July 12, 2004)**

(Filed this 12th day of July, 2004)

Cassels Brock & Blackwell LLP
2100 Scotia Plaza
40 King Street West
Toronto, Ontario M5H 3C2

Arthur Hamilton
Tel: 416.860.6574
Fax: 416.640.3009
Email: ahamilton@casselsbrock.com

Laurie Livingstone
Tel: 416.860.6514
Fax: 416.642.7156
Email: llivingstone@casselsbrock.com

Solicitors for the Intervenor, the Conservative Party of
Canada

COMMISSION OF INQUIRY INTO THE SPONSORSHIP PROGRAM AND ADVERTISING ACTIVITIES

In the Matter of Funding for Participation Before the Commission of Inquiry Into the
Sponsorship Program and Advertising Activities

SUBMISSIONS OF THE CONSERVATIVE PARTY OF CANADA

1. The Conservative Party of Canada ("Conservative Party") is an Intervenor before the Commission, pursuant to the Ruling on Standing issued July 5, 2004. Under Rule 8 of the Commission's Rules of Procedure and Practice, as an Intervenor, the Conservative Party has a right to:
 - (i) access documents filed with or produced to the Commission which are relevant to the Inquiry;
 - (ii) advance notice of documents which are proposed to be introduced into evidence by Commission counsel;
 - (iii) advance provision of statements of anticipated evidence, if applicable;
 - (iv) suggest witnesses to be called by Commission counsel, and the opportunity to apply for an order that a particular witness be summoned to appear;
 - (v) suggest areas for examination of a certain witness by Commission counsel, failing which an opportunity to request leave to examine the witness on such areas; and
 - (vi) make closing submissions.

Ruling on Standing, July 5, 2004 at page 17

Rules of Procedure and Practice, Rule 8

2. Should circumstances change during the course of the hearing, the Conservative Party is permitted to seek a reconsideration and variance of the July 5, 2004 Ruling on Standing and apply for party standing.

Ruling on Standing, July 5, 2004 at page 6

The Conservative Party is Unable To Participate in the Inquiry Without Funding and Does Not Have an Alternative Means of Funding

(a) Nature of the Organization

3. The Conservative Party is a not-for-profit entity that derives its meaningful existence as a registered federal political party pursuant to the *Canada Elections Act*, S.C. 2000, c. 9, as am. (the "*Elections Act*").

Affidavit of Ian Brodie, sworn July 12, 2004, at para. 2

4. The Conservative Party has a limited budget made up of an allowance allocated to it pursuant to ss. 435.01 and 435.02 of the *Elections Act* and the contributions it receives from its members and other Canadians. These monetary and non-monetary contributions are used to cover the expenses the Conservative Party incurs to run its national operations and to support the election of its candidates in all 308 electoral ridings in Canada.

Affidavit of Ian Brodie, sworn July 12, 2004, at para. 3

(b) Legislative Restrictions on Fundraising

5. The *Elections Act* regulates the funds available to political parties and now significantly restricts their ability to fundraise.
6. Effective January 1, 2004, registered political parties receive a quarterly allowance, paid by the Receiver General from the Consolidated Revenue Fund, of \$0.4375 for each valid vote cast in their favour in the last general election. This allowance is restricted to registered parties that received at least 2% of the

total valid votes cast or 5% of the valid votes cast in the electoral districts in which they endorsed a candidate.

Elections Act, supra, ss. 435.01, 435.02

7. Registered political parties can not accept contributions from persons or entities other than individuals who are citizens or permanent residents of Canada and, (subject to limited exceptions which do not apply to these circumstances) are not permitted to accept contributions with a value in excess of \$5,000 from any individual in any one calendar year and are prohibited from accepting contributions from any corporation or trade union. The *Elections Act* defines "contribution" as including both a monetary and non-monetary contribution. Non-monetary contributions must be calculated at their commercial value.

Elections Act, supra, ss. 2, 404, 405

8. These restrictions impact the Conservative Party's ability to raise funds and make it effectively impossible for the Conservative Party to raise the funds necessary to pay the legal fees and associated expenses to participate in this Inquiry.

