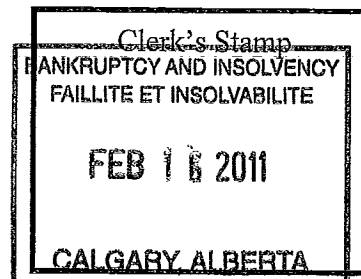


BANKRUPTCY NO. 25-1436014  
 COURT QUEEN'S BENCH OF ALBERTA,  
 IN BANKRUPTCY

Form 49  
 [Rule 13.19]

JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE  
 BANKRUPTCY OF PIKANI ENERGY  
 CORPORATION;

AND IN THE MATTER OF THE  
 BANKRUPTCY AND INSOLVENCY  
 ACT, R.S.C. 1985, c. B-3, AS  
 AMENDED.

PLAINTIFF(S) ALGER & ASSOCIATES INC., IN  
 ITS CAPACITY AS TRUSTEE OF  
 PIKANI ENERGY CORPORATION

DEFENDANT(S) 607385 ALBERTA LTD.,  
 STEPHANIE HO LEM and DALE  
 MCMULLEN

DOCUMENT **AFFIDAVIT OF BRUCE ALGER  
 SWORN FEBRUARY 15, 2011**

ADDRESS FOR  
 SERVICE AND  
 CONTACT **CARON & PARTNERS LLP**  
 Barristers & Solicitors  
 2100, 700 - 2nd Street S.W.  
 Calgary, Alberta T2P 2W1  
 INFORMATION OF **Attention: Richard J. Gilborn, Q.C.**  
 PARTY FILING THIS Telephone: (403) 262-3000  
 DOCUMENT Facsimile: (403) 237-0111  
 File No.: 43387-001

---

**AFFIDAVIT OF BRUCE ALGER  
 SWORN FEBRUARY 15, 2011**

I, **BRUCE ALGER**, of the City of Calgary, in the Province of Alberta, **HEREBY MAKE  
 OATH AND SAY:**

1. I am the President of Alger & Associates Inc., a licensed Trustee, which firm was appointed on November 29, 2010, as the trustee ("Alger" or the "Trustee") of Piikani Energy

Corporation ("PEC", the "Insolvent Person", the "Debtor" or the "Company"), and previously on May 20, 2010, as the Receiver of PEC; on December 21, 2009, as the Interim Conservator of PEC (the "Conservator"); and on October 22, 2009, as the Investigator of Piikani Investment Corporation ("PIC"), and have had significant and thorough involvement with this file, and as such have a personal knowledge of all matters herein deposed to, except where otherwise stated to be based upon information and belief and where so stated, I do verily believe the same to be true.

2. Alger is seeking an Order, in its capacity as Trustee of PEC, pursuant to Section 95 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") to set aside the herein referenced transactions on the basis that they constitute a fraudulent preference and/or a transfer at undervalue as against the creditors of PEC, and are void as against the Trustee.

3. In the First Report of the Conservator of PEC (the "Conservator") dated January 7, 2010 ("Conservator's First Report"), I concluded that it was apparent that there had been a number of large payments made by PEC at a time when PEC was insolvent, and as such, these payments may have constituted fraudulent preferences to parties "not dealing with each other at arm's length" within the meaning prescribed under Section 4 of the BIA, namely, PEC has made payments that *prima facie* constitute preferences or transfers at undervalue to, past and/or present members of its Board of Directors, including those to Stephanie Ho Lem ("Ho Lem") and Dale McMullen ("McMullen").

#### **COLLAPSE OF THE PEC/MCMULLEN ESCROW AGREEMENT IN THE FACE OF ALGER SEEKING TO FREEZE SUCH FUNDS**

4. In the Investigator's Preliminary Report on the Financial Affairs of Piikani Investment Corporation ("PIC") dated November 30, 2009 (the "Preliminary Report"), Alger recommended that the Court grant an Order freezing the sum of \$480,000.00, which PEC had previously placed in escrow with the law firm, Davis LLP, pursuant to an escrow agreement with McMullen (the "Escrow Agreement"). In the face of such recommendation, the Escrow Agreement was subsequently terminated by each of PEC and McMullen on or about December 10, 2009. On or about December 15, 2009, PEC received the funds from the collapsed Escrow Agreement from Davis LLP, in the amount of \$471,662.17, and which funds were deposited into PEC's general bank account (the "Escrow Funds"). Shortly thereafter, PEC made two transactions with which the Trustee takes issue. Attached hereto and marked as **Exhibit "A", collectively**, to this my Affidavit are true

copies of correspondence from counsel for McMullen, a letter from McMullen to his counsel and a photocopy of a trust cheque from Davis LLP evidencing the payment of the Escrow Funds to PEC.

