

Town of Collingwood Judicial Inquiry

AFFIDAVIT OF RALPH NEATE

I, Ralph Kenneth Neate, of the Town of Collingwood in the Province of Ontario, MAKE OATH AND SAY:

1. I have knowledge of the matters contained in this affidavit. Where my knowledge is based on information and belief, I have identified the source of the information and belief and in all cases believe it to be true.
2. I am a partner at Baker Tilly SGB LLP, which is a successor entity to Gaviller & Company LLP ("Gaviller"). I was the audit partner responsible for auditing Collingwood Utilities Services Corporation, COLLUS Power Corp., COLLUS Solutions Corp. and COLLUS Energy Corp. during the period between in or around September 2008 and approximately May 2012.

Attendance at Meetings of the Strategic Partnership Task Team

3. I attended two meetings of the Strategic Partnership Task Team as an observer upon a request delivered by the Town of Collingwood.
4. At the meetings, the members of the Strategic Partnership Task Team discussed the scoring of the responses to the Collus Power request for proposals.
5. I do not recall whether I took any notes at the meetings, but I have reviewed my records and have not been able to locate any notes taken at the meetings. I did make notes outlining some of my concerns about the Strategic Partnership after the December 2, 2011 meeting. A copy of these notes is attached as Exhibit "A."
6. These notes reflected concerns I had with the proposed share sale transaction, including:
 - a. Whether the price was high enough: KPMG's valuation indicated a value of between \$14 - \$16 million for the entire company. While I understood that PowerStream's offer at the time was stated as \$7.3 million, I understood that the final proceeds would actually be approximately \$6.2 million as a result of a \$1.1 million adjustment related to working capital. The Town could have extracted value out of Collus Power without completing the transaction by (i) Collus Power increasing its debt load to pay a dividend to the Town, and (ii) Collus Power repaying the \$1.7 million promissory note to the Town.

- b. Deficit in retained earnings: the dividends payable as part of the transaction would be greater than the retained earnings, resulting negative retained earnings. I wondered whether this would cause problems with the OEB accounting procedures;
- c. Shotgun clause: there was a shotgun clause that provided that PowerStream could potentially purchase the other half of the utility after two years. This appeared to be contrary to what I understood the Town's wish to be, which was to own half of the utility for the long term. If the shotgun clause were exercised by PowerStream, the Town would have to buy PowerStream's shares at PowerStream's offer price or PowerStream would be able to buy the Town's shares at that price;
- d. Control: if there was equal ownership of the utility with equal votes and board representation, the Town would be sharing control of the utility. This would result in the Town having less flexibility with respect to decisions regarding the utility;
- e. Dividend: while I did not finish this note, my recollection is that I was considering whether the Town would get a dividend going forward instead of continuing to receive the services that the Town had shared with Collus Power in the past.

Mr. Neate Met with Mr. Lloyd Regarding the Share Sale Transaction

- 7. I recall that I attended a meeting with Rick Lloyd after the first Strategic Task Team meeting that I attended. I cannot recall whether the meeting with Mr. Lloyd took place before or after the second Strategic Task Team meeting that I attended. Mr. Lloyd told me that he wanted my opinion on the RFP. I do not recall the details of our conversation.
- 8. I recall that I formed the belief that Mr. Lloyd was in favour of the share sale transaction.

Bonus Payments to Collus Board Members

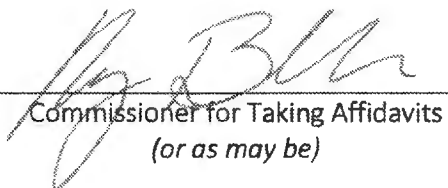
- 9. Trevor Pinn, who was responsible for Gaviller's field work for the Collus audits, drafted a document addressing certain bonuses paid by Collus Power to certain employees and board members of the Collus entities. That document, which is attached as Exhibit "B", formed part of our audit working papers. There did not appear to be any documented approval for these bonus payments.
- 10. I spoke with Mr. Pinn about what we needed to do to address the bonus payments. I do not have a specific recollection of the details of what we talked about.
- 11. We advised the Boards of Collus Power and Collus Solutions that these payments had been made when we presented our audit findings and the financial statements on April 26, 2012. I do not have a specific recollection of this presentation, but I do recall thinking that some of the Board members seemed surprised to learn about the bonus payments. I recall that certain of the Board members gave their bonus back. While I do not have a complete

memory of which Board members returned their bonuses, I believe that Doug Garbutt returned his bonus.