Affidavit of Ian Brodie, sworn July 12, 2004, at paras. 5-9

9. These legislative restrictions also prevent counsel from representing the Conservative Party on a *pro bono* basis throughout this Inquiry.

Affidavit of Ian Brodie, sworn July 12, 2004, at para. 8-9

10. The caucus budgets of the House of Commons and Senate are not available to fund the Conservative Party's participation in this Inquiry as those funds are fully committed to parliamentary activities.

Affidavit of Ian Brodie, sworn July 12, 2004, at para. 4

(c) Impact of Timing

11. As is discussed above, 2004 is the first year the quarterly allowance system has been in place for registered political parties. For this year only, all four quarterly allowances were paid by one payment in January. The Conservative Party will therefore not be receiving any further allowance funds in 2004.

Affidavit of Ian Brodie, sworn July 12, 2004, at para. 12

12. The 2004 budget for the Conservative Party was completed and its available funds were committed and/or expended in advance of this Commission commencing its proceeding and inviting the participation of interested parties on May 7, 2004. The expenses associated with participating in this Inquiry are not expenditures the Conservative Party anticipated, or could have anticipated, when it prepared its financials plans for 2004. Consequently, there are no funds allocated in the Conservative Party's 2004 budget to participate in this Inquiry.

Affidavit of Ian Brodie, sworn July 12, 2004, at para. 11

13. As outlined in the preceding section, the *Elections Act* restrictions on fundraising make it effectively impossible for the Conservative Party to solicit the contributions necessary for it to fund its participation in this Inquiry. This is particularly so at this time when a general election has just taken place and those who would be inclined to contribute to the Conservative Party have already done so to support election efforts.

Affidavit of Ian Brodie, sworn July 12, 2004, at para. 13

14. Due to the not for profit nature of the Conservative Party, its regulation as a registered political party and the timing of this Inquiry, the Conservative Party is unable to participate in this Inquiry without funding and does not have an alternative means of funding its participation.

Affidavit of Ian Brodie, sworn July 12, 2004, at para. 20

Plan for Use and Accounting of Funds

15. In order for the Conservative Party to adequately and effectively fulfill its role as an Intervenor, it will, at a minimum, need to have its counsel:

- review the relevant documents filed with or produced to the Commission;
- make themselves aware of the oral evidence and exhibits presented through the course of the hearings;
- to the extent necessary, suggest witness to be called by Commission counsel and areas for examination of witnesses by Commission counsel; and
- prepare and present closing submissions.

(a) Counsel

16. The Conservative Party is seeking funding for one junior and one senior counsel, each of whom will fulfil separate roles with little to no overlap. The Conservative Party seeks funding for two counsel for the purpose of promoting efficiency. As the Conservative Party has only been granted Intervenor status before the Commission, much of the necessary day to day work can be undertaken by junior counsel at a lower billing rate. Senior counsel will be regularly briefed and will assume primary responsibility for making closing submissions, bringing any necessary motions which may arise and for communicating with Commission counsel to suggest witnesses and/or areas for examination, to the extent necessary.

17. The counsel chosen by the Conservative Party are Arthur Hamilton and Laurie Livingstone of Cassels Brock & Blackwell LLP in Toronto. Mr. Hamilton and Ms. Livingstone have acted for the Conservative Party and one of its predecessor parties in the past and the Conservative Party has full confidence in their ability to effectively and efficiently act as counsel before this Commission.

18. Mr. Hamilton is a partner with a wealth of experience in multiple party, multiple issue, lengthy public hearings. In addition to his experience at public hearings, he has conducted numerous complex civil litigation matters and has the experience and expertise to efficiently manage matters with large volumes of documents and documents of a technical nature.

Affidavit of Ian Brodie, sworn July 12, 2004, at para. 15

19. Ms. Livingstone is an associate who, despite having only been called to the bar in 2002, has participated in multiple lengthy public hearings before the National Energy Board and in large, document intense, civil litigation matters. Ms. Livingstone has experience and demonstrated abilities in efficiently managing large volumes of documents and transcripts. She is able to work independently so as to minimize any overlap with senior counsel.