#### **PAYMENTS TO PARTIES NOT DEALING AT ARM'S LENGTH**

5. Within days of receiving the Escrow Funds, on December 18, 2009, PEC made a payment, described as a "base annual retainer" payment, of \$150,000.00 to Ho Lem, through her numbered company, 607385 Alberta Ltd. ("607385") pursuant to an Agreement for Services dated January 1, 2009, between Ho Lem and PEC (the "Ho Lem Agreement"). This payment constituted a payment in advance for services to be performed by Ho Lem, through 607385, to PEC. By separate letters, each dated July 6, 2010, in its capacity as Receiver of PEC, Alger terminated the Ho Lem Agreement and demanded repayment of \$73,150.00 of such payment (the "Ho Lem Payment") pursuant to each of the *BIA* and the *Fraudulent Preferences Act*, R.S.A. 200, c. F-24, as amended (the "*FPA*"). Attached hereto and marked as **Exhibits "B", "C" and "D", respectively**, to this my Affidavit are true copies of the Ho Lem Agreement, the letter terminating the Ho Lem Agreement and the demand letter issued to Ho Lem by Alger.

6. Again within days of receiving the Escrow Funds, on December 18, 2009, PEC made a further payment of \$240,000.00, described as a "severance payment", to McMullen (the "McMullen Payment"), pursuant to the alleged termination of an Employment Agreement between PEC and McMullen dated February 1, 2009, whereby McMullen had contracted with PEC to provide managerial services to PEC (the "McMullen Agreement"). On July 6, 2010, in its capacity as Receiver of PEC, Alger demanded repayment of the \$240,000.00 McMullen Payment pursuant to each of the *BIA* and the *FPA* (the Ho Lem Payment and McMullen Payment shall be collectively referred to as the "Transactions"). Attached hereto and marked as **Exhibits "E" and "F", respectively**, to this my Affidavit are true copies of the McMullen Agreement and the demand issued to McMullen by Alger.

7. On or about July 14, 2010, Alger received replies from counsel for each of Ho Lem and McMullen, Carscallen Leitch LLP, asserting the solvency of PEC at the time of the Transactions and denying any wrongdoing on the part of their respective clients. Attached hereto and marked as **Exhibits "G" and "H", respectively**, to this my Affidavit are copies of the two replies received by Alger from Carscallen Leitch LLP. The Receiver has taken the position, set out in the Receiver's

First Report dated September 15, 2010, that each of the Transactions were inappropriate, and that proceedings would be brought by Alger to pursue this matter further.

#### AT A TIME WHEN PEC WAS INSOLVENT

8. In the Investigator's Preliminary Report, particularly the results of the investigation into Receipts and Disbursements made by PEC during the period of July 15, 2005 to October 31, 2009; the Summary of Professional and Management Fees as at October 31, 2009; and lastly, the Estimated Financial Position of PEC as at October 31, 2009 (the "Investigation"), I concluded that the estimated shortfall of PEC, as at October 31, 2009, totaled the sum of at least \$2,988,608.00.

9. Based upon all of the foregoing, and the contents of each of the Preliminary Report, the Conservator's First Report, and the Investigator's Second Report, including the results of the Investigation, as follows:

- i) Investigator's First Report - November 30, 2009
  - Paragraph 68 – terms of the (contested) restructuring of all loans from PEC to PIC
  - Paragraph 85 – the Estimated Financial Position of PEC, as at October 31, 2009, showing an estimated shortfall of at least \$2,988,608.00 (book value)
- ii) Conservator's First Report – January 7, 2010
  - Paragraphs 9 and 10 - detail the payments to each of McMullen and Ho Lem on December 18, 2009, pursuant to the Ho Lem Agreement and McMullen Agreement
- iii) Investigator's Second Report – May 13, 2010
  - Page 3 – Second bullet – Investigator states that each of "PIC and PEC are insolvent,..."
  - Page 20 - Estimated Financial Position of PEC as at December 31, 2009, showing an estimated realizable value shortfall of at least \$8,795,237.00
  - paragraph 51 – Piikani Resource Development Ltd. ("PRDL") replaced PEC as the general partner of the Piikani Oldman Hydro Limited Partnership ("POHLP") on December 15, 2009

I concluded that PEC was an "insolvent person" as defined pursuant to the BIA.

