

IN THE MATTER OF the *Town of Collingwood Judicial Inquiry*

AND IN THE MATTER OF the *Public Inquiries Act, S.O., 2009*

AND IN THE MATTER OF the *Municipal Act, 2001, S.O. 2001*

PART 1

SUBMISSIONS OF EDWIN HOUGHTON WITH RESPECT TO THE COLLINGWOOD JUDICIAL INQUIRY

As a result of 10 weeks of viva voce evidence heard between April 15th and June 28th, 2019. The narrative originally set out in Foundation Document 1 has now significantly changed. The changes are listed below and will be explored in detail hereafter.

Houghton's Credibility

1. Ed Houghton's reputation for integrity following a 39-year career with the Town of Collingwood has been firmly established. His commitment to the Town and his continuous efforts to act in the best interests of the Town and its citizens throughout that career, have been clearly evidenced and are supported by innumerable witnesses. It is submitted that Mr. Houghton's evidence and his actions examined in detail in Part 1, should be judged in that light.
2. The process to restructure Collus and obtain a strategic partner ("the Process") was a well conceived, well designed process that achieved a successful result. The citizens of the Town of Collingwood were well served by the Process and its participants.
3. Over and above appropriate salaries and hard-earned bonuses, Ed Houghton received no personal benefit from the Process.
4. The "conspiracy theory" and menacing allegations espoused in FD1, in light of 10 weeks of viva voce evidence, have been shown to be unsupportable. It is now clear that the actions of Mr. Houghton were at all times motivated by the best interests of Collus, the Town of Collingwood and its citizens.

5. Any allegations of misconduct against Mr. Houghton are misconceived and unsupportable.

6. Although the Process above described may not have been executed perfectly, any errors in judgment made from time to time by other participants or by Mr. Houghton would not support a finding of negligence, let alone a finding of misconduct. The errors in judgment created no mischief, led to no negative consequences and did not alter the results that the Process, in any event of those missteps would have achieved.

7. The evidence discloses that during Mr. Houghton's 39-year career with the Town of Collingwood, he received in excess of 10 awards for his volunteer and professional activities on behalf of the Town of Collingwood and its citizens. The awards are set out in detail in the evidence of Mr. Houghton and include the Order of Collingwood in 1999, the Rogers Volunteer of the Year Award in 1998, the Collingwood and Area Chamber of Commerce Citizen of the Year Award in 2002, the Electricity Distributors Association Chairs Citation in 2012. His reputation for integrity and for acting at all times in the best interest of the Town of Collingwood, was evidence by innumerable witnesses.

8. It is submitted that the viva voce evidence before Part 1 of the Inquiry, has demonstrated that, throughout the Process from 2010 to 2012 and throughout the first years of the strategic partnership. Mr. Houghton continued to act not only in keeping with the best interest of the citizens of Collingwood, but in keeping with his fiduciary obligation as the President and Chief Executive Officer of Collus and Collus PowerStream. It must be remembered that throughout this Process, Mr. Houghton did not have a vote on Town Council, nor did he have a vote on the Collus Board of Directors. Although he was able to encourage and support various approaches and initiatives, decisions were, at all times, made by others. This was clearly evidence during the testimonies of Ed Houghton, Cindy Shuttleworth, Ian Chadwick, Rick Lloyd, Sandra Cooper, David McFadden, Kevin Lloyd, Brian Bentz, Peter Budd, Paul Bonwick, etc.

Good Process, Good Result

9. The process of restructuring Collus, and its eventual strategic partnership with PowerStream, was a good process with a successful result. The participants, at all times, treated the interests of the Town of Collingwood and Collus as the same interest. The evidence before the Commission demonstrates that the Process began as early as January 2010. By that time, it was evident to many in the Town, including

Town Councilors, and to those with a fiduciary responsibility to Collus, that in order to meet the challenges of the day, Collus could not continue the status quo, but was required to change in order to achieve a successful future. Declining power consumption, increasing costs, the changing and more sophisticated demands of the rate payers, and the Province of Ontario's stated intention to reduce the number of LDC's, made change a necessity. Fortunately, Collus had the benefit of excellent leadership. Dean Muncaster, a storied and well-respected Canadian businessman chaired its Board, David McFadden, one of Canada's top energy lawyers and an expert in LDC's, was the independent director on its Board. Its President and CEO, Mr. Houghton was a highly respected and experienced professional in the LDC industry. Their combined ingenuity and guidance contributed to the Process in what would eventually become a successful strategic partnership with PowerStream.

10. As evidenced, discussions regarding the future of Collus began in January 2010 and even earlier than that. It was the intent of the Board of Collus to be ahead of the challenges of a small Ontario LDC and to be able to meet and exceed the needs and desires of a more demanding and more informed customer.

11. At that time, the Town of Collingwood had a permanent population of less than 15,000 persons and a Council that worked well together and worked well with Collus Power. Being a small municipality meant that members of Council and senior management of the Town and Collus knew most of the residents of Collingwood and all of the consultants and businesses. Unlike Toronto where there would be thousands of developers/builders, Collingwood had five or six. Also, unlike Toronto the sensitivities of a Council member providing direction to staff or making calls directly to consultants is less in a community where everyone knows everyone.

12. The evidence discloses that on January 14, 2010, Collus PowerStream held a Strategic Planning session at the Georgian Manor Hotel. In attendance were representatives of the Town of Collingwood, including Mayor Chris Carrier, Councillor Mike Edwards and CAO Kim Wingrove, members of the Collingwood Public Utilities, including Chair Doug Garbutt and Marcus Firman, Manager of Water Services, members of the Collus Board of Directors including, Dean Muncaster, Chairman, David McFadden and Joan Pajunen, members of the Collus Team including, Tim Fryer, CFO, Darius Vaiciunas, Load Management & Regulatory Coordinator, Larry Irwin, Director of Operations and I.T. Services, Pam Hogg, Executive Assistant to the President & CEO, HR Officer, Jeff Hansen, Smart Grid Facilitator, Ray Powell, Hydro Superintendent and Ed Houghton, President & CEO. The session began with a keynote address by Gian

Delzotto, a noted and respected futurist, who challenged the organization to engage in the changes that its future required. At the session, David McFadden gave a slide presentation (TOC516594). David's presentation, assisted by the slides, outlined the challenges in the LDC industry and the challenges for small LDC's, such as Collus. Mr. McFadden challenged the attendees by declaring that the "status quo was not an option". He intended to lead the participants to understand and accept the challenges of changes to the industry. There was a fulsome discussion of potential changes that might be made, including changes in Collus' scope and scale.

13. Thereafter, there was a meeting of the Georgian Bay District of the Electricity Distributors Association (EDA), held at Cleveland's House on Lake Rosseau. In attendance were Dean Muncaster, David McFadden, Joan Pajunen, Doug Garbutt and Mr. Houghton. The conference was titled "Taking Control of Your Future" and was structured for the benefit of small and medium sized utilities. The discussions, again, centered around "how do we do things better" and what do we do to meet the significant challenges and changes in our industry. At the end of the conference, Doug Garbutt, a long standing and respected councilor, said to the gathered Collus attendees "It's time for us to fish or cut bait", by which he again meant, the status quo was no longer an option. It is clear that two meetings, set out the challenges of change in the industry and motivated the Collus attendees to focus on changes necessary for a successful future.

14. There was an election in October 2010. During that election, councilors and citizens, discussed the Town's debt, the future of Collus and the prospects of a Collus sale. The election led to the formation of a new council, led by Mayor, Sandra Cooper, with whom Mr. Houghton had an excellent relationship.

15. Mr. Houghton gave evidence that in her inaugural address, Mayor Cooper basically said that "we need to offer our community better" and "we need to do things better". "We need to reduce our debt and we need to look at ourselves". Mr. Houghton understood the Mayor to be challenging those involved in Town governance to find a way to do a better job.

16. Shortly following her inauguration, the Mayor attended a meeting of department heads and again laid out her challenge to do a better job. This challenge was repeated during the budget process at the end of January 2011, during which the Mayor stated "I for one want to see our staff go back to the drawing board and present this council with a reduction in spending, not more, and not status quo".

17. As a result of the aforescribed challenges for change, and as a result of ongoing discussions between Chair Dean Muncaster and Ed Houghton, Muncaster directed Houghton to reach out to Brian Bentz, a well-respected and active industry leader and President & CEO of PowerStream, to explore how his organization chose to meet the challenges of change. It is submitted that these meetings held on November 24, 2010 and December 3, 2010, given the continuing challenge for change set out above by the Mayor, David McFadden and others, were a reasonable preliminary response to those challenges and were required as part of their fiduciary duties to the corporation. During the course of those conversations, Mr. Bentz proffered a “back of a napkin” valuation of Collus and Mr. Houghton mentioned, when questioned by Mr. Bentz that one of the many options that could be considered was an RFP for the sale of Collus, as indeed this option had been raised in the sessions set out above and in the lead up to the October 2010 election. Mr. Houghton described these conversations as “occurring at a 30,000 foot level”.

18. Following Sandra Cooper’s inauguration, and as a result of the numerous Town obligations managed by Mr. Houghton, the Mayor and Mr. Houghton had occasion to speak almost daily into January 2011. Mr. Houghton’s evidence discloses, and it is confirmed by the Mayor, that they discussed how Collus was going to meet the challenge which the Mayor had levied and concluded that it was best that the Mayor forward correspondence to Mr. Muncaster specifically directing them, on behalf of the shareholder of Collus, being the Town, to obtain a valuation of Collus Power. Indeed, the Mayor asked Mr. Houghton to draft such a letter on her behalf and to forward it to her brother, Mr. Bonwick, to assist in vetting the letter on her behalf. It was Mr. Houghton’s understanding that Mr. Bonwick was a valued advisor of the Mayor and he accordingly did so. The draft letter prepared by Mr. Houghton and forwarded to Mr. Bonwick is dated January 30, 2011 (TOC0038100) and specifically directs Houghton and Muncaster, to complete a valuation of Collus. Alterations to the letter were completed by Mr. Bonwick and the letter was eventually signed by the Mayor and forwarded to Collus (TOC0038169). The final form of the said correspondence from Mayor Cooper requested that Chair Muncaster direct Mr. Houghton to “undertake a valuation of Collus by way of an examination of all potential opportunities that would benefit Collingwood residents and that a report containing recommendations be presented to Council no later than May 30th”. It was Houghton’s evidence that during the discussions had by Houghton with the Mayor following her inauguration and prior to the drafting of the January 30th, 2011 correspondence, he advised the Mayor of the meetings he had had with Brian Bentz on November 24th and December 3rd, 2010.

19. Thereafter, and at the direction of Mr. Muncaster, Houghton was asked to contact Mr. Bentz for suggested companies who perform valuations and Houghton then contacted KPMG and requested that they be retained by the Town and by Collus to provide a valuation of Collus Power and an analysis of possible options for the sale and restructuring of Collus Power. Houghton reached out to John Herhalt of KPMG, the senior KPMG partner in KPMG's energy practice. Thereafter, and on the 14th of February, 2011, Houghton received a draft proposal from John Herhalt, which he forwarded on to Dean Muncaster. (CPS0002001)

20. It can be seen from the exchange of emails between Dean Muncaster and Ed Houghton, that they were thoughtful about the necessary authorizations to proceed with the valuation and options report (CPS0002000). Dean confirmed that they could rely on the January 30th letter from the Mayor as authorization for the valuation by the shareholder, and also from the Mayor as a member of the Board of Directors of Collus. This left the necessity to obtain the authorization of David McFadden, the third and independent Board Member of Collus.

21. It was the evidence of Ed Houghton, that McFadden knew KPMG had been retained through communications with Dean and that the Mayor knew that KPMG had been retained through the Mayor's regular interactions with both Dean and Ed. The suggestion that obtaining the valuation required council's approval, was inappropriate. The Mayor had authorized the valuation in her January 30th correspondence on behalf of the shareholder and all three directors of Collus had been consulted. The Mayor's direction, on behalf of the shareholder, was that the valuation should be obtained, options explored and the whole matter returned to Council by May 30th, and in fact, it was returned to Council, with a full status report on June 27th, 2011.

22. On May 24th, 2011, by way of email, Collus received the valuation report and options report prepared by KPMG. (KPM0001031, KPM0001032).

23. It is to be noted that prior to the completion of the report, Dean Muncaster and Ed Houghton met with Jonathon Erling of KPMG to discuss the rationale and all necessary background for the evaluation and options reports (See Erling's notes at KPM0003267.0001). During the course of this conversation, Erling was fully advised that one of the rationales for the review was the reduction of Town debt. He was also advised that the essence of the task was the necessity for greater efficiencies and effectiveness of the Collus organization which would translate into benefits to the citizens and customers of Collingwood.

24. It was Mr. Houghton's evidence that Collus Power was already recognized as an efficient, well run, leading edge LDC but that "status quo was no longer an option" and that Collus Power, in order to meet the many challenges of change, was required to move forward with more inventive ideas, including the prospect of a cash injection, and the possible sale of Collus in some form. It is submitted that it was clear at that juncture, that exploring further efficiencies had been done and that significant next steps were required in order to meet the challenge of change.

