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Phoenix Sinclair  
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March 12, 2013

Commission of Inquiry in to the Circumstances  
Surrounding the Death of Phoenix Sinclair  
1801 – 155 Carlton Street  
Winnipeg, MB R3C 3H8  
Attention: Sherri Walsh – Commission Counsel

Dear Ms. Walsh

RE: Inquiry into the Circumstances Surrounding the Death of Phoenix Sinclair

Ka Ni Kanichihk Inc. requests party standing to represent the best interests of First Nations, Métis and other Aboriginal children at Phase 2 and Phase 3 of the Commission of Inquiry into the Circumstances Surrounding the Death of Phoenix Sinclair.

Ka Ni Kanichihk has closely monitored Phase 1 of the Inquiry. As a community based Aboriginal organization providing services to Aboriginal children, women and families in the community, Ka Ni Kanichihk has a direct and substantial interest in the services or lack thereof provided to Phoenix Sinclair in her lifetime. The organization has a demonstrated prospective and expertise that will assist the Commission in assessing identified recommendations and reviews that bear on its mandate set by Order in Counsel 89/2011.

Commission Counsel will be aware that Ka Ni Kanichihk has impressive credentials. Ms. Leslie Spillett, Executive Director of Ka Ni Kanichihk, will be at the request of the Commission, providing Phase 3 evidence as a witness. She will be referencing the research report "Jumping through Hoops" (2008) reflecting the unique Aboriginal experience in the Manitoba child welfare system. Ms. Spillett is presenting a session entitled "Representing Indigenous Children" at the 6<sup>th</sup> World Congress on Family Law and Children's Right, March 17-28, 2013 in Sydney Australia. In 2008, Ka Ni Kanichihk was granted intervenor status at the Tracia Owen Inquest, which reviewed the death of a sexually exploited youth who died in foster care. Ka Ni Kanichihk's representations at that Inquest, in part led to an expansion of government funding directly to community based Aboriginal organizations. The chronic under funding and the uneven provision of child welfare services in Manitoba were raised in the Tracia Owen Inquest and has direct relevance to the death of Phoenix Sinclair. Both children died in the summer of 2005.

Ka Ni Kanichihk respectfully submits that it is best able to ensure that the best interests of First Nations and Métis children remain paramount as defined by Section



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2 of The Child and Family Services Act. As an organization independent of child welfare, Ka Ni Kanichihk has no actual or perceived competing interests other than the best interests of Aboriginal children in Manitoba. While the various government departments, agencies, authorities, academic and regulatory bodies named as parties or intervenors to these proceedings are critical to this Commission's inquiries, their individual interests are **not exclusive** to the best interests of Aboriginal children. Two of the parties are tragically present to represent the personal loss of Phoenix Sinclair. Two of the parties represent the social workers or those that train them. One of the parties represents the government regulatory body responsible for the provision of child welfare services throughout the province. One of the parties represents the child welfare agency directly involved at the time of Phoenix Sinclair's death. A number of the parties present, globally, the Child Welfare Authorities created through devolution. Three parties represent the political arm of First Nations and Métis people in the province and who may, on behalf of their members, have divergent interests on the issue of child welfare.

Some counsel concurrently represent a number of client organizations. This may create in the mind of the public, a perception of a conflict of interest. Such a perception may distract the public interest from the key concept of best interests of children including Aboriginal children. All counsel are obligated by their Code of Professional Conduct (Chap C-9, Section 17 and Section 20) to "function as advocates openly [and be] necessarily partisan" in all judicial proceedings. It is therefore difficult for child welfare counsel to objectively present evidence potentially prejudicial to one's client (especially one mandated to protect children) on the one hand, and to critically assess its conduct on the other. By contrast, Ka Ni Kanichihk is able to focus exclusively on the best interests of First Nations, Métis and other Aboriginal children in the Province of Manitoba by virtue of its independence.

As always, I appreciate your continuing interest in this matter.

Yours truly,

**CATHERINE L. DUNN LAW OFFICE**

Per: 

**CATHERINE L. DUNN**

CLD/kp

cc. Leslie Spillett – Ka Ni Kanichihk