#### **PAYMENTS MADE WITHIN TWELVE MONTHS OF THE "INITIAL BANKRUPTCY EVENT"**

10. The respective Transactions took place within twelve (12) months of November 29, 2010, the date of the initial bankruptcy event in this case, namely, the date on which Alger assigned PEC into bankruptcy under the *BIA* (the "Initial Bankruptcy Event").

#### **FIRST MEETING OF CREDITORS OF PEC**

11. The First Meeting of Creditors of PEC was held on December 14, 2010. Only one Proof of Claim was received by the Trustee prior to such meeting, from Pikani Investment Corporation ("PIC"), Inspectors were not appointed at such meeting, and the meeting was adjourned *sine die*.

---

#### **FRAUDULENT PREFERENCES**

12. Based upon all of the foregoing, and the contents of each of the Preliminary Report, and the Conservator's First Report, including the results of the Investigation, I have concluded, and do verily believe, and the Trustee is satisfied that, each of the Transactions occurred at a time when PEC was an "insolvent person" as defined by the *BIA*, in that PEC was unable to meet its obligations as they became due, it had ceased paying its current obligations in the ordinary course of business as they generally became due, and because the aggregate fair value of its property would not be sufficient to pay its obligations due and accruing due.

13. Based upon all of the foregoing, and the contents of each of the Preliminary Report, and the Conservator's First Report, including the results of the Investigation, I have concluded, and do verily believe, and the Trustee is satisfied that, each of the Transactions were transactions made by PEC while it was insolvent, within twelve (12) months before the date of the Initial Bankruptcy Event, made with a view to giving each of Ho Lem and McMullen, respectively, a preference over the other creditors of PEC, and that each such transaction should be deemed fraudulent as against the Trustee, Alger, and should be set aside.



# FLEMING LLP

Barristers and Solicitors

FRANK J. FLEMING, QC 1921-2005

This is Exhibit " A " referred to  
in the Affidavit of  
Bruce Alger  
Sworn before me this 15th  
Day of February A.D. 2011  
Debra Morrison

A Notary Public, A Commissioner for Oaths  
in and for the Province of Alberta

**DEBRA MORRISON**  
My Commission Expires  
June 20, 2011

direct line  
e-mail

**Clive O. Lewellyn**  
Barrister and Solicitor

403.266-7629  
clowellyn@flemingllp.com

Our File: 35402/COL

December 15, 2009

**Walsh Wilkins Creighton**  
Attention: Michael Pflueger  
Via facsimile: 403.403.264.9400

cc. Field LLP  
Attention: Ian MacDonald, Q.C.  
Via facsimile: 403.264.7084

cc. Macleod Dixon LLP  
Attention: Ellen K. Embury  
Via facsimile: 403.264.5973

cc. Blakes  
Attention: Kelly J. Bourassa  
Via facsimile: 403.260.9700

cc. McMillan  
Attention: Mark A. Klasson  
Via facsimile: 403.531.4720

cc. Alger & Associates  
Attention: Bruce Alger  
Via email: balger@alger.ca

cc. Caron & Associates  
Attention: Richard J. N. Gilborn, Q. C.  
Via facsimile: 403.237.0111

Dear Sirs/Madams:

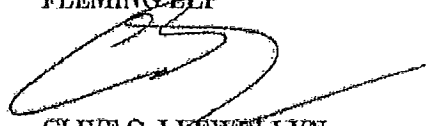
Re: Court of Queen's Bench Action No.: 0901-07214  
Piikani Investment Corporation v. Piikani Energy Corporation, Dale McMullen, Stephanie  
Ho Lem, Stan Knowlton, Kerry Scott and Edwin Yellow Horn

I enclose correspondence from Dale McMullen and an accompanying cheque from Davis LLP indicating that Piikani Energy Corporation and Dale McMullen have terminated the Escrow Agreement that was of concern, on December 10, 2009, and that the sum of \$471,662.17 has been returned to Piikani Energy Corporation.

Please confirm that this termination of the Escro Agreement will now have obviated the necessity of your anticipated application.