Affidavit of Ian Brodie, sworn July 12, 2004, at para. 16

20. Counsel will account for their time with detailed time entry dockets. Dockets will include detailed notes of time spent and work completed by each counsel and will note the dates work was completed and the rates charged by each counsel.

Affidavit of Ian Brodie, sworn July 12, 2004, at para. 17

(b) Pre-Hearing Preparation

21. The Conservative Party seeks funding to have its counsel attend and review the documents filed with or produced to the Commission. A reasonable review of the documents is necessary for the Conservative Party to effectively participate as an Intervenor in this Inquiry. Without the opportunity to have its counsel review the relevant documents, the Conservative Party will be unable to adequately evaluate and determine whether or not there are additional witnesses it would like to suggest Commission counsel call upon or additional lines of questioning it would like to suggest Commission counsel pursue.

22. The Conservative Party is not in a position to provide an estimate of the time its counsel will require to adequately review the documents as it is unaware of the number of relevant documents in the Commission's possession. The documentation has been described as "massive" and "voluminous" in the Commissioner's Opening Statement so it seems certain that even with both counsel working efficiently, multiple days will be required. The Conservative Party therefore requests sufficient funding to permit two counsel, working efficiently, to adequately review the documents filed with or produced to the Commission. It also requests funding to cover the travel expenses and related accommodation expenses for two counsel to travel from Toronto to Montreal or Ottawa (wherever the documents will be made available) for the purpose of conducting that review.
23. Additionally, the Conservative Party requests sufficient funding to permit its counsel to formulate recommendations to Commission counsel regarding witnesses to be called and areas of examination. This is a task clearly contemplated as part of the role of Intervenor under Rule 8 of the Commission's Rules of Procedure and Practice. It is submitted that 40 hours per counsel is an appropriate amount of time to allocate to the task of formulating and presenting suggestions to Commission counsel throughout the course of the Inquiry.

(c) The Hearing Process

24. Although the Conservative Party would like to have its counsel present at the hearings, given its status as an Intervenor, it concedes that it is possible for it to participate without having counsel attend in person on a daily basis. The Conservative Party therefore requests sufficient funding to permit one junior counsel to review and summarize the relevant portions of the daily transcript and exhibits and for senior counsel to review those summaries. It is submitted that 4 hours per hearing day is sufficient time for junior counsel to complete a review of the daily transcript and exhibits and to produce a summary of the matters

relevant to the Conservative Party's interests and perspectives. It is submitted that 1 hour per hearing day is sufficient time for senior counsel to review the daily summaries.

25. Provided that the daily transcript will continuously be available for review on the Commission's website until the end of the Inquiry, the Conservative Party does not request funding to cover the purchase of transcripts. If the daily transcripts will not be available, or will not be continuously available for review on the Commission's website, the Conservative Party requests funding to cover the cost of purchasing copies of the daily transcripts.
26. As counsel for the Conservative Party will not be present at the hearings on a daily basis, they will not have access to the shared copy of the "P" exhibits. If the "P" exhibits will be available for viewing on the Commission's website, the Conservative Party does not require funding to cover the cost of copying the "P" exhibits. If the "P" exhibits will not be available for viewing on the Commission's website, the Conservative Party requests funding sufficient to cover the cost of copying the "P" exhibits and delivering them to counsel in Toronto. The Conservative Party will provide any written undertakings required with respect to the "P" exhibits.
27. Rules 17 and 18 of the Commission's Rules of Procedure and Practice permit portions of the hearing to be conducted *in camera* and allow for the Commissioner to prohibit the disclosure, publication or communication of any testimony, document or evidence. As the "C" transcripts and exhibits will not be available on the Commission's website, the Conservative Party requests funding to have one counsel travel to and attend in person at the hearing on days when proceedings will be *in camera* or subject to orders prohibiting disclosure, publication or communication of any testimony, document or evidence. Alternatively, the Conservative Party requests that it be authorized to receive copies of any "C" transcripts and exhibits and that it be granted funding for the purchase of "C" transcripts and copies of the "C" exhibits. The Conservative

Party will provide any written undertakings required with respect to the "C" transcripts and exhibits.