25. By an email exchange commenced by Ed Houghton on May 31, 2011, arrangements were made to review and consider the KPMG reports, first with Muncaster and David McFadden on June 4th and thereafter with the Muncaster, McFadden and the Mayor, the meeting with the Mayor occurring on June 10th, 2012. (CPS0002151). These two meetings were for the purpose of developing a consensus between Collus Power's board members as to how this matter might move forward and was fully in keeping with the directions provided by the Mayor in her January 30th correspondence. Additionally, it is submitted that the meetings were had to explore options arising from the KPMG reports and to prepare to report to council on the outcome of investigations to date.

26. Both McFadden and Houghton gave evidence with respect to the June 4th, 2:00 p.m. meeting between McFadden, Muncaster and Houghton had on that day to discuss the KPMG valuations and options reports. Both gave evidence that out of that meeting arose the concept of a strategic partnership in which the partner would bring scale and strategic assets to Collus. The parties further discussed and agreed on the formation of a strategic task team to assist in moving the matter forward on behalf of both the shareholder and Collus Power.

27. The Mayor, Mr. McFadden and Mr. Houghton all gave evidence that confirmed that on June 10th, 2011, a meeting was had with Muncaster, McFadden, Houghton and the Mayor at the Mayor's office. All confirmed that out of that meeting came a review of the KPMG reports and a commitment to recommend to Council, the strategic partnership option on June 27th. It was further agreed to utilize a strategic task team to evaluate matters as they move forward. It is submitted that the plans developed at the June 4th and June 10th meetings, were developed in keeping with obligations had by the various parties as the Board and other fiduciaries of Collus and by the Mayor as an authorizing representative of the shareholder. Thereafter, and on June 27th, at an in-camera council meeting (BLG0000259_0001) attended by all councilors, Mayor Cooper, Kim Wingrove, Almas, Dean Muncaster and others, Ed Houghton

provided an in-depth update on the evaluations and options reports prepared by KPMG and an introduction of the strategic partnership option. Ed prepared and put before council, 20 of the 21 slides that had been contained in the options report of KPMG. The only slide missing was slide number 5 of the KPMG report, which was related to the provincial concept of smart grid and had no relevance to the issues before Town Council. The slide presentation before Council on June 27th, also contained the concept of a “strategic partnership”. The phrase strategic partnership was not mentioned in the KPMG reports, but was a natural and inventive extension of the “partial share option” contained in the KPMG report. The slide presentation was forwarded to and reviewed by McFadden (TOC0050024) Rather than being vilified for utilizing this natural extension of KPMG’s partial sale option, Mr. Houghton, Mr. Muncaster, Mr. McFadden and Mayor Cooper should be lauded for their inventiveness, which was in fact their job as directors of and President and CEO of Collus Power. The strategic partnership option was before full Council on June 27th and Council, following Houghton’s fulsome report, directed the strategic task team to further investigate and pursue the strategic partnership option. This direction and authorization is not clearly set out in the minutes of the June 27th meeting, but is confirmed as the direction given by Council on that date, by the evidence of Ed Houghton, Sandra Cooper, Rick Lloyd, Ian Chadwick and others. There can be no doubt that the strategic partnership concept arising from the Collus Board’s inventiveness and from the valuation and option reports of KPMG, was received with enthusiasm by Town Council, who on June 27th authorized the continuing investigation of this option. Proof of this reality is that the minutes reflect Council’s approval of the concept of a strategic task force team and, in fact, appointed Rick Lloyd, Deputy-Mayor at the June 27th meeting to fill the one existing vacancy on the STT team. (KPMG Option Slides KPM0001032, Ed Houghton’s slide presentation to Council on June 27th, CPS0004397)

28. In essence, the STT team was a subcommittee of Council designed to move the strategic partnership process forward. It was a powerhouse team, that included Dean Muncaster, David McFadden, Ed Houghton, Mayor Sandra Cooper, Rick Lloyd, the Deputy Mayor of Council, Kim Wingrove, the CAO of the Town, John Herhalt, a senior KPMG partner and highly regarded leader of their energy practice group, and John Rockx, a KPMG partner with substantial RFP and valuation experience. It is hard to imagine the good fortune of Collingwood to have such a prominent and capable mixture of individuals to move the strategic partnership process forward, including effective representation of all involved stakeholders, i.e. Collus Power and the Town of Collingwood. I feel confident in submitting to this Commission that to this point in the exercise, “the Process” had been fulsome, transparent and the result of wise professional advice, not only from KPMG, but from the capable members of the Board of Collus Power. The process

was at all times, authorized by the necessary stakeholders. No doubt that to June 27th, the Process can only be described as excellent.

29. Thereafter, there were five meetings of the strategic task team designed to move the search forward. There were also three further in-camera council meetings and one public council meeting for a total of 6 Town Council meetings and a further November 22nd, 2011 public meeting, all designed to keep the Town, and the Collus Board, involved in the ongoing process and fully informed as to what was taking place. Additionally, there were Board meetings of Collus Power approving the process and eventually recommending a strategic partner to Town council. Town Council in its penultimate meeting of January 23rd, 2012 passed a by-law approving the recommendation of the Board of Collus Power and passing a by-law authorizing the Mayor, Sara Almas and Ed Houghton to execute the necessary share purchase agreement and unanimous shareholders agreement. The closing of the transaction occurred on July 31, 2012. The process involving the above mentioned stakeholder meetings, including Collus Power, the Town and its citizens is detailed in the evidence of Ed Houghton, David McFadden, the Mayor, Sandra Cooper, the Deputy Mayor, Rick Lloyd, Ian Chadwick and John Rockx, and in the STT Minutes, Council Minutes and by-laws presently before this commission. It would not be of assistance to the Commission to again detail each one of those items. In our submission, the obvious and inevitable conclusion is that the process was again thoughtful, professionally assisted, fulsome and done with the full authorization of all stakeholders. Again, rather than being vilified for their involvement, Ed Houghton, Dean Muncaster, David McFadden, the Mayor, Town Council, and the STT Team should be lauded for the quality and transparency of the process they developed.

30. Throughout the inquiry there is ample evidence that both the Board of Collus Power and Collingwood Council were provided ample information allowing them to make decisions. The decision by the Collus Power Board to recommend PowerStream to Collingwood Council was through a unanimous vote. The decision by Collingwood Council to recommend PowerStream as the 50% partner of Collus Power was through a unanimous vote. At every meeting of the Collus Power Board regarding the share sale transaction were members of the Strategic Partnership Task Team (SPTT). They were Dean Muncaster, David McFadden and Mayor Sandra Cooper. At every meeting of Collingwood Council regarding the share sale transaction were members of the Strategic Partnership Task Team. They were Mayor Sandra Cooper, Deputy-Mayor Lloyd and CAO Wingrove and at times Dean Muncaster and Doug Garbutt.

31. It is clear from the evidence that never once during these many meetings did the members of the Collus Power Board or the members of Collingwood Town Council question the direction the SPTT or ask for additional legal advice or professional advice.

32. Never once during these many meetings did Mr. Houghton ever put his hand up to vote on the decisions to be made. Never once did we hear any evidence that Mr. Houghton forced the decisions of the Collus Power Board or Collingwood Council.

33. As with all human processes, there were a limited number of flaws along the way, which in our submission did not create any mischief or negative consequences and did not change or alter the outcome eventually accomplished. Before speaking to those misjudgments or alleged flaws in the process, I would like to submit, that the results of the process were excellent and held great prospects for the strategic partnership, Collus PowerStream, of which the Town of Collingwood continued to be a 50% owner.

34. In that respect, it is useful to review the evidence of Ed Houghton, Ms. Shuttleworth, Pam Hogg, Marcus Firman and Brian McDonald, all of whom praised the quality of the relationship that existed pre-John Brown among the Town, Collus PowerStream, public works and public utilities. Each and every one of the above witnesses exuded pride in their part in that relationship and stated that it didn't matter from which organization your pay cheque came, every employee diligently worked for the benefit of the Town of Collingwood and its residents. Accordingly, the evidence of Brian Bentz, Ed Houghton and the above-mentioned witnesses was, that the culture survived and continued even after the closing of the Collus PowerStream transaction on July 31st, 2011. The above witnesses spoke to not only the excellent culture and relationship between the Town and the new strategic partnership, but also to the work accomplished. The most telling example of the accomplishments of Collus PowerStream, was that for the first time in its history, the Town received a dividend payment from its LDC following the completion of its first year.

35. Collingwood Council of the day were happy with the results of the transaction. This was evidenced through the testimonies of Mayor Cooper, Deputy-Mayor Lloyd, Councillor Ian Chadwick and Councillor Kevin Lloyd. Collus Board of Directors were happy with the results and the outcome and this was evidenced by testimony of David McFadden and interviews with Joan Pajunen and Doug Garbutt. Collus PowerStream staff were happy with the results as evidenced by the Report authored by Steven Haasz and testimonies of Pam Hogg, Cindy Shuttleworth and Ed Houghton. It was evidenced through the

Inquiry Hearings that KPMG thought the process was good. It was further evidenced through the Inquiry Hearings that Ron Clark of Aird & Berlis believed the process to be good.

36. The Town of Collingwood received \$8,000,000 from PowerStream in 2012 for 50% of Collus Power. Five years later the Town of Collingwood offered PowerStream \$13,100,000 for the same 50% share. An increase in value of more than \$5,000,000 for the 50% was realized by PowerStream and presumably the Town of Collingwood. This would indicate significant cash value as a result of the transaction. Mr. Bentz testified that, “the return on equity increased substantially in 2014 and 2015 and dividends were paid (to both shareholders) and they have never been paid before”. Mr. Fryer testified, “I think Collingwood benefitted from that by receiving millions of dollars as well as rate protection and customer administrative service for long term that wasn’t within the unanimous shareholders agreement”.

37. Collus PowerStream was able to offer its customers all of the conservation programs performed by the much larger PowerStream. Collus PowerStream customers benefitted from the utilization of the PowerStream Call Centre. Collus PowerStream customers benefitted by using the significant strategic resources of our much larger partner. Value was definitely achieved.

38. Regrettably, this promising result was not to last. It is clear that following the appointment of Mr. Brown as the new Acting CAO of the Town of Collingwood, the relationship between the Town and the electrical distribution utility began to deteriorate to the point that it was described by Shuttleworth as a “toxic environment”, in which she felt obliged to level an allegation of harassment against Mr. Brown. The relationship thereafter was described by both Mr. McFadden and Mr. Bentz as dysfunctional. Marcus Firman felt obliged to leave his employment with the Town of Collingwood. Mr. Houghton in discussions with McFadden and Bentz felt the best course of action was to leave his employment as a direct result of Brown’s barrage of attacks. David McFadden resigned as a director, as did John Worts, all of whom attributed the dysfunctional relationship to the efforts of the new CAO, John Brown. The evidence of Ms. Shuttleworth, Pam Hogg and others confirms that their efforts to move the shared services agreement forward to a conclusion, were resisted at every turn by Mr. Brown. Ms. Shuttleworth describes a meeting with a lawyer retained by the Town to work on the project as confrontational and confirms the fact that following the meeting involving Ms. Shuttleworth, Mr. Brown and the lawyer, the lawyer confirmed that Brown was so confrontational that the lawyer declined his retainer. Little doubt that the successful and

promising start of the Collus PowerStream relationship for the first year following closing was destroyed by John Brown.

39. Specifically, Mr. Brown commissioned the Beacon 2020 Report, the BMA Management Consulting Report, the Henley International Report and the Borden Ladner Gervais Report, all of which cost the Town of Collingwood Council in excess of \$100,000. It is submitted, that the evidence clearly shows all of the above reports to be highly inaccurate and misleading to both Council and the Collingwood public. None of the reports had the input or comment from the organizations on which they commented, prior to their release to Council or the public.

40. For example, the Beacon 2020 Report, when finally seen by Collus PowerStream, Collingwood Public Utilities and other stakeholders, received in excess of 50 pages of inaccuracies, mistakes, and outright misleading information. Following a review of that in excess of 50 pages of criticisms, the 50 pages were discredited by the report's author and reduced to 24 words of comment, without adjusting the report's conclusions. Similarly, the BMA Management Consulting Report was 28 pages. The Collus PowerStream CFO, who received 5 pages of the report, sent back 7 pages of errors noted on those 5 pages. Again, little or no change was made as a result of the Collus PowerStream's CFO's review.

41. The Borden Ladner Gervais LLP Report of 51 pages went to council without prior input from Collus PowerStream. Collus PowerStream then provided BLG with over 400 pages of information showing the inaccuracies in the report. In an exchange between John Brown and the report's author, Mr. Rogers, Lawyer Rogers states "As we have discussed from the outset, for some themes, I incorporated into the report, the reality is there is no evidence to substantiate the point other than what has been communicated to me orally". In the exchange, Rogers goes on to say that in an attempt to keep on the original preconceived themes, "the challenge in this exercise is that on some fundamental issues, we have contradictory information about events for which there may be no documentation, or if some documentation does exist, it can be contrary to the original point to be made" (BLG00000930001).