Yours truly,

FLEMING LLP



**CLIVE O. LEWELLYN**  
Barrister and Solicitor

COL/jb - Enclosures

J:\Clive.Lewellyn\35000 - 36000\35402 - Piikani Energy Corp\All counsels cc 09 Dec 15.doc

Dec. 15. 2009 3:54PM

No. 0132 P. 1

008

DALE McMULLEN

December 15, 2009

Fleming LLP  
900, 925 - 5<sup>th</sup> Avenue S.W.  
Calgary, Alberta  
T2P 0N7

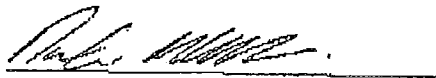
Attention: Clive Llewellyn

Re: Escrow agreement

---

Please be advised that the Piikani Energy Corporation and I have terminated the escrow agreement on December 10, 2009. I attach a copy of a cheque from Davis LLP dated December 14, 2009 in the sum of \$471,662.17 payable to the Piikani Energy Corporation.

Yours truly,



Dale McMullen

**DAVIS LLP**  
**TRUST ACCOUNT**  
BARRISTERS & SOLICITORS  
LIVINGSTON PLACE, WEST TOWER  
SUITE 1000 - 290 2ND STREET SW  
CALGARY, AB CANADA T2P 0G1

**CIBC**  
Canterra Tower  
400 3rd Avenue, SW  
Calgary, AB T2P 4H2

No. T 101566  
DATE 14-12-2009  
DD MM YYYY

PAY Four Hundred Seventy One Thousand Six Hundred Sixty Two Dollars and 17/100

\$\*\*\*\*471,662.17

DAVIS LLP TRUST ACCOUNT

TO THE ORDER OF: **Pilkani Energy Corporation**

PER \_\_\_\_\_

PER *[Signature]*  
TWO SIGNATURES REQUIRED

⑈101566⑈ ⑆00109⑈010⑆ 86⑈85517⑈

This is Exhibit " B " referred to  
 in the Affidavit of  
Bruce Nigro  
 Sworn before me this 15th  
 Day of February A.D. 2011  
S. Morrison  
 A Notary Public A Commissioner for Oaths  
 in and for the Province of Alberta

AGREEMENT FOR SERVICES

This AGREEMENT MADE the 1<sup>st</sup> day of January, 2009.

BETWEEN:

Piikani Energy Corporation

A corporation duly incorporated pursuant to the laws of the Province of Alberta, Canada  
(hereafter called the "Corporation")

- And -

607385 Alberta Ltd.

A corporation duly incorporated pursuant to the laws of the Province of Alberta, Canada  
(hereafter called the "Consultant")

**DEBRA A. MORRISON**  
My Commission Expires  
June 20, 2011

WHEREAS THE CORPORATION was created by the Piikani Nation ("Piikani") to assume overall responsibility for Implementation of all phases of the Piikani Integrated Energy Strategy.

AND WHEREAS Piikani desires the Corporation to operate on a commercial and business basis in the best interest of the Piikani Nation.

AND WHEREAS THE CORPORATION will be relied upon by Piikani to perform certain actions including, but not limited to, securing capital funds, investing capital, executing agreements and joint venturing with counter parties, project management and generally conducting the on going business affairs of the Corporation on behalf of and for the benefit of Piikani, necessarily the Corporation will have to engage professionals, on a contract basis and or on an interim basis, to serve the Corporation and fulfill the roles and functions of corporate officers; and

AND WHEREAS Consultant, through Stephanie Ho Lem, possesses experience and qualifications related to the actions, roles and functions identified herein; and

AND WHEREAS It is the desire of the Corporation to engage Consultant through Stephanie Ho Lem, who is willing to perform services for the Corporation and/or its business entity or entities and to have Stephanie Ho Lem to act in the capacity of Vice President and Corporate Secretary of the Corporation, and shall conduct other work as assigned by the President and CEO including project management in the Piikani business entities all or more particularly described here (the "Services").

NOW THEREFORE the parties agree as follows:

1. Scope of Work

Consultant agrees to serve the Corporation in the capacity of Vice President and Corporate Secretary under the terms and conditions contained in this Agreement for Services (the "Agreement") and to undertake or facilitate the Services including other services and tasks as Consultant may be assigned.

2. Term

2.1 This Agreement shall be effective as and from the first day that Consultant agrees to the Term.

2.2 The term of this agreement shall be for a period of thirty-six (36) months commencing January 1, 2009 and continuing to December 31, 2011 inclusive.

