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File No. 2011-0284

June 3, 2011

Ms. Sherri Walsh
Commission Counsel
Hill Sokalski Walsh Trippier LLP
2670-360 Main Street
Winnipeg, MB R3C 3Z3

ATTENTION: Ms. Walsh

Dear Madam:

RE: Phoenix Sinclair Inquiry – Application for Standing

Further to the Call for Applications for Standing published on the Commission's website, please be advised that I have been retained by the Southern Chiefs' Organization Inc. ("SCO"), to pursue an application for standing as a party before the Commission in this matter.

As you may be aware, the SCO is a political organization that was created in the summer of 2000, whose goal is the protection, preservation, promotion and enhancement of First Nations peoples' inherent rights, languages, customs and traditions through the application and implementation of the spirit and intent of the Treaty-making process. The SCO advocates on behalf the political and legal interests of its thirty two member Southern Manitoba First Nations, who are in turn represented by the Chiefs of each of these communities, who regularly meet to sit in summit and address issues of mutual concern.

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Since its implementation in 2000, the role of the SCO in aboriginal child welfare has been formalized by the Province through the passing of *The Child and Family Services Authorities Act*, CCSM c C90 ("CFS Authorities Act"), which created the First Nations of Southern Manitoba Child and Family Services Authority ("Southern Authority"). Section 6(3) of the CFS Authorities Act stipulates that the Board of the Southern Authority is to be appointed by the Assembly of Manitoba Chiefs Secretariat Inc. ("AMC"), on the recommendation of the southern First Nation members of the Assembly. Insofar as the SCO is the body that represents these members of the Assembly, the AMC accepts nominations for appointment to the Southern Authority Board from the SCO and, in turn, appoints those nominees to the Board.

Further, the Province of Manitoba, through the Minister of Family Services and Housing ("Minister") in meetings with the Leadership Council, has acknowledged their intent to amend the legislation in order to afford a transfer of this power of appointment from the AMC to the SCO. This anticipated legislative amendment would recognize the proper role of the SCO in the governance and oversight of the Southern Authority and the unique position of the SCO in representing the interests of their membership in the appointment of its Board. The Minister has also recently issued an invitation to the SCO as a member of the Leadership Council to meet for an organizational review of the four CFS Authorities, which will include a specific focus on the current governance structures.

Although we are advised that an application to the Commission may also be made by the AMC for standing at the Inquiry, the SCO is requesting that it be granted standing independent and distinct from the AMC. There are a number of reasons for this request:

- (a) Both the SCO, the AMC, and the Province of Manitoba are currently being sued by the Southern Authority Board of Directors over recent appointments to the Board of the Southern Authority. To the extent that the SCO and AMC are litigants in the same action and their interests vis-à-vis child welfare are divergent, the AMC cannot represent the interests of the SCO;
- (b) The AMC and the SCO do not share the same membership, as the AMC membership is comprised of First Nations of Northern Manitoba as well as those of Southern Manitoba, who do not have the same interest in this Inquiry;
- (c) The membership of SCO met in summit on May 27, 2011 and passed a resolution with respect to pursuing standing at this Inquiry, and as a result, the SCO has been provided a specific mandate to represent the interests of these communities, whereas the AMC has not;

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- (d) The SCO has long sought the removal of the AMC as the appointing body under the CFS Authorities Act, which creates an obvious conflict of interest.
- (e) Phoenix Sinclair was both a member and a resident of a Southern Manitoba First Nation, for whom services were to be provided under the oversight of the Southern Authority, who is accountable to the communities represented by the SCO.

The SCO therefore seeks standing as a party to this Inquiry so that it can provide insight and perspective into the interests of its membership and into the historical developments that have culminated in the current state of aboriginal child welfare. Moreover, the Aboriginal Justice Inquiry – Child Welfare Initiative further recognizes that child welfare services must be delivered to First Nations peoples in a manner that reflects their unique status, as well as their cultural and linguistic heritage, and that First Nations peoples have unique authority, rights and responsibilities to honour and care for their children. The recognition of this right to control the delivery of child and family services and programs for their respective community members requires that the affected communities be consulted on any matter or process that affects the delivery of those services. To the extent that the Commission may make recommendations that impact on their rights, these communities have nominated the SCO to represent their interests in this regard before the Commission.

As a result, we are seeking standing on behalf of our client, to appear as a party before the Commission to fulfill the mandate provided by their membership, to provide the Commission with the opportunity to consult our client on behalf of its membership, and to assist in the development of any recommendations which may affect the delivery and/or scope of child welfare services to the First Nations peoples of Southern Manitoba.

I trust the foregoing is satisfactory, however, if you have any questions or concerns, please do not hesitate to contact our office.

Sincerely,
FUNKE POUDEURIER LAW OFFICES



JAY FUNKE
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