42. Many of the reports contained disclaimers of such a sweeping nature that one wonders, what value there can be in the report. The Beacon 2020 Report has a disclaimer on page 2 that states, "Although we tried to provide accurate information, it is based solely on information from documents provided". (CJI0007337_0001 page 2) The Henley International Report, on page 4, states "it should be pointed out that the analyses underlying these conclusions are carried out using publicly available information as well

as that provided by Town officials. Additional data such as business plans, capital expenditure plans and budgets, or even the latest financial statements are normally provided, but were unavailable in this case” (BLG0000023_0001_0001 page 4). The Miller Thompson Report is similar to the other reports with a disclaimer that states, “our review and opinions are limited to the documents we have reviewed. If there are other documents which relate to the matters it may impact our opinion”. This document was never shared with Collus PowerStream (CJI0008820). The Borden Ladner Gervais Report disclaimer states “Our report is a summary of the information provided to us and not based on any independent assessment of the facts”.

43. Similarly, with respect to the Shared Services Agreement, the Collingwood Public Utilities auditor, indicated that the Shared Services Agreements were at an end and recommended that the Shared Service Agreement be updated. Mr. Brown did not accept the opinion of the auditor, which suggested an update, but rather attempted to get other opinions that would state otherwise. Both Leo Longo and Miller Thompson provided opinions that the Service Agreements were still in effect and that they should be updated. In spite of the three recommendations to update, Brown continued to advise Council that there was opposing opinions with respect to the Shared Services Agreement.

44. Regrettably, it is this kind of conduct, along with the inaccurate and misleading reports referred to above, that led a misinformed Council to conclude a sale of Collus PowerStream to EPCOR. Additionally, it is submitted, a further result of the above described conduct and the misleading reports was, the 5/4 vote of Collingwood Town Council on February 26th, 2018, that established this commission.

KIM WINGROVE

45. The first misjudgment or alleged flaw in the process that I will deal with is the assertion of Kim Wingrove, CAO for the Town of Collingwood during the years 2011 and 2012. One must first of all examine the credibility of Kim Wingrove. Ms. Wingrove asserted, in her initial trip to the witness box, that she had been unable, in spite of substantial efforts to obtain meetings with Mr. Houghton, who appeared intent on proceeding without the necessity of interacting with the Town’s then CAO. It is submitted that the evidence of Pam Hogg, Mr. Houghton’s personal assistant, and the evidence of Brian McDonald, who worked in the Town’s Public Works management, exposed the inaccuracy of Ms. Wingrove’s assertions in that respect. Ms. Wingrove had suggested that she had been unable to obtain a meeting with Mr.

Houghton for at least a year and a half and that he frequently cancelled meetings with her that were arranged. Pam Hogg confirmed her control over the calendar of Mr. Houghton. It was Ms. Hogg's evidence that if Mr. Houghton had cancelled any meetings with Ms. Wingrove, she would be aware of same and her evidence was that she knew of no such meeting cancellations. The evidence of Brian McDonald was that he personally sat in meetings with Mr. Houghton and Ms. Wingrove on at least 6 to 10 occasions per year. In addition, the evidence disclosed that there were meetings of all department heads held every Tuesday prior to the upcoming Monday Town Council meeting, that would have, by necessity, been attended by Mr. Houghton and Ms. Wingrove among others.

46. Ms. Wingrove's assertion during her second visit to the witness box, was that she and the councilors were confused about the price being paid by PowerStream for 50% of the Collus holding company. Her assertion was that the councilors believed the approximately \$15 M being received by the Town in the transaction was a payment for 50% of Collus Holding shares. It is difficult to believe that Ms. Wingrove, who sat through five STT meetings and attended 6 meetings of council could be at all confused about the source of funds being paid to the Town in the Collus transaction, and in particular, the \$8M that was being paid by PowerStream for 50% of the Collus Holding shares.

47. The substantial weight of evidence makes it clear that the Town Council was also not confused. In fact, several town councilors were called as witness at the Commission and none of them, other than Ms. Wingrove, suggested any confusion.

48. Additionally, the various sources of funds, including the price for 50% of Collus Powers' shares was quite specifically spoken to in Council meetings of December 5th, 2011 and January 16th, 2012. You will recall that in the December 5th in camera Council meeting (in camera minutes TOC0512149, slide presentation ALE0005133.0002) presentations were given by both John Rockx of KPMG and Ed Houghton. In fact, on page 19 of the aforementioned slide presentation it states clearly, "PowerStream has agreed to increase their offer for the 50% shares up from \$7.3 million to \$8.0 million, this represents a 10% increase....". The oral presentation explained 25 pages of slides prepared and presented by Mr. Houghton. The evidence disclosed that the purpose of the meeting was to advise Council of the results of the RFP process. The point system to rate the various bids had been explained and approved by Town Council on October 3rd, 2011. On December 5th, the evidence of Rockx, Houghton and others confirms that the scores achieved by the various bidders, both non-financial and financial were reviewed in detail and it was explained that on a combined scoring basis of financial and non-financial, PowerStream had been first,

Horizon had been second and Hydro One had been third. Again, in slide 15, both the slides and the presentations made at the meeting confirmed the three sources of funds, being proceeds of the share sale, proceeds of recapitalization and the potential for the repayment of the promissory note. Both slides 16 and 19 specifically set out that PowerStream would pay \$8M for 50% of the shares of Collus Power.

49. The same exercise was repeated by Ron Clark, the senior legal counsel for the Town in this transaction. at the Council meeting of January 16, 2011 (in-camera minutes, CJI0009079, slide presentation TOC0531801). The evidence of Clark confirmed the sources of funds arising in this transaction, including that PowerStream would pay \$8M for 50% of the shares of Collus Holdings, an estimated dividend arising on a recapitalization of \$5.2M and a potential repayment of a promissory note in the amount of \$1.7M. It is submitted that it would have been virtually impossible given the detailed explanations and slide presentations given by Rockx, Clark and Houghton at the aforementioned two in-camera Council meetings for a reasonable councilor to have been confused about the sources of funds and the amount being paid by PowerStream for 50% of the shares of Collus Holdings. The evidence makes it clear that the assertion of Kim Wingrove in this respect is unsupported.

50. It can be argued that Ms. Wingrove was embittered by her termination and/or that Ms. Wingrove demonstrated frequent emotional outbursts during her term as CAO, suggesting an inappropriate degree of instability. In any event of those two available arguments, it is submitted that it would be quite imprudent to found any finding, misconduct or otherwise on the evidence of Ms. Wingrove.

RALPH NEATE

51. Similarly, the evidence and assertions of Ralph Neate, the Collus auditor, do not raise valid concerns about the Process. It had been the assertion of Ralph Neate, that councilors should have been made aware that a dividend from recapitalization and the proceeds of the repayment of the promissory note could have been made available to the Town without selling 50% of the shares of Collus. This assertion is equally unsupported by the evidence.

52. It was the evidence of both Tim Fryer and Ed Houghton that Town councilors, at all times, were aware of the potential repayment of \$1.7M resulting from the retirement of the promissory note, but that Council had chosen on an ongoing basis, because of the quite favourable interest rate being garnered on the promissory note, that they did not wish a repayment of the promissory note. It was obvious that the

repayment of this note only became a practical necessity in an environment where two partners were coming together in one company, i.e. the sale of 50% of Collus Holdings.

53. It was also the evidence of both Tim Fryer, the Collus CFO and Ed Houghton, that it had historically been their position that an increase in the debt to equity ratio in a small LDC, such as Collus Power, was highly imprudent. This was supported by the evidence of John Glickman, CFO of PowerStream who confirmed the view that many smaller LDCs had taken the same historic position and that, in his view, their approach was the correct one.

54. The detailed oral and slide presentations presented to Council, as described above, on December 5th and January 16th, equally made it clear that it was only at the time of a new share structure for Collus and/or a new strategic partnership, that the options of a recapitalization and repayment of the promissory notes should be considered, i.e. at a time when Collus had achieved significant scope and scale. It is submitted that the evidence makes it clear that the proposition of Ralph Neate, was indeed wrongheaded and appropriately annoying to the members of the Collus Power Board. While speaking of the December 5th, 2011 Council meeting, it must also be noted that Council Minutes reflect a resolution that directed the Collus Board to continue negotiations with the preferred proponent, being PowerStream Inc., for a potential strategic partnership arrangement (TOC0512149).

ED HOUGHTON AND PAUL BONWICK

55. Chapter 1 of the Foundation document suggests a relationship between Ed Houghton and Paul Bonwick, which is somehow improper. The evidence before the inquiry does not support any such conclusion. Clearly, they knew each other in this modestly sized community. Mr. Bonwick had gone to school with Mr. Houghton's younger brother. Mr. Houghton advise that although they supported different political parties, he felt that Mr. Bonwick had done a good job representing the Town of Collingwood during his term as a Federal MP. Clearly, their paths crossed given Mr. Houghton's 39-year career with the Town and given Mr. Bonwick's extensive terms as a Councillor and as an MP. Their interactions cannot, however, be characterized as sinister or improper.

56. Paragraph 66 of FD1, confirms that in April 2011, Bonwick suggested to Mayor Cooper that she consider obtaining a legal opinion on the public disclosure of the salary of Collus employees, including that of Houghton. The evidence at the inquiry made it clear that this was a long standing and frequently

debated issue in the Town of Collingwood. It was quite appropriate that Bonwick, as an acknowledged advisor to the Mayor, suggested to the Mayor that a legal opinion be obtained, which made it clear that the Canadian Business Corporations Act forbid the disclosure of employees' salaries, thereby ending this long-standing issue.

57. Paragraph 68 of FD1 suggests that Mr. Houghton assisted Mr. Bonwick in his meetings with an Ottawa First Nations Banded Chief with respect to proposed federal funding. The evidence at the hearing discloses that Mr. Houghton's involvement in this project was very limited and that he did not attend on any trips to Ottawa. It appears that his involvement as described by Mr. Houghton, arose exclusively out of a long-standing personal interest in aboriginal affairs. There is no evidence to suggest that Mr. Houghton received any financial advantage from his very limited involvement in this project.

58. At page 71 of FD1, it is intimated that Ed Houghton, in some way, provided Paul Bonwick with favourable treatment that allowed Bonwick's company, Gemba Environmental Services, to work for the Town. The evidence of Mr. Houghton explains that there was a need in the Town for the services at issue, and that accordingly, he forwarded the Gemba opportunity to Marcus Firman to be evaluated, priced and carried through, if appropriate. The evidence of Marcus Firman confirms Mr. Houghton's evidence. He advised the Commission that he, himself, investigated and priced the opportunity, developed the relationship with the very capable engineer, Craig Fischer, that worked at Gemba, and that as a result of the relationship Firman developed with Fischer, the project proceeded to a successful conclusion. There is nothing in the evidence that suggests and/or confirms any improper action on the part of Mr. Houghton.

59. Section 1.13 of the Foundation Document, describes the involvement of Mayor Cooper, Deputy Mayor Lloyd, Ed Houghton and Paul Bonwick with respect to the company Amaizeingly Green. It is clear that Amaizeingly Green had financial problems and retained Bonwick to assist and to obtain funding. It is also clear that Amaizeingly Green was a significant problem for the Town, being in substantial arrears of both property taxes, hydro and utility bills, to an amount of approximately \$1M. As a result of the exercise of patience and skill by all parties, a good result was achieved for both the Town and Amaizeingly Green. 100% of the Amaizeingly Green arrears were paid back to the Town and Collus and Amaizeingly Green remained sustainable and operational until 2018. As I have argued at earlier times, this is a good news story and not the basis for any sinister assertions.

60. An argument can also be made that Paul Bonwick, as a consultant acting on behalf of PowerStream through the course of the RFP Process, was privy to information, which he passed on to PowerStream. In reaching conclusions with respect to this issue, however, one must inquire as to whether Mr. Bonwick's possession of such information was the cause of any particular mischief or inappropriate result and/or whether the result of the RFP Process was in any way changed by Mr. Bonwick and/or PowerStream's use of that information. The Commission will also have to consider in detail Mr. Houghton's involvement in that alleged information exchange. I will hereafter deal with the specific incidents relating to allegedly improper information.

