



Phoenix Sinclair Inquiry

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REFERENCE NO:

116822 0001

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Commission of Inquiry into the
Circumstances Surrounding the Death
of Phoenix Sinclair
1801 - 155 Carlton Street
Winnipeg, MB R3C 3H8
Attention: Marcia Ewatski

Dear Ms. Ewatski:

Re: Phoenix Sinclair Inquiry
Request for Stated Case

The Southern First Nations Network of Care, the General Child and Family Services Authority, the First Nations of Northern Manitoba Child and Family Services Authority and Child and Family Services All Nations Coordinated Response Network (the "Authorities and ANCR") call into question the validity of the decision rendered by the Commissioner on August 1, 2012 whereby the Commissioner refused to order the disclosure of witness interview transcripts to the Parties and Intervenors to this Inquiry.

Additionally, the Authorities and ANCR call into question the validity of the decision rendered by the Commissioner on July 24, 2012 whereby the Commissioner held that no apprehension of bias existed with respect to him determining the validity of the Authorities and ANCR's request for the disclosure of the witness interview transcripts when his own Commission Counsel had taken an oppositional position.

Pursuant to s. 95(1) of *The Manitoba Evidence Act*, the Authorities and ANCR hereby request that the Commissioner state a case in writing to the Manitoba Court of Appeal that addresses the following issues:

1. Did an apprehension of bias exist with respect to the Commissioner hearing and determining the Authorities and ANCR's motion requesting the disclosure of witness interview transcripts when Commission Counsel had taken an oppositional position on the record?
2. Do the Commission's Amended Rules of Procedure and Practice require the disclosure of witness interview transcripts to the Parties and Intervenors?

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3. Do the principles of natural justice and procedural fairness require the disclosure of witness interview transcripts to the Parties and Intervenors?

The Authorities and ANCR take the position that a Stated Case to the Manitoba Court of Appeal with respect to this matter need not delay the start of the Inquiry on September 5, 2012. We are prepared to proceed on an expeditious basis and to work cooperatively with the Manitoba Court of Appeal and the Commission in having this matter heard and determined prior to the start of the Inquiry.

We look forward to hearing from you in this regard.

Yours truly,

D'ARCY & DEACON LLP
Per:

SHAWN C. SCARCELLO

SCS/mp

cc: Counsel for all Parties and Intervenors