2.3 The Consultant shall work at the Piikani Energy Corporation office located on the Piikani First Nation or where the Corporation has its business interests.

3. Reporting

The Consultant shall report to the President and CEO of the Corporation.

4. Services

Services to include but not limited to the following work and projects for the Corporation and the business entities;

- o Corporate secretarial work for the Board
- o General administration and operations of the corporation
- o Due diligence on potential acquisitions and mergers
- o Project management of various projects to include but not limited to:
  - Wind farm development on and off reserve
  - Business development on and off reserve of energy related ventures
- o Monitor and maintain agreements with joint venture partners
- o Any other projects that the President and CEO assigns

5. Remuneration

- 5.1 The Consultant will be paid for Services according to the following protocol: Base Annual Retainer of \$150,000.00 payable on the first day of each year (plus GST if applicable) during the term of this Agreement. Compensation may include and is not limited to bonuses, options, equity participation and commissions.
- 5.2 The Corporation agrees to permit reasonable degree of flexibility in work hours.
- 5.3 The Consultant will be entitled to take on other consultant work but will give priority to the Corporation in completing the work assignments.
- 5.4 The Consultant agrees to work a minimum of 46 weeks annually, based on a 35 hour week, excluding statutory holidays.
- 5.5 The Consultant agrees to work additional weeks if necessary without additional remuneration to complete the work assignments.


6. Expenses

- 6.1 The following is the approved list of expenses that the Consultant will be reimbursed for the Services:
- Parking
  - Phone/Cell/Fax
  - Meals and Entertainment
  - Travel & Accommodation
  - Mileage \$0.42 cents per kilometer (to be reviewed annually)
  - Representing the corporation and attendance at related conferences
  - Any other reasonable expenses
- 6.2 While this agreement or any successor agreements are in force, PEC shall reimburse Consultant for expenses, as applicable, related to performance by Consultant of the Services. Consultant shall submit invoices at the end of each calendar month, and such invoices shall be paid by PEC within ten (10) working days of receipt.
- 6.3 The Corporation will provide Consultant suitable office space and parking. The Corporation will provide appropriate tools and equipment and a mileage reimbursement of \$0.42 per kilometer for use of her personal vehicle for Corporation business.

7. Termination

In the event Consultant initiates the termination for any reason other than non-payment, Consultant will assist in the transition of her work to another Corporation representative(s). In the event the Consultant is terminated, the Consultant has the option of purchasing the tools and equipment at a cost of \$1.00 and the Corporation will be required to pay the

*or as agreed to by the parties.*



Consultant the minimum of the balance of the 36-month term or the annual (twelve months) base retainer whichever is greater in addition to expenses incurred.

8. Indemnification

To the full extent allowed by law, the Corporation agrees to lease, indemnify and save harmless Consultant and Stephanie Ho Lem, its and her heirs, successors and legal representatives (the "Indemnities") from and against any and all losses, damages, liabilities, costs, charges or expenses related to this Agreement or from third parties, suffered or incurred as a result of or by reason of Consultant being or having been an independent consultant and/or Stephanie Ho Lem a director of the Corporation, including without limitation, any expenses were not suffered or incurred as a direct result of Consultant's or Stephanie Ho Lem's own fraud, dishonesty or willful default.

9. Amendment

The Agreement contains the entire understanding and agreement between the parties and there are no oral statements, representations or agreements between the parties. Any amendments to this Agreement must be in writing and signed by both parties hereto.

10. Successor and Assigns

The Agreement herein shall inure to the benefit of and be binding upon the parties, their heirs, legal representatives, successors and assigns, without restriction whatsoever.

11. Severability

The invalidity or unenforceability of any particular provision of this Agreement shall not affect any other provision hereof, and this Agreement shall be construed as through such invalid or unenforceable provisions were omitted.

IN WITNESS WHEREOF the parties have hereunto affixed their signatures under the hand of their properly designated officers and this agreement is effective as of the day and date first above written.