Improper Information

61. In mid-2010, Bonwick initiated discussions with Ed Houghton with respect to the changing Ontario electrical industry. The evidence of Mr. Houghton and Mr. Bonwick is the same with respect to this interaction. Presumably, Mr. Bonwick was looking for opportunities and turned to Mr. Houghton, who had a well-established reputation as an expert in the LDC industry. Quite properly, Mr. Houghton suggested that Bonwick might be in contact with Mr. Bentz, who Mr. Houghton regarded as the most prominent local player in that industry. This referral was made in mid-2010, prior to Mr. Houghton making inquiries of Mr. Bentz on November 23rd and December 3rd, 2010, and prior to the time of Collus beginning to consider the sale of its shares. There was an exchange of emails between Bonwick and Houghton in this respect on or about January 10, 2011 (Bonwick's original email, ALE0000045, Bonwick's email to Houghton, TOC0036839, and Mr. Houghton's email to Bonwick asking to chat, TOC0036988). The emails confirm the evidence of Mr. Houghton and Mr. Bonwick, that when Houghton received Bonwick's letter to Bentz, he emailed Bonwick requesting an opportunity to chat. It is telling that when Houghton received his copy of Bonwick's email to Bentz, he reacted and described in his evidence that he had an "emotional allergy" to Bonwick's involvement in matters relating to the Town and to the activities of the company of which he was President and CEO, being Collus Power. It is clear that he had an innate sensitivity to the prospects that might arise from the Mayor's brother's involvement in a possible share sale. The evidence of both Houghton and Bonwick confirm that Mr. Houghton was able to extract an undertaking from Bonwick that he would not mention Collingwood in his proposal to Bentz and would focus that proposal on other local LDC's. It was not until the disclosure meeting of June 29th, attended by the Mayor, the Deputy Mayor, Wingrove, Bentz and Lehman, for the purpose of disclosing Bonwick's involvement on behalf of PowerStream, that Mr. Houghton began to feel more comfortable. It is submitted that Mr. Houghton's actions with respect to this issue, showed an appropriate sensitivity for issues of potential

conflict and public perception. As a result of this interaction in Bonwick's January 20th, 2011 email to Bentz (ALE000059), Mr. Bonwick's focus changed to other LDC's.

62. On January 30th, 2011, Houghton drafted a letter for the Mayor directed to Dean Muncaster and Houghton requesting "a valuation of Collus and to look at the positive and negatives of selling the assets of Collus" (TOC0038100). In the evidence of Ed Houghton, which was confirmed by Sandra Cooper, Mr. Houghton describes frequent interactions between he and the Mayor after her inauguration and describes their numerous conversations in which they discussed the future of Collus in its changing environment. Both Mr. Houghton and the Mayor described that the result of those conversations was a direction being given by the Mayor to Mr. Houghton to draft a letter of direction to Houghton and Muncaster with respect to the valuation and sale of Collus. The evidence also confirms that it was the request of the Mayor that that letter be forwarded to Paul Bonwick, an acknowledged advisor of the Mayor, to presumably ensure that the direction to Muncaster and Houghton was consistent with the direction of the Mayor's recent election campaign. It is submitted that this exchange of emails and draft emails is simply an appropriate use by the Mayor of staff and other resources in order to deal with issues faced by both the Town and one of its major assets, being Collus. The resulting directing email (TOC0038169) in many ways formally commences the Process in which all stakeholders would become involved. The email notes that the Mayor "respectfully requests Collus find similar opportunities in part to help reduce the Town's debt and create greater efficiencies for Collingwood residents ..." "My specific request is that Chair Muncaster direct Mr. Houghton to undertake an evaluation of Collus by way of examining all potential opportunities that would benefit Collingwood residents and that a report containing recommendations be presented to Council no later than May 30th, 2011". Again, it is submitted that there is nothing sinister about this interaction, but simply an appropriate use by the Mayor of available resources to attempt to move significant Town business forward. That being said, there are perception issues that the Mayor should consider with respect to her brother's involvement in the share sale at all.

63. On or about February 1st, 2011, by email (ALE0000071) Bonwick advised Bentz that the Collus valuations had commenced. This was not an inappropriate information breach by Houghton and/or others, but was information that Bonwick had learned from the January 30th exchange of emails between Houghton, Bonwick and the Mayor. Houghton and the Mayor confirm that on the Mayor's instructions, Houghton forwarded the January 30th draft letter of direction requesting a valuation, on to Bonwick.

64. On March 8, 2011, PowerStream staff gave a presentation to their audit and finance committee regarding a potential sale of Collus Power. The presentation included a slide deck (ALE0004218). At page 8, the slide deck suggests that “through informal discussions with senior employees of Collus Power, it was suggested that PowerStream explore the potential of hiring Paul Bonwick as a consultant”. This information would appear to have arisen as a result of a phone call made by Brian Bentz to Ed Houghton, in which he inquired about the reputation and background of Mr. Bonwick. Mr. Houghton’s evidence was that he provided Bentz with what he knew of Bonwick and concluded the conversation by telling Bentz that the hiring of Bonwick was totally up to PowerStream. Mr. Houghton further confirmed that at no time in the conversation did Bentz suggest an intention to hire Bonwick with respect to a potential Collus Power share purchase.

65. On June 3rd, 2011, by email (ALE0000178), Paul Bonwick advised Glickman that Collus, with the assistance of KPMG, had completed their valuation. Mr. Houghton’s evidence was that he had no memory of having advised Mr. Bonwick of this fact. Mr. Houghton did, however, acknowledge that it is possible, in answer to questions from Bonwick, he advised Bonwick that the valuation was complete. Bonwick, as a result of the January 30th email exchange, was already aware of the pending valuation. This information was of no particular significance or utility to PowerStream.

66. The evidence discloses a meeting request forwarded by Paul Bonwick to Brian Bentz and others at PowerStream, requesting a meeting and dinner with Houghton on June 15th, 2011. Mr. Houghton has no recollection of the meeting and/or the dinner having taken place. Mr. Bonwick’s evidence is to the same effect. Dennis Nolan and Bentz’ evidence was to the same effect, indicating that they had no recollection of the dinner/meeting occurring.

67. In preparatory discussions for the June 27th, 2011 in camera Council meeting, Councilor, Mike Edwards, lobbied to become a member of the strategic partnership task team. In an email sent by Houghton to Bonwick, Houghton expresses his frustration with Councilor Mike Edwards’ efforts. In his evidence, Houghton explained that it was his wish to have more significant Town Council representation on the strategic task team. Accordingly, at the meeting of June 27th, 2011, Deputy Mayor Rick Lloyd was chosen to fill the remaining spot on the strategic partnership task team. There is every indication from the evidence that this was a legitimate effort by Houghton to create the strongest and most representative strategic task team.

68. Others had planned the meeting in Collingwood on June 29th, 2011, with Mayor Cooper, Deputy Mayor Rick Lloyd, CAO Wingrove, Brian Bentz, Jeff Lehman, Mayor City of Barrie and Dean Muncaster. The meeting proceeded and the evidence of Deputy Mayor Lloyd, Brian Bentz and Glicksman, all confirm that in the meeting, full disclosure was made to Collingwood Town representatives, including Mayor Cooper, that Bonwick would be consulting with PowerStream with respect to its interest in the purchase of Collus Power shares. The meeting was initially contemplated in a June 2nd email forwarded by Mayor Cooper to Brian Bentz (TOC0048811). After discussions between Houghton and Muncaster (reflected in email TOC0050804), Muncaster concluded that Houghton would not attend this meeting. It was Houghton's evidence that he was comforted about Bonwick's involvement with PowerStream only after the full disclosure of Bonwick's involvement to the leaders of Collingwood Town Council (Mayor, Deputy-Mayor, CAO and Chair of Collus) on June 29th.

69. Later, on June 29, 2011, Bonwick, Mayor Lehman, a PowerStream director, Brian Bentz and Houghton golfed at the Georgian Bay Club. Houghton recalls the only discussions outside of friendly banter, was about the water multi-utility model. It is to be noted that Bentz and Barrie Mayor Lehman, were already in town for the morning meeting with the Mayor and their stay for golf and socializing was simply the practical use of an opportunity. Mr. Houghton's evidence confirms that the discussions on that occasion, while golfing or afterwards, involved matters other than PowerStream's purchase of Collus Power's shares. It is submitted that this occasion offered no significant advantage to PowerStream with respect to its eventual bid for Collus Power shares. The golf game occurred well before the issuance of the RFP on October 4, 2011.

70. On July 7th, 2011, Dean Muncaster and Ed Houghton attended a meeting with Bentz and others at the PowerStream offices. Houghton's evidence was that topics of discussion included solar vent cooperation, and a water multi-utility model. Similar meetings were had with each of the remaining four potential strategic partners on July 20th and 26th, all for the purpose of assessing the interest of potential purchasers in the shares of Collus. The results of these five meetings were reported to the strategic task team at their first meeting of August 3rd, 2011. Again, the same meetings were had with all potential bidders and provided no advantage to PowerStream.

71. On July 22nd, 2011, Paul Bonwick emailed Brian Bentz (ALE0000244) and recommended that he call Ed Houghton, who he had spoken to that morning "regarding discussions with other LDC's as it relates

to partnership opportunities". Mr. Houghton's evidence was that he has no memory of such a conversation taking place with Bentz. Nor was Bentz able to confirm such a conversation. Mr. Houghton's memory of his conversations had that morning with Paul Bonwick, were discussions with respect to other LDC's joining the solar vent initiative, not matters of PowerStream's purchase of Collus Power shares.

72. On August 3, 2011, Bonwick emailed Mr. Bentz (ALE0000246) and indicated to Bentz that "I can provide you an update as it relates to Collus' presentation this morning". This is an obvious reference to information allegedly coming out of the August 3rd, 2011 first meeting of the STT. In his evidence, Mr. Houghton denied he had any conversations with Mr. Bonwick with respect to the August 3rd STT meeting. There was no other evidence that he had such a conversation. On August 24, 2011, Houghton is invited to attend a meeting at the PowerStream offices. The meeting was noted as "strategic alliance opportunities". Mr. Houghton's evidence was that the primary discussions at the meetings were not PowerStream's potential share purchase of Collus Power, but rather discussions about the solar vent initiative and some discussions with respect to the multi-utility model. Mr. Houghton's evidence in this respect is confirmed by a review of Mr. Bentz' transcribed notes of the meeting (CJ10009236).

73. On September 14, 2011, Bonwick sent Houghton an email containing what Bonwick described as a competitive analysis of the LDC presentations (TOC0059013). Mr. Houghton, in his evidence, denies that he provided the evidence contained in the analysis to Mr. Bonwick. Specifically, he notes a number of inaccuracies contained in the memo confirming that the information did not come from him. It is important to note Mr. Houghton's evidence, that on receipt of the email he called Paul Bonwick, and in essence said "what are you doing", "this information is inappropriate". Mr. Houghton then gave evidence that the next day he took the memo and email to Dean Muncaster and expressed his concern. Mr. Muncaster, at the next meeting of the STT team, confirmed the necessity that the team's deliberations be confidential. Houghton describes that he advised Bonwick of his discussions with Muncaster with respect to this memo. The evidence would appear to confirm that as a result of Houghton's actions on this matter, the memo and the contents of the email were not forwarded on to Mr. Bentz or others at PowerStream.

74. On September 20, 2011, Bonwick sent an email to John Glicksman containing information which was alleged to be from the STT meeting of September 19, 2011. Mr. Houghton was not copied on this email and in his evidence, denies that he provided Mr. Bonwick with any information relating to the September 19th STT meeting. Mr. Houghton's evidence was that there were many errors contained in the email, which confirmed that the information was not sourced from him (ALE0000412). Significant errors

such as the assertion that the 50% share sale was more political than practical, that Collus would acquiesce to PowerStream having the Chair position and control of the Board and that KPMG and the Collus CEO would spell out the practical elements supporting a scenario whereby Collus owns less than 50%. Mr. Houghton's evidence was these would never be considered by himself or by Chairman Muncaster.

75. On October 3rd, 2011, at an in-camera meeting, Collingwood Council approved the release of the RFP on October 4th. Prior to the Council meeting of October 3rd, Bonwick advised John Glicksman that the RFP was going to be sent out on October 4th. (ALE0000459). In this evidence, Mr. Houghton denied that he provided this information to Mr. Bonwick. Other evidence confirms that the information was well known by all four bidders, in that it was disclosed to each bidder during the course of their respective interviews with the STT team on September 12th and September 19th, 2011. Accordingly, there is no mischief created by the revelation of this information, which again was not provided by Mr. Houghton. On October 5th, 2011, Mr. Bonwick sent a memo to the PowerStream EVP Team (ALE0000488). This memo contained Bonwick's thoughts on what to include in the PowerStream RFP. On page 2 of the memo, Bonwick notes that "Veridian emphasized strategies with same union". Mr. Houghton denies, in his evidence, that he provided this piece of information to Bonwick. There is no evidence to the contrary. In any event, this would have been evidence that was obvious to all bidders and therefore of no particular significance.

76. On November 6, 2011, John McNeil sent a memo to Brian Bentz and others, and on page 2 noted "It has been suggested to us by Bonwick that we present the purchase price in the best possible light, which follows the approach apparently taken by KPMG. This involves not being so explicit about the recapitalization" (ALE0000819). In his evidence, Mr. Houghton denies that he ever discussed the KPMG approach with Paul Bonwick. There is no other evidence to suggest that he did. Bonwick's evidence confirms same. In any event, PowerStream's bid discussed both share price and approach to recapitalization in detail. Accordingly, whatever the source of the information, there was no mischief resulting.

77. On November 11, 2011, Paul Bonwick inquired with Mr. Houghton as to whether Collus Power had been thinking about a communication strategy. Mr. Houghton gave evidence that he remembers undertaking to send Paul Bonwick the draft 3-page slide deck that contained the draft communication strategy (TOC0066379). A review of the slide deck and the evidence of Mr. Houghton confirm that there was nothing confidential contained in the slide deck.

