

July 17, 2000

IN THE MATTER OF: THE SECURITIES ACT

- and -

IN THE MATTER OF: ROLAND EMILE TETRAULT

**REASONS FOR DECISION
OF
THE MANITOBA SECURITIES COMMISSION**

CHAIRMAN: Mr. D. G. Murray
BOARD MEMBERS: Ms L. M. McCarthy
Mr. K. S. Kristjanson

APPEARANCES:

Ms K.G.R. Laycock)	Counsel for the Commission
Mr. Campbell G. Wright)	Counsel for the respondent Roland Emile Tetrault

Costs

Following the issuance of the Reasons for Decision in this matter, both counsel have provided a written submission on the question of costs.

Ms. Laycock, on behalf of Commission staff, provided an itemization of costs, a copy of which is attached hereto. The costs requested are rounded off to \$16,350.00.

Hearing and argument took place over four and a half days. Prior to the hearing, there were three pre-hearing attendances brought about by an adjournment request by the respondent and an application by Commission staff counsel for an order of disclosure.

Counsel for Tetrault argues that the Panel accepted the evidence of his client over that of the complainants in making only a partial finding against Tetrault. He argues that the bulk of time spent adducing evidence was required as Commission staff relied on the evidence of Mr. and Mrs. Parent, which evidence was generally rejected by the Panel. He further argues that assessments of large orders of costs against respondents in Mr. Tetrault's position could in fact be a discouragement to industry participants taking steps to defend their actions due to the

possibility of resulting punitive cost sanctions. It was further argued that as success was balanced in this matter, the Order should dictate that each party bear its own costs.

The Panel tends to agree generally with the arguments advanced by Mr. Wright, however, it is noted that the pre-hearing applications were neither necessitated nor based upon Commission staffs' reliance upon the evidence of the Parents but by the respondent's request for an adjournment and, more importantly, his refusal to provide requested disclosure. The Order of the Panel on the area of disclosure went against the position of the respondent. Ms. Laycock, on behalf of staff, advises that the costs for the three pre-hearing attendances amount to \$3,100. The Panel is mindful of the positions put forward by Mr. Wright but is of the opinion that Tetrault must bear at least a portion of these costs. The Panel therefore affixes costs against Tetrault in the amount of \$1,500, payable within six months of the date of this Decision.

Despite suggesting that each party should bear its own costs in this matter, counsel for Tetrault has rendered a small statement representing the cost of photocopying for the purposes of disclosure. The Panel has determined that these costs must be borne by Mr. Tetrault and not the Commission.

"D. G. Murray"
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Chairman

"L. M. McCarthy"
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