SIGNED, AND DELIVERED

PIIKANI ENERGY CORPORATION

Date:

Jan 5/09

Dale McMullen

Dale McMullen,  
President and Chief Executive Officer

607385 Alberta Ltd.

Date:

Jan 5/09

Stephanie Ho Lem  
Stephanie Ho Lem



400, 602 - 11 Avenue SW  
 Calgary, Alberta Canada T2R 1J8  
 T 403 298 5800  
 F 403 296 2988  
 www.alger.ca

WITHOUT PREJUDICE

VIA EMAIL & REGULAR MAIL:

[stephanieholem@me.com](mailto:stephanieholem@me.com)

July 6, 2010

Ms. Stephanie Ho Lem  
 607385 Alberta Ltd.  
 200, 604 - 1<sup>st</sup> Street SW  
 Calgary, AB T2P 1M7

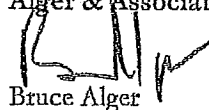
Dear Ms. Ho Lem:

RE: Piikani Energy Corporation - In Receivership

We are writing to you in our capacity as Court appointed Receiver and Manager of the captioned corporation. As of July 6, 2010 your services will no longer be required with respect to Piikani Energy Corporation.

This letter is formal termination of your services with respect to the captioned corporation effective immediately.

Yours very truly,  
 Alger & Associates Inc.

  
 Bruce Alger

T 403 296 2970  
[halger@alger.ca](mailto:halger@alger.ca)

CC: Stan Carscallen, VIA EMAIL: [carscallen@cllawyers.com](mailto:carscallen@cllawyers.com)  
 Rick Gilborn, VIA EMAIL: [rgilborn@caronpartners.com](mailto:rgilborn@caronpartners.com)

This is Exhibit "C" referred to  
 in the Affidavit of  
 Bruce Alger  
 Sworn before me this 15<sup>th</sup>  
 of February A.D. 2011  
 D. Morrison  
 A Notary Public, A Commissioner for Oaths  
 in and for the Province of Alberta

DEBRA A. MORRISON  
 My Commission Expires  
 June 20, 2011



400, 602 - 11 Avenue SW  
Calgary, Alberta Canada T2R 1J8  
T 403 298 5800  
F 403 296 2988  
www.alger.ca

WITHOUT PREJUDICE

VIA EMAIL & REGULAR MAIL:

[stephanieholem@me.com](mailto:stephanieholem@me.com)

July 6, 2010

Ms. Stephanie Ho Lem  
607385 Alberta Ltd.  
200, 604 – 1<sup>st</sup> Street SW  
Calgary, AB T2P 1M7

Dear Ms. Ho Lem:

RE: Piikani Energy Corporation – In Receivership

We are writing to you in our capacity as Court appointed Receiver and Manager of the captioned corporation. In our first report to the Court in our prior capacity as Conservator, we identified a payment to you in the amount of \$150,000 on December 18, 2009 as an annual retainer for services in accordance with the terms of a contractual agreement between your corporation and Piikani Energy Corporation. It is the Receiver's position that this payment was made at a time when the Piikani Energy Corporation was insolvent and amounts to a fraudulent preference contrary to the provisions of the Fraudulent Preferences Act, RSA 2000, c. F-24 and the Bankruptcy and Insolvency Act, RSC 1985, c. B-3 as amended.

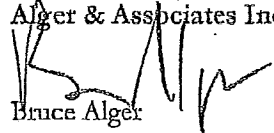
Formal demand is hereby made on you for repayment of these funds in the amount of \$73,150 as your services are no longer required from July 6, 2010 onwards. As your services were provided for six months of the year, to June 30, 2010, the Receiver requests half of the \$150,000 be repaid to the Receiver. \$73,150 is to be forwarded to Suite 400, 602 – 11<sup>th</sup> Avenue SW Calgary, AB T2R 1J8 or by deposit in trust with our counsel, Caron & Partners LLP, within 14 days, failing which appropriate further recovery action will be taken.

This is Exhibit " D " referred to  
in the Affidavit of  
Bruce Clark  
Sworn before me this 015th  
Day of February A.D. 20 11  
Debra Morrison  
A Notary Public. A Commissioner for Oaths  
in and for the Province of Alberta

**DEBRA A. MORRISON**  
My Commission Expires  
June 20, 2011

This demand is specifically for repayment of the \$73,150 detailed above and does not prevent the Receiver or limit our rights to undertake further actions for the recovery of any other amounts.

Yours very truly,  
Alger & Associates Inc.