78. On November 14, 2011, Eric Fagen sent an email to the EVT Team of PowerStream outlining the “expected RFP timeline” which he indicates that Ed Houghton and Paul Bonwick outlined to him in a conference call that morning. It is the position of Mr. Houghton that the timelines disclosed are not with respect to the RFP of October 4th, 2011, nor the necessity to reply by November 16th, but are with respect to dates following the November 16th bids by the four competitors. It was the evidence of Mr. Houghton, that it is not information that in any way affects the bidding process and is information that he would have been pleased to provide to any other bidder, should they have inquired (ALE0000916).

79. In an email of November 28, 2011 (ALE0001078), John Glicksman advises Mark Henderson of PowerStream, that based on discussions with Paul, they can anticipate a meeting with Collus Power on December 1st. This is not a misuse of proprietary information. Mr. Houghton’s evidence confirms that he made a request of Bonwick, as an agent of PowerStream that Collus Power executives be given an opportunity to meet with PowerStream on or about December 1st. This was, in fact, a scheduling of an important meeting, with authority given by Collingwood Council, designed to move the process forward after all bids were received and had been evaluated. The meeting occurred and PowerStream increased their bid.

80. On January 13, 2012, Houghton sent an email to Brian Bentz and thanked him for allowing him to use Bonwick as a resource. Mr. Houghton’s evidence was that his purpose was to thank Bentz for the assistance that Bonwick gave him with respect to the solar vent initiative.

81. On January 19th, 2012, Paul Bonwick emailed Mayor Cooper and Deputy-Mayor Rick Lloyd with respect to arranging a meeting with Sandra Cooper, Rick Lloyd, the CAO, Ms. Wingrove, Sara Almas, the Clerk and Ed, designed to provide clear direction to the CAO and Leo Longo with respect to the wishes of the Mayor and Deputy Mayor, related to the drafting of the authorizing by-law related to the signing of the share purchase agreement and the unanimous shareholders agreement with PowerStream. Mr. Houghton’s evidence makes it clear that neither the Mayor nor the Deputy Mayor, Mr. Lloyd, wished to have the authorizing By-law returned to Council after amendments to the necessary documents. Mr. Houghton’s evidence was that he was simply wishing to assist the Mayor and Deputy Mayor to have their wishes carried out and that he was accordingly copied on the email. More will be said of this when the matter of the authorizing by-law and its creation are reviewed in detail (CPS0009063_00001).

82. On February 29, 2012, Houghton sent an email containing an Aird & Berlis' memo explaining each of the documents to be signed and where each of the documents should be signed and forwarding the documents for signature, all to Mr. Bonwick, to obtain the signatures. It is Mr. Houghton's evidence that there was nothing sinister in this action, in that the documents had been drafted with the full cooperation of counsel for both Collus and PowerStream. In his evidence, Mr. Houghton describes how busy he was with closing matters at that time and how the use of Bonwick was solely to expedite the signing of the documents in an efficient way. It is submitted that there is nothing inappropriate about the exercise of Mr. Houghton's judgment with respect to the signing of the documents. It is submitted that if there is any misjudgment at this time, the misjudgment falls to Aird & Berlis, representatives of Collus and the Town, who did not take the trouble on an \$8M deal to send, at the very least, the junior who created the memo to the Town of Collingwood, to ensure the appropriate signing of the documents. It is submitted that there is no basis for alleging an impropriety on the part of Mr. Houghton. In any event, the obtaining of the necessary signatures by Bonwick, does not appear to have resulted in any harm whatsoever.

83. Again, it is submitted that on examination, the evidence discloses that Houghton's involvement in the alleged misuse of information is minimal and that any misjudgment on his part in this respect did not affect the result of the RFP Process.

The Solar Vent Initiative

84. We have the benefit of the evidence of three individuals with respect to the solar vent initiative. It is submitted that all three witnesses were honest, frank and forthcoming with respect to their involvement in this venture. The evidence of Mr. Houghton with respect to all matters, including the solar vent, should be regarded as credible for the reasons set out at the beginning of these submissions. Mr. Bonwick was credible and candid throughout his testimony, and throughout the course of Part 1 of the Commission, acquitted himself in a fashion consistent with that of an individual who understood the importance of being honest and straightforward with the Commission. Peter Budd showed a good recall of events, was a good historian and was a witness with a legal past that also appeared to understand the importance of candor before the Commission.

85. All three of the above witnesses gave strikingly similar evidence with respect to the involvement of Mr. Houghton in the solar vent initiative. They appear to have done so in the face of no evidence that they had, by any means, conspired together with respect to their answers to various questions asked.

86. It seems clear that the solar vent and its capabilities were introduced to Mr. Houghton following a conference that Mr. Houghton attended in Toronto in January, February or March, 2011. Houghton and Bonwick were consistent in detailing that the solar vent opportunity was described to Bonwick in April or May 2011. On May 24, 2011, Paul Bonwick sent Houghton and Budd a draft memo regarding a partnership (TOC0048018) relating to a voting share and non-voting share split for the solar vent company. All three witnesses gave evidence that Mr. Houghton did not provide a written response to the proposal, nor was he involved in any discussions relating to the proposal. Three further proposals were sent to Houghton and Bonwick by Peter Budd, respectively on September 21st, 2011 (TOC0059599), November 3rd, 2011 (TOC0065379) and January 21st, 2012 (TOC0086569.0001). In spite of the wording of the three proposals, which was the source of considerable cross-examination, it was the evidence of all three men that Mr. Houghton's position throughout, was that the project was an excellent opportunity for small LDC's, but that he could not take any interest in the company or take any income from the company, in that the project involved the Town of Collingwood and Collus Power. The evidence of each of the three witnesses disclosed that Mr. Houghton repeated his position, in this respect on at least two occasions. Indeed, it appears that in the final analysis, Mr. Bonwick and his company, Compenso, who obtained some income from the project, at no time actually became voting or non-voting shareholders in either the solar vent company or the marketing company, the establishment of which was mentioned by both Bonwick and Budd. It seems clear from all of the evidence relating to this matter, that there were no occasions during which Mr. Houghton engaged in discussions about an interest in either of the above mentioned companies, nor does it appear from the evidence of the three, that Mr. Houghton, at any time, attended the offices of Howard Lerner, Mr. Budd's accountant, to "run hypothetical business models" or conclude either a share or income arrangement with respect to solar vent activities. Finally, there is the emails of January 22nd, 2012 (CJI0011185) during which the prospect of a meeting between Peter Budd, Tom Bushey, Paul Bonwick and Ed Houghton was contemplated for 2:00 p.m. on Sunday, January 22nd at Ed's home. There is conflicting evidence with respect to this meeting. The evidence of Ed Houghton is that no such meeting took place. The evidence of Tom Bushey, set out in his Affidavit of June 17, 2019, suggests that such a meeting took place "in the winter following the launch of the Collus and PowerStream power project" at Mr. Houghton's home. Bonwick and Budd had no memory of attending the meeting.

87. There is no dispute amongst the witnesses that there are two conflicting statements dated September 12th, 2011 (TOC0060091, CJI0007644) that both suggest a different profit allotment to Mr.

Bonwick's company, Compenso Communications, and an invoice of September 28th, 2011 (CJI0007645) from Compenso Communications to International Solar Solutions Inc. in an amount of \$35,001.75, evidencing the profit split which Bonwick's company, Compenso Communications received as a result of solar vent units sold during the solar initiative. The uncontroverted evidence of Mr. Houghton and of Mr. Bonwick, is that Mr. Houghton did not receive any portion of the profit share that went to Compenso Communication.

88. The evidence of Shirley Houghton is important on this issue. Mrs. Houghton's employment background appears to include, in excess of 30 years of employment in the payroll and benefits area. She was approached by Mr. Bonwick on the evening of January 19th, 2011 to provide secretarial and administrative assistance to his company, Compenso. As set out in paragraph 677 of FD1, from and including March 9th, 2011 to and including August 3rd, 2012, Ms. Houghton received seven cheques from Compenso totaling \$27,390. There appears to be no dispute that six of the seven cheques were paid to Ms. Houghton for the secretarial assistance described above. In this respect, Ms. Houghton produced a work file containing samples of the work product she produced on behalf of Mr. Bonwick.

89. The largest of the cheques is a cheque for \$19,350. The cheque itself (CJI0009089-16) is dated September 30th, 2011 from Compenso Communications Inc. signed by Paul Bonwick.

90. Ms. Houghton's uncontroverted evidence is that she attended the offices of Compenso Communication at 186 Hurontario Street, Ste. 203, Collingwood, Ontario on the morning of September 30th to provide Mr. Bonwick with her latest invoice for administrative assistance. Ms. Houghton's records do not, at this time 9 years later, include copies of the invoices presented to Compenso Communication. Ms. Houghton's evidence is that on that morning, Mr. Bonwick asked if she knew of any properties available for rent in the fall and spring of 2011/2012 on the west coast of Florida. She responded that she and Ed owned a property in Naples that was available. They then discussed potential rent, which was agreed to be \$4,500 per month for four months, being November and December, 2011 and April and May, 2012. Shirley advised Mr. Bonwick that it was her practice to get payments for rent before the tenant took possession of the properties. Accordingly, Mr. Bonwick there and then provided her with a cheque for \$19,350, \$18,000 of which was 4 month's rent and \$1,350 was for work represented by her latest unpaid invoice, which she was delivering that morning. On the cheque it clearly states the cheque was for "Florida House/Office". Ms. Houghton was able to produce to the Commission, correspondence with a number of previous tenants that confirmed the likely rate of \$4,500 USD, which Ms. Houghton was

receiving on or about that time to rent her Florida property. Ms. Houghton made it clear that she had little information relating to the solar initiative, in spite of the fact that she attended the solar initiative event that occurred at a suburban housing project on August 24th, 2011. She also confessed to having little knowledge of the sale of 50% of Collus shares to PowerStream, although she did attend the November 22nd, 2011 public presentation on the issue, that occurred at the Leisure Time Club. Ms. Houghton said that she failed to ask Bonwick for rent of \$4,500 USD per month and therefore received \$4,500 CDN per month.

91. Mr. Bonwick gave evidence that he had business interests on the west coast of Florida that motivated his wish to rent west coast Florida properties on that occasion. He acknowledged that he spent little time in the Houghton's rental unit, although Ms. Houghton does recall receiving a call from the rental unit's phone number, from Mr. Bonwick, who asked certain questions about the utility of the unit. Mr. Houghton and Mr. Bonwick both gave evidence that Mr. Bonwick approached Mr. Houghton about the prospects of a reduction in his rent for his limited use of the premises. Mr. Houghton advised Mr. Bonwick that he would have to deal with Shirley Houghton. Mr. Bonwick did not pursue the reduction.

92. It is submitted that Mr. Houghton and/or his wife, at no time, received any profit split with respect to the share of solar vent units sold during the course of the solar initiative. Ed Houghton, Shirley Houghton, Paul Bonwick and to some extent, Peter Budd, while giving their evidence have confirmed that no profit payments were received by the Houghton's.

93. At a June 10th Board of Directors meeting of Collus Power Corporation, Ed Houghton displayed a solar roof vent and demonstrated the unit. Mr. Houghton stated that Collus had an opportunity to get involved with the project. Mr. McAllister, a staff member of Collus Power, undertook to look into any payment opportunities through the OPA. Mr. Houghton stated that he would like Collus to be a pilot community and run a beta test and approach other LDC's. A discussion ensued as to how Collus could get the project to work. At the meeting, the Collus Board agreed that Collus Power "should move forward with the initiative as it shows leadership and a positive message for our utility". The same is set out in the minutes of the June 10th Board of Directors meeting (CPS0007007_0001).

94. At a subsequent July 8th meeting of the Collus Power Corporation Board, attended by Glen McAllister, Mr. McAllister reviewed the solar vent proposal and stated that it was not part of the Ontario Power Authority Program and that the anticipated cost of the pilot project to the utility would be \$90,000.

A motion was unanimously carried that the solar vent proposal move forward as presented. At neither of the aforementioned meetings, did Mr. Houghton declare a conflict arising from an interest in the solar solutions company, in that he had no interest and was not engaged in any negotiations and/or discussions to obtain an interest.

95. By an email dated August 8, 2011 (CPS0002297), Veridian was invited to join the solar initiative. Mike Angemeer of Veridian confirmed in his testimony, at the Inquiry, that he was also invited to attend the solar initiative on August 24th, 2011, but was unable to do so in that he was on vacation. In this email exchange Angemeer noted that they will be looking at purchasing some units.

96. Max Cananzi was told of the opportunity to become involved in the solar initiative at Horizon's interview with the STT team in September of 2011, and immediately thereafter, Ed Houghton sent Max Cananzi of Horizon, the details of the opportunity (ALE0049458). There is an email in which Max Cananzi and Neil Freeman, both of Horizon, discuss their potential involvement in the solar initiative and conclude that they will not take up the opportunity (ALE0049494). An invitation to Hydro One was considered by Dean Muncaster, David McFadden and Ed Houghton, but they mutually concluded that they were uncertain who to forward the invitation to at Hydro One. PowerStream obviously took up the opportunity and became quite involved. Ed Houghton, in his evidence, described that he used the solar initiative project as a litmus test to prove the willingness and ability of potential bidders to work with Collus Power a much smaller LDC. The evidence confirms that PowerStream obviously passed the test and worked well with Collus Power on the project. Neil Freeman, in his evidence, complained of the existence of a solar initiative Collus/PowerStream sign in Collingwood in the fall of 2011, during the course of the RFP. He did so, it is submitted, in spite of the fact that Max Cananzi had the opportunity to participate, but chose not to do so.

