

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

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**MOTION RECORD  
OF CANADA POST CORPORATION  
FOR FULL STANDING FOR PHASES 1A AND 1B**

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Solicitors for Canada Post Corporation

TO: The Commissioner

AND TO: Commission Counsel  
Commission of Inquiry into the Sponsorship Program  
and Advertising Activities  
Guy-Favreau Complex  
East Tower, P.O. Box 608  
220 René-Lévesque Boulevard West  
Montreal, Quebec  
H2Z 1X4

## TABLE OF CONTENTS

### TAB

1. Notice of Motion by Canada Post Corporation for Full Standing for Phases 1A and 1B, dated May 26, 2004
2. Affidavit of Gerard Power, dated May 26, 2004

**COMMISSION OF INQUIRY INTO THE SPONSORSHIP PROGRAM  
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**NOTICE OF MOTION BY CANADA POST CORPORATION  
FOR FULL STANDING FOR PHASES 1A AND 1B**

TAKE NOTICE THAT CANADA POST CORPORATION will make a motion to the Commission in writing under Rule 3 of the Commission's Rules of Procedure and Practice.

THE MOTION IS FOR full standing before the Commission for Phase 1A and Phase 1B of the Inquiry, with the rights set out in Rule 7 of Commission's Rules of Procedure and Practice and such additional rights as appear just and appropriate.

THE GROUNDS FOR THE MOTION ARE that Canada Post is directly and substantially affected by Phase 1A and Phase 1B of the Inquiry, and has interests and perspectives that should be represented before the Commission. The particulars are as follows.

**Canada Post**

1. Canada Post is a federal Crown corporation, incorporated by the *Canada Post Corporation Act*, R.S.C. 1985, c. C-10.
2. Its address, telephone and fax numbers and e-mail address are:

c/o Gerard Power  
Vice-President, General Counsel and Corporate Secretary  
2701 Riverside Drive  
Suite N1110  
Ottawa, Ontario  
K1A 0B1

Tel: 613.734.7506  
Fax: 613.734.7534  
E-mail: [gerard.power@canadapost.ca](mailto:gerard.power@canadapost.ca)

3. The objects of Canada Post, as set out in the *Canada Post Corporation Act*, include establishing and operating a postal service for Canada. The Act requires that, in carrying out its objects, Canada Post have regard to, among other things,
  - the need to conduct its operations on a self-sustaining financial basis while providing a standard of service that will meet the needs of the people of Canada; and
  - the need to maintain a corporate identity program approved by the Governor in Council that reflects Canada Post's role as an institution of the Government of Canada.
4. Canada Post is a Crown corporation under Part X of the *Financial Administration Act*, R.S.C. 1985, c. F-11, and a parent Crown corporation within the meaning of that Act. It is one of only three parent Crown corporations whose names appear in Part II of Schedule III to the *Financial Administration Act*. This signifies, according to s. 3(5) of the *Financial Administration Act*, that Canada Post operates in a competitive environment, is not ordinarily dependent on appropriations for operating purposes and ordinarily earns a return on equity, and that there is a reasonable expectation that it will pay dividends.

#### **References to Canada Post in the Auditor General's Report**

5. As part of her audit of government sponsorship and advertising activities that led to her November 2003 Report to the House of Commons, the Auditor General of Canada was authorized by order in council to audit certain transactions involving Canada Post. She did not audit Canada Post's marketing program in its entirety.
6. In Chapter 3 of her November 2003 Report, the Auditor General referred to two transactions involving Canada Post as cause for concern: the Maurice Richard Series and in an international stamp competition that took place in 1998-1999.
7. The Auditor General suggested in her report that, in view of her findings based on a limited audit of Canada Post's activities, Canada Post undertake an audit of its full sponsorship/marketing program and report the results to its board of Directors.

8. Canada Post accepted the Auditor General's suggestion. The Board of Directors of Canada Post asked Deloitte & Touche LLP to undertake an examination including Canada Post's sponsorship, marketing and advertising activities. This examination is now nearing completion.

#### **Effect of the Inquiry on Canada Post**

9. Canada Post is directly and substantially affected by both Phase 1A and Phase 1B of the Inquiry.
10. Based on both the Commission's terms of reference and the interpretation of the terms of reference set out in the Commissioner's opening statement, Canada Post understands that Phase 1 of the Inquiry will be examining transactions in which Canada Post was involved, including at a minimum the two transactions involving Canada Post to which the Auditor General referred in her Report. Canada Post also notes that the Commissioner's opening statement defines "Government of Canada" broadly to include "Crown entities", a term that appears to encompass Crown corporations. Canada Post's understanding that its activities will be included in Phase 1 is confirmed by the request that it recently received from Commission counsel that it make documents in its possession that are relevant to the Commission's terms of reference available for provision to the Commission.
11. It appears, therefore, that the Commission will be considering in Phase 1A such matters as Canada Post's selection of communications and advertising agencies (Phase 1A, Issue 2), the nature and sufficiency of approval structures and systems within Canada Post (Phase 1A, Issue 6), compliance by Canada Post with the *Financial Administration Act* (Phase 1A, Issue 7) and the path of funds in transactions involving Canada Post (Phase 1A, Issue 9). Canada Post is therefore directly and substantially affected by Phase 1A.
12. Similarly, it appears that that in Phase 1B, the Commission will be considering such matters as the purpose for which funds were paid and the extent of value received in transactions involving Canada Post (Phase 1B, Issue 1), and the sufficiency of external monitoring of and controls used by recipients of funds in these transactions (Phase 1B, Issue 3). Phase 2B also, therefore, directly and substantially affects Canada Post.

### **Canada Post's Interests and Perspectives**

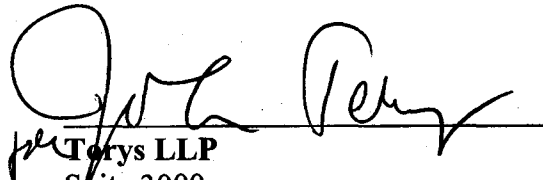
13. Canada Post wishes to help ensure that the Commission has the evidence and information that it requires to come to fully informed conclusions as they relate to Canada Post and transactions and activities involving it. It can best do so as a party with full standing.
14. As a Crown corporation that has a commercial mandate and that operates in a competitive environment, Canada Post can also provide a perspective essential to the Commission's mandate in Phase 1A and Phase 1B of the Inquiry.

### **Conclusion**

15. Canada Post therefore respectfully submits that it should be full standing before the Commission for Phase 1A and Phase 1B of the Inquiry, with the rights set out in Rule 7 of Commission's Rules of Procedure and Practice and such additional rights as appear just and appropriate.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion: the affidavit of Gerard Power sworn May 26, 2004.

May 26, 2004



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**AFFIDAVIT OF GERARD POWER**

I, Gerard Power, of the City of Ottawa, in the Province of Ontario, SWEAR  
THAT:

1. I am Vice-President, General Counsel and Corporate Secretary of Canada Post Corporation, and therefore have knowledge of the matters to which I depose.
2. I have read Canada Post's notice of motion to the Commission dated May 26, 2004, in which it seeks full standing before the Commission. The facts set out in the notice of motion are true.

SWORN BEFORE ME at the City of  
Ottawa, in the Province of Ontario, on  
May 26, 2004.

  
Commissioner for taking affidavits

*Benista Solada*

  
Gerard Power