(d) Preparation and Delivery of Closing Submissions

28. The Conservative party requests sufficient funding for one senior and one junior counsel to, efficiently working together, prepare and deliver closing submissions. Although it is nearly impossible to estimate the time required to prepare closing submissions without knowing the volume or content of the documentary and oral evidence to be presented, it is submitted that at least 30 hours per counsel will be required to prepare adequate closing submissions after so many months of oral testimony and what appears certain to be voluminous amounts of documentary evidence. The Conservative Party therefore requests funding for 30 hours of counsel time for each of its two counsel to prepare and deliver closing submissions. If closing submissions are to be delivered orally, the Conservative Party requests additional funding to cover the cost of its counsel travelling to and attending at the hearings in person for the purpose of delivering closing submissions.
29. The Conservative Party submits that the above litigation plan represents the minimum required for it to participate as an Intervenor in this Inquiry. As outlined in the preceding pages, without adequate funding the Conservative Party will be unable to participate in this Inquiry and its valuable perspective will be lost.

Interest and Proposed Involvement in the Inquiry

30. The interest of the Conservative Party remains as it was stated in the written and oral submissions to the Commissioner during the motion for standing. The Commissioner's July 5, 2004 Ruling on Standing ruled that the Conservative Party:

... has clearly ascertainable interests and perspectives essential to the Commission's mandate, and that its participation as an Intervenor would enhance the work of the Commission in both Phases 1A and 1B. The Conservative Party of Canada represents a substantial body of opinion in Canada. It has valuable perspective on public administration, the roles of office-holders and parliamentarians, and the process through which public funds are disbursed. The Commission would accordingly benefit from its participation, assistance and representations as an Intervenor.

Ruling on Standing, July 5, 2004 at page 17

31. The Conservative Party's proposed involvement in the Inquiry is as outlined in the litigation plan immediately above, and as permitted under Rule 8 of the Commission's Rules of Procedure and Practice.
32. Should circumstances change during the course of the hearing, the Conservative Party may seek reconsideration of the July 5, 2004 Ruling on Standing and a change in its status and involvement. Should the status of the Conservative Party change, a reconsideration and variance of this funding decision will be sought as well.

Experience and Expertise of the Conservative Party


33. The experience and expertise of the Conservative Party is as was stated in the written and oral submissions to the Commission during the motion for standing.
34. The Conservative Party has experience and expertise in public administration, the roles of office-holders and parliamentarians, and the process through which public funds are disbursed. It also has particular experience and expertise in the precise matters this Commission is investigating due to its members participating in the Public Accounts Committee hearings on the same factual matters.
35. The Commissioner has already ruled that the Conservative Party has clearly ascertainable interests and perspectives essential to the Commission's mandate

and that its participation, assistance and representations will enhance the work of the Commission in both Phases 1A and 1B.

Conclusion

36. The Conservative Party has clearly ascertainable interests and perspectives essential to the Commission's mandate. Its participation as an Intervenor will benefit the Commission and enhance the work of the Commission.
37. The Conservative Party has formulated a modest plan designed to minimize expense while ensuring that the Conservative Party is able to participate in the Inquiry and to do so in such a way as to enhance the work of the Commission.
38. The Conservative Party does not have the funds to finance its participation before this Commission and, due to the timing of this Inquiry and the limitations imposed by the *Elections Act*, the Conservative Party has no alternative means of funding its participation.
39. Absent a grant of sufficient funding, the Conservative Party will not be able to participate in this Inquiry. The Conservative Party therefore requests that it be granted funding in accordance with the plan outlined herein.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS THE 12th DAY OF JULY,
2004.