Bonuses

97. The evidence eventually disclosed that there were four bonuses paid by Collus as a result of the successful signing and eventual closing of the Collus/PowerStream strategic partnership transaction. The same were paid in March of 2012. Evidence before the Commission confirms that Dean Muncaster received a bonus of \$30,000, Ed Houghton received a bonus of \$40,000, Pam Hogg received a bonus of \$15,000 and Cindy Shuttleworth received a bonus of \$15,000. In spite of the Foundation Document stating otherwise, the evidence confirmed that these were the only bonuses paid. The evidence also makes it clear that although there were no minutes of the Human Resources Committee meeting at which

bonuses were discussed, there was a memo executed by Joan Pajunen, chair of the Human Resources Committee, and then acting chair of the Collus Power Board of Directors (CPS0006874) that provided the authority for the payment of the four bonuses. Cindy Shuttleworth, in her evidence, confirmed that she was content with the evidence confirming the authorization of the bonuses paid and confirmed that, in her view, given the work occasioned to the four individuals who received the bonuses, including herself, that the bonuses could not be described as excessive. Ed Houghton was not in attendance at the Human Resources Committee where the bonuses were discussed and authorized, but was in Toronto when Joan Pajunen and her committee authorized them. This is confirmed in the auditor's notes (CBB0000154). Accordingly, the evidence discloses that other than the payment of a well-earned bonus and his regular salary, Mr. Houghton received no other benefits arising from his involvement in the process leading to the Collus/PowerStream strategic partnership, or as a result of his encouragement of Collus Power and their mutual involvement in the solar initiative. It would appear from the evidence of numerous witnesses, that Mr. Houghton's motivation, was at all times, the best interest of the Town of Collingwood.

Legal Representation and the Evidence of Leo Longo

98. It is submitted that Leo Longo was a poor witness. His sole purpose in the witness box appeared to be to distance himself from the potential trouble that this Commission of Inquiry might cause him personally, and accordingly, to distance himself from any involvement he may have had or should have had in the strategic partnership transaction. Longo's evidence discloses that he was a source of a number of problems which arose during the course of the process to conclude the share sale transaction.

99. In an email thread dated January 16th, 2012 (CJI0006303 pages 8, 9 & 10), started by Leo Longo to Mayor Cooper and Deputy Mayor Lloyd, Longo states "I reviewed the latest agreements, they contain proposed reps and warranties to be made by the Town. I will review to ensure the Town can make these statements. What I cannot comment on are the financial aspects, did the Town received advice?" Mayor Cooper replied 12 minutes later stating that "Corrine and Ron from A&B to review documents. Also, David McFadden ... reviewing electricity agreements. John Herhalt and John Rockx from KPMG had participated in all aspects, including the financial part. They feel the agreement is very fair".

100. Not satisfied to simply raise issues about whether the Town is proceeding properly in a file that he gave evidence, he knew nothing about, Mr. Longo responds about 12 minutes later stating "Ron and

Corrine are advising Collus, not the Town. I just wanted to note that the Town's interest may not be identical to Collus". This is a completely uninformed statement from a lawyer, who in cross-examination, acknowledges that at this point, he had been the designated Town solicitor for a period of 3 years and had been acting for the Town for a total of 8 years. The Town was clearly his client and he had an obligation as the Town's lawyer to inform himself with respect to all legal matters in which the Town was involved to ensure that they had proper advice. In any event of this standard lawyer's obligation, it appears that at no time, did Mr. Longo take the trouble to pick up the phone and clarify through Ron Clark or his partner, Corrine Kennedy, who they were acting for, in order that he might not simply cause trouble for his client. The reply of the Mayor confirms "that the best interest of the Town has been the driving force and objective for this entire initiative". Ron Clark, in his evidence, made it clear that he acted on behalf of Collus and also acted on behalf of the shareholder of Collus, being the Town of Collingwood. In Clark's observation, the interest of both parties was the same throughout the transaction, particularly so, in a one shareholder transaction, where the Town of Collingwood owned all the shares of Collus.

101. In his cross-examination, Leo Longo eventually admitted that he took no issue with the dual representation evidence of Ron Clark set out above, and further admits that he at no time, observed a divergence of interest between the Town and Collus. For some unstated reason, Mr. Longo carried on this charade right through to 2014, in his replies to email requests about representation made by John Brown. Again, Mr. Longo, at no point, seems to have taken the time to pick up the phone and clarify with his partner, Ron Clark, who Mr. Clark was acting for. One is left to speculate on the motives of Mr. Longo in this respect and left with the potential conclusion that he was annoyed he did not have a bigger piece of this file, or that he wished to insert himself into the file, as the solicitor for the Town, for purposes of increasing his billings. This clearly is a controversy that should not have been before the Commission. Ron Clark, in his evidence, is quite clear. A modest effort by Mr. Longo could have avoided what became a long-standing issue for his client.

102. The evidence of Mr. Longo with respect to the educational sessions provided by Mr. Longo and Mr. Mascarin to Mayor Sandra Cooper's new council, also disclose glaring inadequacies. It is troubling that when tutoring the new council on conflicts of interest, the remarks of Mr. Longo were restricted to the *Municipal Conflicts of Interest Act* and did not include a review of Justice Cunningham's decision arising from the Mississauga Inquiry, which surely in the municipal law field had been of significant interest to every municipal council in the Province of Ontario. When cross-examined on this obvious inadequacy,

Mr. Longo's only explanation was that he was only asked by the Town Council to speak on the *Municipal Conflicts of Interest Act* and that time was short. Surely, it was his obligation, as the Town solicitor, and as the educator of new councillors to assert to his client that the Cunningham decision was required learning. This oversight on the part of Mr. Longo, left Mayor Cooper's council without appropriate direction with respect to municipal conflicts of interest, and in itself, can be said to have contributed to the necessity for this Commission.

103. Mr. Longo's inadequate performance is again demonstrated in March of 2012, around the signing of necessary transaction documents by the Mayor, Sara Almas and Ed Houghton. There is a memo dated February 29, 2012, from Michael Ventresca of A & B to Leo Longo and copying Ron Clark and Corrine Kennedy (ALE0002084). The memo clearly indicates all of the necessary documents to be signed, the purpose of the documents and which signatures are needed. There was an email chain of February 29th, 2012 (ALE0002075) from Ron Clark to Leo Longo, in which Clark outlines the attached memo for Leo's briefing of the Mayor and Clerk and the documents to be signed. Rather than briefing the Mayor and the Clerk, Mr. Longo simply forwards this email and attachments to Mayor Cooper, Sara Almas, Ms. Wingrove and Mr. Houghton, stating "Please see attached, especially the memo which describes the purpose of each document. I would be happy to discuss". One would have thought on an \$8M transaction, Mr. Longo or others at Aird & Berlis would have taken the trouble to attend with the client, brief those executing documents on the nature and quality of the documents, and ensure that the documents were properly executed. This responsibility appears to have been left to Mr. Longo, who chose to pass it off to others. As a result of Mr. Longo's inadequacies, Mr. Houghton attempted to have the documents concluded in a timely way. Mr. Houghton's evidence was that he was aware that some signatories would soon be unavailable. Given Mr. Houghton's workload and left without the assistance of Aird & Berlis in this regard, Mr. Houghton did, what appeared to be the expeditious thing and asked Mr. Bonwick to obtain the necessary signatures. Accordingly, any criticism should not be leveled at either Mr. Houghton or Mr. Bonwick, but leveled at Mr. Longo, or others in the firm of Aird & Berlis, who failed to conclude what standard practice would have suggested was a necessary attendance on their client to explain the documents and obtain signatures on documents necessary for this significant transaction.

The Authorizing By-Law

104. Mr. Longo's inadequate attention to matters is again at the root of the controversy surrounding the preparation of the Authorizing By-Law. In an email dated January 17th, 2012, directed to Mr. Houghton (CJI0008820), Longo states "Ed, here is an initial draft of a proposed Authorizing Council By-law for your review and input". (Surely, as the Town's solicitor, he would have understood that it was Town Clerk and not Ed who drafted Authorizing By-laws) "Can you take a stab at drafting the 'whereas' clauses due to your intimate familiarity with this proposal". In the same email, and in spite of his email of January 16th, in which he acknowledged that Aird & Berlis acted on behalf of Collus, Mr. Longo asks in this email, "Who handles the legal work for Collus?" It was Mr. Houghton's evidence that on receipt of this email, he made inquiries with Sara Almas, who knew nothing of why Mr. Longo would be drafting the proposed by-law. Mr. Houghton explained that he was ill-equipped to draft the whereas clauses, and in the face of the representation above, that made it clear, Longo did not act on behalf of Collus and wishing to have this matter progress, Mr. Houghton turned to the in-house solicitor of PowerStream, being Dennis Nolan, to assist with the drafting of the whereas clauses. It is submitted that this was, in the circumstances, not an unreasonable thing to do, in that Mr. Nolan represented a party who was also anxious that the transaction be concluded.

105. Mr. Nolan inserted the whereas clauses, corrected the name of the unanimous shareholders agreement and inserted "Mayor" in paragraph 2, where it previously stated, "Town Solicitor", and added "Mayor and Clerk" in paragraph 3, where it previously stated "Staff and Town Solicitor". It was Mr. Houghton's evidence that the latter changes were made at the request of the Mayor and Deputy Mayor. (Longo's draft by-law (CJI0008820) (Dennis Nolan version of by-law (ALE0001517)).

106. In a conference call that occurred early in the afternoon of January 18th, it appears that the Mayor and Deputy Mayor attempted to make it clear to Longo that they did not see the necessity of the document being returned to Town Council for further review after their completion and before signing. In an email sent by Longo on January 18th, 2012 to Sandra Cooper, Rick Lloyd, Kim Wingrove, Sara Almas and Ed Houghton, Mr. Longo stated "Further to our conference call this afternoon, please see the revised draft that incorporates much of what was discussed". "I have left in section 4 of the by-law. If it is felt that such provision is unnecessary or undesirable, you can remove it". Clearly, the Mayor and Deputy

Mayor wished to have it removed, and in the face of Longo's assertion that "You can remove it", it was again amended.

107. It was only following the intervention of Corrine Kennedy and Ron Clark and more discussions with the Mayor and the Deputy Mayor, that a final draft of the by-law was concluded (ARB0000234). It is submitted that the evidence discloses Mr. Houghton's only wish was to conclude the by-law in a way that would allow the transaction to proceed and along the way to attempt to have the instructions of the Mayor and Deputy Mayor reflected in the final product. It is further submitted that Mr. Houghton should not be criticized for attempting to move the by-law forward in a circumstance where the Town's solicitor seemed unwilling or unable to do so.

Who Instructed Ron Clark and Corrine Kennedy

108. It was the evidence of Ed Houghton, that he did not instruct Ron Clark or Corrine Kennedy, solicitors for Collus and for the Town of Collingwood, with respect to their involvement in the process, and in particular, their drafting of the share purchase agreement and unanimous shareholders agreement. It is submitted that the evidence of Ron Clark and David McFadden confirm same.

109. It was Mr. Houghton's evidence that he did not have an adequate understanding of the documents or the legal issues to be able to provide instructions. It was also the evidence of Ron Clark that although he understood Ed Houghton to be a contact for the Town and Collus, he took no instructions from him with respect to the share purchase agreement or the unanimous shareholders agreement. In an email forwarded by John Rockx to John Herhalt, Rockx reports that David McFadden is preparing the share purchase agreement and the unanimous shareholders agreement (KPM0001917).

110. In Board Minutes of a December 9th, 2011 of a Collus Power Board Meeting (SC00000023), the Minutes report that Mr. McFadden confirmed he would be meeting with Aird & Berlis this afternoon, and it is proposed that an amended draft agreement will be prepared by Monday.

111. In an email of December 14th, 2011 (ALE0001183) from Corrine Kennedy to Robert Hull of Gowlings and Ron Clark of Aird & Berlis, and to David McFadden, Corrine encloses draft share purchase agreement and unanimous shareholder agreement. It is to be noted that Houghton was not copied on this document. As indicated above, in his cross-examination, McFadden confirms that "I would have

scanned the documents sent to me and reviewed them to be sure that they fitted the direction we were trying to head in”.

112. On December 20th, 2011, Robert Hull sent a memo to Ron Clark and David McFadden (but not Houghton) re amendments to the two above mentioned agreements (ALE0001261). On January 11th, 2012, Ed reported to the STT Team, including David McFadden, that David has acted as the champion of the agreements and worked tirelessly to put them in order. David accepts the praise (CPS0007947_00001).