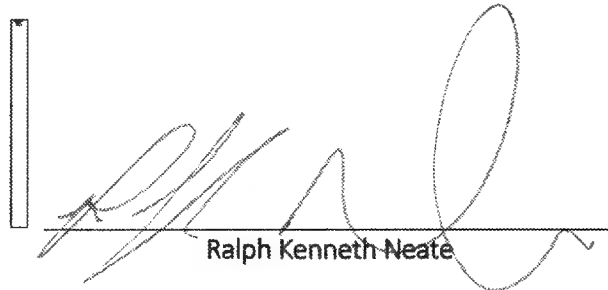
Mr. Houghton Advised Mr. Neate that He Would not Work with Mr. Neate Anymore

12. Mr. Houghton called a meeting with me in or about May 2012, shortly after Mr. Houghton was appointed Acting CAO of the Town of Collingwood. While I do not recall the details of our discussion, I do recall that Mr. Houghton informed me that he would not work with me anymore.
13. Another partner from Gaviller was appointed as the primary audit partner for the Collus (and eventually Collus PowerStream) entities after this meeting. I continued to work on the audit file in a supporting role.

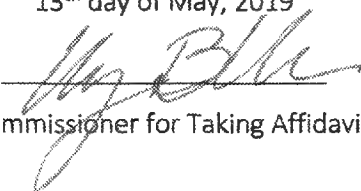
SWORN BEFORE ME at the Town of
Collingwood in the Province of Ontario on
May 13, 2019



Commissioner for Taking Affidavits
(or as may be)

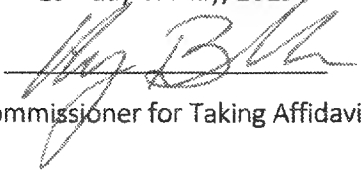


Ralph Kenneth Neate

This is Exhibit A to the
Affidavit of Ralph Kenneth Neate
sworn before me, this
13th day of May, 2019

A Commissioner for Taking Affidavits

Concerns about potential deal

1. Is price high enough – KPMG valuation indicates a value of between \$14M-\$16M for 100% of the equity of whole entity. Offer from Powerstream is at \$6.2M. Using KPMG valuation Collus should receive between \$7M-\$8M for 50% of the shares. There offer is not \$7.3M as there is an adjustment related to working capital of \$1.1M. The \$5.5M & \$1.7M (\$7.2M) the town could extract out of the utility without doing the deal. KPMG proforma spreadsheet seems to imply that remaining 50% of utility is worth only \$4.3M.
2. Should discuss with legal council whether Power can create a deficit in retained earnings of \$2.5M by paying an \$5.5M dividend to town.
3. Shotgun clause – Powerstream will effectively be able to purchase other half of utility after 2 years – Town goal appears to hold on 50% of utility for long term.
4. Control – will Town maintain control over utility given there will be equal votes at board.
5. What will the town be able to receive in the form of a dividend going forward vs.

This is Exhibit B to the
Affidavit of Ralph Kenneth Neate
sworn before me, this
13th day of May, 2019

A Commissioner for Taking Affidavits

**Collus Power/Solutions/CPUSB
2012 Bonus
December 31, 2011**

During the audit it was mentioned by the Financial Controller (Cindy Shuttleworth) that bonuses for certain staff had been approved in 2012. During subsequent payment testing it was noted that there was a significant increase in the March 22, 2012 payroll.

Reviewed the payroll records and noted that the following staff were paid one time bonuses:

- Ed Houghton - \$40,000
- Cindy Shuttleworth - \$15,000
- Pamela Hogg - \$15,000

Discussed with Ed Houghton, per Ed the Human Resources Committee of the Board of Directors met, while he was in Toronto, and approved the bonuses. The rationale was that the staff and certain members of the Board put in additional hours that were not compensated for in order to get the deal completed.

Pamela Hogg provided a memorandum signed by Joan Pajunen, Chair of the Human Resources Committee and now Acting Chair of the Board of Directors indicating the amounts approved for bonuses to the above Collus staff members.

The Board members who were paid bonuses include:

- Dean Muncaster -\$30,000 (payment voucher not signed as this was a direct deposit)
- David McFadden -\$15,000 (payment voucher signed by J. Pajunen, Acting Chair)
- Doug Garbutt -\$ 7,500 (payment voucher signed by J. Pajunen, Acting Chair)
- Joan Pajunen -\$ 7,500 (payment voucher signed by Ed Houghton)

Per Ed and Pam, the only two members of the Board not to receive bonuses are the Mayor and Council's representative.

Per discussion with Ed and Pam, the Board typically will meet in-camera to discuss HR issues and will then return to approve any required motions. There is a schedule meeting for March 23, 2012 (the day after the payment was made), however it is not expected that the HR committee will make this meeting as the Board has to determine how to proceed following the passing of the Chair, Dean Muncaster on March 13, 2012.

Conclusion: The bonuses do not relate to 2011 as they were approved in March 2012 and were a result of the signing of the sale agreement (March 6, 2012). The bonuses were approved. The total payment of \$130,000.