Cassels Brock & Blackwell LLP
2100 Scotia Plaza
40 King Street West
Toronto, Ontario M5H 3C2

Arthur Hamilton
Tel: (416) 860-6574
Fax: (416) 640-3009
Email: ahamilton@casselsbrock.com

Laurie Livingstone

Tel: (416) 860-6514

Fax: (416) 642-7156

Email: llivingstone@casselsbrock.com

Solicitors for the Intervenor, the Conservative
Party of Canada

APPENDIX "A"

Referenced excerpts from the *Canada Elections Act*, S.C. 2000, c.9, as am.

2. (1) The definitions in this subsection apply in this Act.

...

"commercial value", in relation to property or a service, means the lowest amount charged at the time that it was provided for the same kind and quantity of property or service or for the same usage of property or money, by

(a) the person who provided it, if the person is in the business of providing that property or service; or

(b) another person who provides that property or service on a commercial basis in the area where it was provided, if the person who provided the property or service is not in that business.

...

"contribution" means a monetary contribution or a non-monetary contribution.

...

"monetary contribution" means an amount of money provided that is not repayable.

...

"non-monetary contribution" means the commercial value of a service, other than volunteer labour, or of property or of the use of property or money to the extent that they are provided without charge or at less than their commercial value.

...

"volunteer labour" means any service provided free of charge by a person outside their working hours, but does not include such a service provided by a person who is self-employed if the service is one that is normally charged for by that person.

...

404. (1) No person or entity other than an individual who is a citizen or permanent resident as defined in subsection 2(1) of the *Immigration and Refugee Protection Act* shall make a contribution to a registered party, a registered association, a candidate, a leadership contestant or a nomination contestant.

...

405. (1) No individual shall make contributions that exceed

(a) \$5,000 in total in any calendar year to a particular registered party and its registered associations, nomination contestants and candidates;

(b) \$5,000 in total to a candidate for a particular election who is not the candidate of a registered party; and

(c) \$5,000 in total to the leadership contestants in a particular leadership contest.

...

435.01 (1) The Chief Electoral Officer shall determine, for each quarter of a calendar year, an allowance payable to a registered party whose candidates for the most recent general election preceding that quarter received at that election at least

(a) 2% of the number of valid votes cast; or

(b) 5% of the number of valid votes cast in the electoral districts in which the registered party endorsed a candidate.

(2) An allowance fund for a quarter is the product of

(a) \$0.4375 multiplied by the number of valid votes cast in the election referred to in subsection (1), and

(b) the inflation adjustment factor determined under subsection 405.1(1) that is in effect for that quarter.

(3) Each such registered party's allowance for a quarter is that part of the allowance fund for that quarter that corresponds to its percentage of valid votes cast in the election mentioned in subsection (1).

(4) A merged party is entitled to the aggregate of the allowances to which the merging parties of which it is composed would have been entitled had they not merged.

2003, c. 19, s. 40.

435.02 (1) As soon as practicable after the end of each quarter, the Chief Electoral Officer shall provide the Receiver General with a certificate that sets out the amount of the allowance payable to a registered party for that quarter.

(2) If a registered party has not provided all the documents that it is required to provide under sections 424, 424.1 and 429, the Chief Electoral Officer shall postpone providing the certificate for any quarter until the party has provided those documents.

(3) The Receiver General shall, on receipt of a certificate, pay to the registered party out of the Consolidated Revenue Fund the amount set out in the certificate. The payment may also be made in whole or in part to any provincial division of the party, as authorized in writing by the leader of the party.

(4) In this Act, "provincial division" means a division of a registered party for a province or territory in relation to which the leader of the party has provided the following to the Chief Electoral Officer:

- (a) the name of the division and of the province or territory;
- (b) the name of the party;
- (c) the address of the office at which records of that division are maintained and to which communications may be addressed;
- (d) the names and addresses of the chief executive officer and other officers of the division;
- (e) the name and address of any registered agent appointed by the division; and
- (f) a declaration signed by the leader of the party certifying that the division is a division of the party.

This Act applies to information provided under this subsection as if it were information referred to in paragraphs 366(2)(a) to (h).

(5) Within 15 days after a change in the information referred to in subsection (4), the chief executive officer of the provincial division shall report the change in writing to the chief agent of the registered party.