113. On January 12th, 2012, a meeting between the Counsels for Collus (Aird & Berlis) and PowerStream (Gowlings) was held. At that meeting, representing the interests of Collus was David McFadden and John Rockx of KPMG. Dean Muncaster and Ed Houghton listened to the discussion via conference call. (KPM00004987.0001)

114. In his cross-examination, beginning at page 276, line 14, there is a discussion surrounding the participation of McFadden with respect to the two above mentioned agreements. McFadden admits to reviewing the drafts and states “I would have scanned them to be sure they fitted the direction we were trying to head in”. He also admits that he would make comments. On page 282, line 2, he acknowledges that he was representing Collus Power and to some extent, the Town. He further admits on page 283, line 21, that he kept up to date with respect to the status of the formation of the documents. On page 284, line 9, he admits that he had the opportunity to direct or comment on the direction of the documents with Ron Clark and others and to provide them with what instructions he felt were appropriate. On page 286, line 7, McFadden admits that he had been involved and had provided necessary instructions to respective counsels. On page 288, line 10, McFadden state, “I was the one board member who was involved with working with the legal team”. Lastly, McFadden admits (KPM0004987.0001) that he was at a meeting of January 12th, 2012, where legal counsel were there and representatives of the parties attended, to discuss and instruct how legal counsel might proceed to conclude this transaction.

115. It is submitted that the evidence before the Inquiry makes it clear that it was not Ed Houghton, but in fact, David McFadden, who on behalf of both Collus and the Town provided instruction and input with respect to the closing of the transaction, including the drafting and redrafting of the share purchase agreement and the unanimous shareholders agreement. Finally, the closing agenda for July 31st, 2012, confirms that McFadden would be in attendance. (ALE0002201, ALE0002209)

Correspondence from the Commission to Mr. Houghton

116. Many of the issues raised in this correspondence have been dealt with in depth in the above submissions. Our submissions will, at this time, however, deal specifically with each item.

117. With respect to the assertion that Ed Houghton did not disclose some or all of the conversations had with PowerStream, it must first be remembered that the November 24th and December 3rd, 2010 conversations had with Brian Bentz, were had prior to the direction received from Mayor Cooper, in her correspondence of January 30th, 2011. The conversations were had in the context of the President and CEO of Collus Power, being directed by the Chairman of the Board of Collus Power, Dean Muncaster, to have exploratory discussions with Mr. Bentz. The motivational meetings of January 14th, 2010 at Georgian Manor and September 16th, 2010 at Cleveland's House had occurred, and throughout this period, there was ongoing discussions between Houghton, Muncaster and McFadden, as to how the challenges outlined in those meetings would be met.

118. It was the evidence of Houghton that he and Mr. Muncaster discussed the possibility of speaking to someone who had experience with rationalization in the industry. Both Muncaster and Houghton felt that Brian Bentz would be an ideal person to speak to, to obtain thoughts on meeting the challenging changes in the industry and possibly to learn from his experience and the experiences of PowerStream, arising from their recent mergers. Again, it was the responsibility and, in fact, the obligation of the Chairman of the Board and the President and CEO of Collus Power to be planning ahead and considering the future of Collus Power. Accordingly, the meetings were fully authorized and in keeping with Muncaster and Houghton's fiduciary obligations to Collus Power.

119. It was the evidence of Houghton, that the meetings were had at a very high level with respect to the situation in Collingwood, a small LDC and were designed to learn from recent mergers and amalgamations experienced by PowerStream and other players in the industry. Among the many options discussed in this high-level conversation, was the prospect (obvious to all) that Collus might, at some juncture, consider the sale of Collus Power, possibly by way of RFP. This was simply one of many options discussed, and it was obvious to both participants in the conversation, that Collus had not formed any specific plans by that date. It was further Mr. Houghton's evidence, that he did not provide Bentz with a valuation of Collus Power, in that he had no idea what that number might be and any numbers discussed

in these initial contacts, would have been a number provided by Mr. Bentz. Accordingly, the conversations were high level, fully authorized and appropriate.

120. The conversations with Bentz were later discussed and revealed to the Mayor in conversations had between the Mayor and Houghton, following her inauguration and prior to her letter of direction dated January 30th, 2011. It is true that the conversations with Bentz, as with many other conversations had with Michael Angemeer of Veridian, and Max Cananzi of Horizon, were not disclosed to Town Council. It is unrealistic to think that Town Council would have an interest in or be required to be informed about every conversation or interaction that was part of the process. To do so, was an unrealistic expectation that would not be either practical or efficient.

121. Indeed, it is clear that Town Council, the STT Team and relevant town staff, including the CAO, who was part of the STT Team and attended all council meetings, were at all times, through the course of the five STT meetings, and the six council meetings, provided with fulsome and detailed timely explanations of the status of the process to that date, so that each significant step might be considered, both by Town Council and the STT Team, in essence, a sub-committee of Town Council. As submitted above, it was an excellent process with an excellent result and there is virtually no evidence to the contrary. The suggestion that the ability of Town Council to oversee the share transaction, was in some way undermined by an alleged lack of full knowledge of every conversation in the process is unrealistic, frivolous and not in keeping with the evidence.

122. With respect to conversations allegedly had with Mr. Bonwick, Mr. Houghton, in his evidence, dealt specifically with each one of the alleged conversations. That evidence is reviewed in detail in the submissions above. Mr. Houghton has denied and/or explained the nature of each and every one of those contacts. His evidence is, in almost each instance, confirmed by Mr. Bonwick. On the evidence, it cannot be concluded that Mr. Houghton is responsible for any significant information leaks to Mr. Bonwick, and accordingly, Town Council's ability to oversee the share transaction was not in any way undermined by Houghton's interactions with Bonwick. As set out in the submissions above, the details of Mr. Houghton's evidence with respect to each one of those interactions, must be examined before any adverse conclusion could be reached and any such conclusion is not supportable on the evidence. The viva voce evidence explains and does not support the inferences set out in FD1.

123. With respect to the involvement of Bonwick in the drafting of the Mayor's direction of January 30th, 2011, this interaction has again been explored in detail in the submissions set out above. Again, to summarize, it was the evidence of Mr. Houghton, which was confirmed, not only by Mr. Bonwick, but by the Mayor, that the draft correspondence of January 30th, 2011, was prepared at the request of the Mayor. Additionally, it is confirmed by all three witnesses, that Houghton was directed by the Mayor to forward the draft correspondence to Bonwick for the purpose of ensuring that the draft correspondence would be consistent with the Mayor's election platform. Accordingly, it was not Mr. Houghton that involved Mr. Bonwick in the drafting of this direction, but rather it was the Mayor that directed he be involved. In any event of the above, it cannot be said that Bonwick's involvement in the drafting of this correspondence, in any way undermined the ability of Town Council to oversee the share sale transaction.

124. With respect to the great majority of the allegations set out in the correspondence, the allegation is that "you involved" or "you did". It must be remembered that although Mr. Houghton was frequently the "doer", he was at all times directed to carry out his actions by the Mayor, as head of the Council, or the Chair, Dean Muncaster or David McFadden, all as members of the Board of Collus or Town Council where he did not have a vote. The evidence discloses that careful discussions and appropriate authorizations were obtained before all of Mr. Houghton's actions.

125. The next allegation suggests that Houghton did not follow the Mayor's direction with respect to Town debt and creating greater efficiencies. This allegation is not in keeping with the evidence before the Commission. The evidence before the Commission from innumerable witnesses was that, Collus Power was already a highly efficient and effective organization and was in fact, a leader in and the envy of the LDC industry. The evidence discloses that it was clear to all involved that the challenge to secure Collus Power's future did not lie in a further search for greater efficiencies, but rather lay in the prospect of finding greater size and scope and finding strategic assets, all of which would lead to greater efficiencies for Collingwood residents in the future. The future could not be assured by the status quo. All of this, it was concluded, along with a significant reduction of the Town debt could be obtained by a "strategic partnership". Accordingly, the whole process from the time of the Mayor's direction of January 30th, 2011 to the closing of July 31st, 2012, was designed to, in the way described above, create greater efficiencies for Collingwood residents and at the same time, reduce Town debt. To suggest that the directions of the Mayor, in her January 30th, 2011 correspondence were not followed, would be entirely out of keeping with the evidence before the Commission.

126. Specifically, with respect to KPMG, the notes of Mr. Rockx taken at his first meeting of May 13, 2011 with Mr. Muncaster and Mr. Houghton (KPM0003491.0001) , the oral evidence of Mr. Herhalt and the notes taken by Jonathon Erling in the spring of 2011 (KPM0003267.0001), confirm that KPMG was well advised of the advent of a new council and the Mayor's political platform, and the Council's wish to reduce Town debt. In the same meeting, changes in the LDC industry, of which Mr. Rockx and KPMG in general, was fully aware, were discussed and it was not lost on anyone at KPMG that the options study, including a partial sale, was being reviewed in an attempt to secure Collus Power's future and greater efficiencies for the residents of the Town of Collingwood. Accordingly, both goals set out in the Mayor's January 30th direction were advanced by the questions asked of KPMG and by the responses given.

127. In light of the above paragraphs, it is clear that the presentation of June 27th, 2011 to Town Council and the recommendation of a strategic partnership was, in fact, at all times, for the purpose of and focused on the reduction of Town debt and the creation of greater efficiencies in the future for the Town of Collingwood residents. This included the potential for approximately \$15M of debt reduction being provided to the Town prior to and at the time of the closing of the transaction. Obtaining of a strategic partner brought size, scale and scope to Collus Power, along with strategic resources, all of which were sought for the purpose of increasing efficiencies, reducing costs and creating greater efficiencies for Collingwood residents. To conclude otherwise, would demonstrate a misapprehension of the purpose of the whole process, and the import of the testimony before the Commission. It also must be remembered that the Collus Board and its President & CEO have a fiduciary obligation to the company and at all times they balanced the good of the company and the good of Collingwood.

128. With respect to the assertion that the Mayor and Town Council was not advised that a recapitalization was available to the Town without selling shares, this has been reviewed in detail above when discussing the evidence of Ralph Neate. The Mayor was a member of the Collus Board and a member of the STT Team. She attended all five meetings of the STT Team and all six Council meetings, including the detailed oral and slide presentations given by Ed Houghton and John Rockx on December 5th and the quite detailed presentation given by Ron Clark to Council on January 16th, 2011. Accordingly, the Mayor and Town Council, as a result of that continuing bombardment of information and the full explanations of the recapitalization discussed on all of those occasions, along with continuing discussions with respect to the promissory note, would have been fully aware that there were three separate "suitcases" or sources of funds that would be made available as a result of this transaction. Those explanations would have made it clear that the three "suitcases" were separate and distinct and that only

the \$8M for 50% of the shares necessitated a share sale. In any event of the above, it is clear that the STT Team and the Collus Power Board did not promote the option of recapitalizing debt, other than at the time of concluding a strategic partnership.

129. The evidence of Ed Houghton, Tim Fryer and John Glicksman, all confirmed that to fully leverage a small LDC (which Collus was without a strategic partner) was not what Collus Power had historically chosen to do, and that to do so, and leave Collus Power in a position that it could not take on any significant changes or projects, while it remained a small LDC, was imprudent and against the interests of Collus Power and its shareholder, the Town. Accordingly, this option was not promoted by the Board for reasons understood by the Mayor and Council. Again, John Glicksman confirmed that a full recapitalization by a small LDC was imprudent.

130. The evidence further discloses that repayment of the promissory note was a matter that perennially arose at Town Council, and that on each of those occasions, Town Council had chosen not to seek repayment of the promissory note. They had done so, because the interest rate on the promissory note was substantially in excess of the rate that would then be paid to borrow up to \$1.7M. Accordingly, Town Council was, at all times, fully aware that repayment of the promissory note was not contingent on the share sale transaction.

131. The next allegations deal with an alleged failure to seek instructions or directions from Town Council. The first of those allegations suggest that instructions from Town Council were not obtained before entering into discussions with PowerStream. You will recall the discussions set out on two different occasions in the above submissions, that authority from Town Council was not necessary. It is explained that the discussions had with Mr. Bentz at PowerStream on November 24th and December 3rd, were had under the authority and pursuant to the instructions of the Chairman of the Board of Collus Power. Town Council approval was not necessary.

132. With respect to instructions to conduct a valuation and strategic option analysis by KPMG, the evidence makes it clear that this valuation was authorized by the Mayor as head of Town Council in her January 30th, 2011 correspondence. The Mayor was also a member of the Board of Collus Power. Clearly, Dean Muncaster authorized and approved the valuation. The evidence of Mr. Houghton, confirmed by the evidence of David McFadden, was that Mr. McFadden authorized the valuation during discussions with Mr. Muncaster. (CPS0002001) Mr. Muncaster wrote to Houghton, "other than these tactical issues,

I believe that the project is well launched” Accordingly, the valuation was authorized and could appropriately be carried out pursuant to the direction of the Collus Power Board of Directors. If any further authority was needed, and it wasn’t, the Mayor, as head of Council, authorized the valuation by her correspondence of January 30th, 2011. It was the specific direction of the Mayor, in the aforementioned correspondence, that the valuation and option study be completed and that thereafter, the results and any recommendations be taken to Town Council on May 30th. In keeping with that direction, the results and recommendations were taken to Town Council shortly thereafter, on June 27th, 2011. This approach to the process was not something concluded by Mr. Houghton, but it was a process undertaken and properly authorized by the Board of Collus Power and the head of Collingwood’s Town Council, being the Mayor. To decide that this chosen process was in any way inappropriate or was Houghton’s “fault”, would be out of keeping with the evidence before the Commission and therefore unfounded.

133. To say that the RFP process was commenced without direction of Town Council is completely unfounded, in that the specific purpose of the Town Council meeting of October 3rd, was to authorize the issuance of the RFP on October 4th. At that meeting, the evidence of at least 4 witnesses confirms that Council approved the RFP process and authorized its issuance. (TOC0512163 - Oct 3 Council Minutes)

134. With respect to addressing Bonwick’s possession of information, in particular the “LDC presentations”, this has been dealt with in the submissions above. Suffice it to say that Mr. Houghton’s evidence, confirmed by the evidence of Mr. Bonwick, was that on receipt of the memo, he called Mr. Bonwick and said, in essence, “what are you doing”, “this is inappropriate”. Thereafter, and on the next morning, Mr. Houghton describes that he took the memo to Dean Muncaster and spoke with him about it. At the next STT Team meeting, Muncaster made a short presentation reminding all members that information from their meetings was to be regarded as confidential. In addition, the evidence of Bonwick and Bentz confirm that as a result of the efforts of Mr. Houghton, the memo did not go further and was not forwarded to Mr. Bentz and/or PowerStream.

135. With respect to the suggestion that Mr. Houghton provided confidential Town and Collus Power information to PowerStream and Mr. Bonwick with respect to the KPMG valuation, sale and subsequent RFP, one of the specific allegations deals with the November 24th and December 3rd, 2010 contacts had by Mr. Houghton with Mr. Bentz. Those contacts and our submissions with respect to same are spoken of on two different occasions in this document.

136. With respect to advising Mr. Bentz on or about January 15th, 2010 that Collus Power intended to obtain a valuation, Mr. Houghton's evidence was that Mr. Muncaster and Houghton, discussed obtaining a valuation and queried who they would use to complete the valuation process. They concluded that it would be useful to consult with Mr. Bentz as to who they used in their frequent acquisitions. On instructions provided to him by the Chair of his Board, Mr. Houghton contacted Mr. Bentz. Mr. Houghton's evidence was that he indicated to Mr. Bentz, that if we were to obtain a valuation, what was the recommendation of Bentz as to whom we might use. This request to Bentz was authorized by the Collus Power Board Chair and was a reasonable and appropriate inquiry made to an individual with an excellent reputation, who was known to be active in numerous acquisitions that were then occurring in the LDC industry.

137. An email from Paul Bonwick to Brian Bentz dated July 22nd, 2011 (ALE0000244) confirms that Bonwick spoke to Houghton that morning and recommended that Bentz call Houghton with respect to partnership opportunities relayed to Bonwick. It was the evidence of Mr. Houghton, that his telephone conversation had with Bonwick on the morning of July 22nd, 2011, was restricted to discussing the prospects of other LDC's joining the solar vent initiative. He opines that there were no discussions about the RFP or the share sale. This evidence is confirmed by the evidence of Mr. Bonwick. Neither Mr. Bentz, nor Mr. Houghton have any memory of a conversation had between them on that day or shortly thereafter. It is to be noted that involvement in the solar initiative was approved by the Collus Power Board on July 8th, 2011. Accordingly, no Town or Collus Power information other than necessary and appropriate information was exchanged between Bonwick and Houghton on that day.

138. Mr. Houghton, in his evidence, acknowledges that he discussed Collus Power's communication strategy with respect to the RFP with Mr. Bonwick and provided to him a copy of a proposed information centre slide deck. It is Mr. Houghton's position that there was nothing inappropriate about this information exchange with Bonwick. The documents forwarded had nothing to do with the bid process and did not relate to the bid PowerStream was preparing. The information exchanged was therefore not improper. Collus Power did not have a communications expert on staff and PowerStream did. PowerStream offered to help Collus Power with respect to their public communication of their RFP. Collus Power took up PowerStream's offer. Similar offers were not made by any other bidder. Given the nature of the information shared and given that it was unrelated to PowerStream's bid, this information sharing was not inappropriate.

139. It is inaccurate to suggest that certain RFP proponents were offered opportunities not made available to all proponents. Specifically, it is suggested that Mr. Houghton spoke or met with Bonwick or Bentz and did not offer the same opportunity to others. Set out hereafter, are the numerous contacts had by Houghton with Max Cananzi, CEO of Horizon and Neil Freeman of Horizon, and also contacts had by Houghton with Michael Angemeer, CEO of Veridian. Two more formal meetings were had with each of the bidders, first by Houghton and Muncaster in July of 2011 and thereafter by the entire STT Team in September 2011. This included meetings with all of PowerStream, Horizon, Veridian, and Hydro One.

Meetings/Contacts with Horizon

1. July 12, 2011 – Phone call with Max Cananzi, CEO of Horizon regarding a possible meeting to discuss the future of Collus (ALE0049393)
2. July 14, 2011 – Email from Max Cananzi, CEO of Horizon regarding the above meeting. (TOC0052060)
3. July 26, 2011 – Meeting with Horizon Team (ALE0049409)
4. July 26, 2011 – Email from Freeman providing biographies of Horizon Board Members (TOC0052966)
5. July 26, 2011 – Email from Freeman providing Houghton with an unsolicited copy of his paper regarding Bill 107 – regarding the future of the Ontario Clean Water Agency. (TOC0052968)
6. August 2, 2011 – Email to Max Cananzi regarding solar vents (ALE0049458)
7. August 22, 2011 – Email from Freeman to Cananzi mentioning he has had a conversation with Houghton (ALE0049484)
8. September 2, 2011 – Neil Freeman attends Collingwood and then emails Max to mention that he has spoken with me. (ALE0049495)
9. September 2, 2011 – Neil Freeman sends Houghton an email in response to a call from Houghton. (TOC0057676)
10. September 16, 2011 – Email regarding the NDA (TOC0059153)
11. October 4, 2011 – Email to Cananzi regarding RFP (CPS00024443)
12. November 16, 2011 – Email back from Max Cananzi regarding a call I placed to request permission to identify Horizon as a bidder (ALE0050005)
13. December 16, 2011 – Conversation with Freeman (ALE0050099)

Meetings/Contacts with Verizon.

1. July 20, 2011 – Email with Michael Angemeer regarding a phone call (CPS0002235)
2. July 21, 2011 – Phone call with Michael Angemeer (CPS0002235)
3. August 2, 2011 – Email to Angemeer inviting him to join the solar initiative (Doc No.).
4. August 8, 2011 – Email from Angemeer regarding solar launch and his visit to Collingwood (CPS0002297)
5. October 4, 2011 – Email to Angemeer regarding the RFP (CPS0002447)

6. October 17, 2011 – Email from Mike Angemeer regarding them rolling out the solar project (CPS0002493)
7. November 17, 2011 – Email to Mike Angemeer asking permission to disclose that Veridian was a bidder. (CPS0002626)

140. Contact with Hydro One, although discussed at a Board level by Collus Power, was much more difficult as the appropriate contact was unknown.

141. The solar vent initiative opportunity, as set out in detail above, was offered to PowerStream and was also offered to both Veridian and Horizon. Veridian chose to take limited involvement and Horizon refused to become involved. Again, it was discussed at Collus Power's Board level, that it was virtually impossible to establish an appropriate contact at Hydro One, to which this opportunity might be offered.

142. The involvement of PowerStream and Bonwick in the development of the communication strategy of Collus Power has been spoken to above.

143. The question of who instructed Aird & Berlis with respect to the sale transaction on behalf of the Town and/or Collus Power has been spoken to above. It is clear from the evidence of Mr. Houghton, Mr. McFadden and Ron Clark, that those instructions were not provided by Ed Houghton, but were provided by David McFadden. Accordingly, it cannot be said that Mr. Houghton failed to seek direction from the Town Council or relevant staff with respect to instructions to be given to Aird & Berlis relating to the share sale transaction, and in particular, the share purchase agreement and unanimous shareholder agreement.

144. Dennis Nolan's involvement in the drafting of the Authorizing By-law is set out above in these submissions. The allegation in this respect suggests that "you" removed the requirements of the Town staff and solicitor reporting back to council. The evidence shows that any alterations to the agreement were not made by Mr. Houghton, but were made initially by Mr. Nolan and thereafter by Ms. Corrine Kennedy and Mr. Clark on the instructions of the Mayor and Deputy Mayor, and after consultations with the Mayor, Deputy Mayor and Mr. Houghton. It is clear that Sara Almas, Mayor Cooper and Deputy Mayor Lloyd saw no purpose in the suggestion that the final document should be brought back to counsel. Their ongoing instructions to Longo, Clark and Kennedy, not the instructions of Houghton, led to the final draft of the Authorizing By-law.

145. Mr. Houghton did not fail to appropriately address Mr. Bonwick's involvement in the drafting of the Authorizing By-law, in that there is no evidence that Mr. Bonwick was involved in that process.

146. The suggestion that Mr. Houghton involved Mr. Bonwick in the signing of the share sale transaction is fully discussed and explained in submissions above. Again, Mr. Houghton was left by Mr. Longo to solve the problem of having the documents signed and did so in the most expeditious and efficient way available to him.

147. With respect to matters relating to the retainer of KPMG to conduct a valuation and options review, it is clear that the Mayor, in her January 30th, 2011 correspondence, directed Houghton and Muncaster to obtain the valuation and the options analysis, and thereafter, to come back with results and recommendations to the Collingwood Town Council. As set out above, the Board of Collus Power, who had the authority to do as directed, without any further authorization from the Town, did as directed by the Mayor. One wonders why it would have been necessary to obtain the signature of the Town of Collingwood on the KPMG engagement letter, in that the Board of Collus Power had itself, the authority and power to carry out such evaluations and options analysis and was instructed to do so by the Mayor. The Town's signature on the KPMG engagement was superfluous and unnecessary.

148. It was the direction of the Mayor that when the evaluation and options analysis had been complete, that it be brought back to Town Council, and again, that is exactly what the Collus Power Board did. There was no necessity that KPMG provide specific reports to the Town and/or the Mayor. In keeping with the direction from the Mayor, the results of the KPMG investigation were fulsomely explained by Houghton et al in comments and slide presentations, given to the Board on June 27th, 2011, bringing the Board fully up to date on its activities, which the Mayor had directed, to that date. With that information, Town Council appointed a sophisticated STT Team to pursue, with the assistance of Collus Power, the strategic partnership and the STT Team and Collus Power and others regularly reported progress and developments back to the Town and obtained their authority and direction. Similarly, a requirement that KPMG present its work to the Town, was not in keeping with the direction given by the Mayor, but rather the Mayor authorized Muncaster and Houghton, and in essence, the Collus Power Board, to proceed and report back to Town Council, which they did.

149. It would have been imprudent in the extreme, to publicize the indicative valuation made by KPMG and imprudent to have presented same to Town Council and other attendees. This was information that

was appropriately not made public prior to and in anticipation of an RFP Process. Having said the above, KPMG's report with respect to a strategic options analysis, was in fact presented to the Town. Twenty of 21 slides contained in the options analysis report were presented to the Town. The only slide not presented was an irrelevant slide relating to the provincial Smart grid. Indeed, John Rockx of KPMG was in attendance at and part of the presentations made to Council on December 5th, 2011. Both Mr. Herhalt and Mr. Rockx were also members and/or one of them was in attendance at all meetings of the STT Team, which was in essence, a sub-committee of Council.

150. As explained above, during the presentation of June 27th, 2011 to Council, Houghton explained and presented slides which fully detailed the options analysis prepared by KPMG, including 20 of KPMG's 21 slides. These slides included KPMG's option of a partial sale. The presentation to the Town made on June 27th, 2011 was in fact, prepared by the entire Collus Board following meetings of June 4 and June 10th. As set out in detail above, discussions at the two meetings included the valuation and options analysis completed by KPMG, the development of the concept of a sophisticated STT Team, the conclusion of the strategic partnership strategy which arose from the partial sale option described by KPMG and tailored to fit Collus Power's needs for size and scale and its strategic assets, all as a result of the ingenuity of KPMG and the Collus Power Board exercising its obligation to provide directions and strategies in keeping with the wishes of its shareholder, the Town of Collingwood. In addition, at the meetings described above, all parties discussed preparations for the presentation of KPMG's work and other matters to the Town Council on June 27th, 2011. Indeed, the slide presentation given by Houghton, and in essence, put together by KPMG, was forwarded to McFadden for his review and approval before it was presented. It is clear that the Collus Board, and not Houghton alone, utilized the consultation report from KPMG, along with the Board's specific knowledge of the needs of Collus Power to conclude, with the assistance of KPMG, the strategic partnership concept.

151. For the reasons set out above, the allegations in the above correspondence are frequently facile and are unsupported by the evidence. It would be unjust to tarnish the thoughtful and substantial efforts of Houghton and his associates with a finding to the contrary.