Bruce Alger

T 403 296 2970  
balger@alger.ca

CC: Stan Carscallen, VIA EMAIL: [carscallen@cllawyers.com](mailto:carscallen@cllawyers.com)  
Rick Gilborn, VIA EMAIL: [rgilborn@caronpartners.com](mailto:rgilborn@caronpartners.com)

This is Exhibit "E" referred to  
in the Affidavit of  
Bruce Blagden  
Sworn before me this 15th  
Day of February A.D. 2011  
Debra A. Morrison

Employment Agreement

This agreement on the 1<sup>st</sup> day of February 1, 2009 between  
A Notary Public & Commissioner for Oaths  
for the Province of Alberta

Pilkani Energy Corporation (PEC)  
C/o P.O. Box 3087 Brocket, Alberta T0K 0H0  
(the "Employer")

DEBRA A. MORRISON  
My Commission Expires  
June 20, 2011

OF THE FIRST PART

- and -

Dale W. McMullen, B Comm, CA  
(Chief Executive Officer and President)  
(the "Employee")

OF THE SECOND PART

WHEREAS:

- (a) The Employer is a Corporation established pursuant to Articles of Incorporation, dated for reference January 1, 2004.
- (b) The Employee is capable of providing executive managerial services and the Employer is of the opinion that the Employee has the necessary qualifications, experience and abilities to assist and benefit the Employer in managing its business affairs.
- (c) The Employer desires to employ the Employee and the Employee has agreed to accept and enter such employment upon the terms and conditions set out in this Agreement.

It is hereby agreed by both parties as follows:

1.0 Terms

- 1.1 Commencement -- This contract will take effect on February 1, 2009 (the 'Commencement Date');
- 1.2 Location - The Employee shall work at the Pilkani Energy Corporation office located on the Pilkani First Nation, or where Pilkani Energy Corporation has its business interests;
- 1.3 This contract is for full-time employment;
- 1.4 This Agreement may only be terminated pursuant to the provisions of Section 6. The parties acknowledge that various

provisions of this Agreement survive past termination of employment.

- 1.5 Title – The Employee will have the title of President and Chief Executive Officer.
- 1.6 Term – The contract is a guaranteed minimum contract for four (4) years effective from February 1, 2009 to January 31, 2013 after which the employee will remain on as a full time employee in the same capacity.

## 2.0 Duties and Responsibilities

The Employee agrees to provide the following services according to the provisions of the Corporation and with the direction and approval of the Board of Directors.

- 2.1 Develop PEC's business and strategic plans;
- 2.2 Be responsible for the implementation and execution of the business plan, and for setting and managing the financial budget;
- 2.3 Monitor the Business Plan on a continuing basis to ensure the short and long term strategies are being attained, and continually develop strategies to mobilize financial resources for the growth of the Piikani Energy Corporation and safeguard the Corporations interests;
- 2.5 Produce for review by the Board, regular financial and narrative reports on business activities and project development unless otherwise provided at Board Meetings;
- 2.6 Recruit and if necessary terminate key staff employees; communicate and enforce procedural and policy directives to staff; provide guidance, mentoring, counselling, and encouragement to staff, and facilitate the development of staff's skills and knowledge;
- 2.7 Ensure that all of the Piikani Energy Corporation's activities achieve planned outcomes or that revisions to these planned outcomes are made as needed;
- 2.8 Perform other duties as directed by the Board;
- 2.9 Participate in corporate planning, policy setting, and administration; and assist in corporate fiscal review and budgeting processes;
- 2.10 Represent the Piikani Energy Corporation accurately and effectively at meetings, and in any communications within and outside of the Piikani First Nation;

- 2.11 Develop and maintain relationships with clients, governmental agencies, and other relevant stakeholders as deemed appropriate;
- 2.12 Perform other duties as requested.
- 2.13 Authority and Reporting - the Employee shall:
- 2.13.1 Provide regular reports to the Pilkani Energy Corporation Board of Directors on the financial state of the Corporation and other relevant information as deemed necessary;
- 2.13.2 Regularly report to the Board the progress towards goals as well as plans for the next reporting period;
- 2.13.3 Have the authority to authorize expenses of a minor nature up to \$1,000 for the efficient operation of the Corporation;
- 2.13.4 Have the authority to authorize a loan, this function shall also be performed by the Board of Directors; and
- 2.13.5 Have full authority to negotiate or renegotiate terms and conditions of financial and business arrangements with respect to projects and investments approved by the Board of Directors.

### 3.0 Remuneration

- 3.1 The services rendered by the Employee as required by this Agreement, the Employer will pay to the Employee an annual salary of \$240,000.00 per year. Compensation will be payable on terms and conditions as agreed to by the parties and approved by the Board of PIC. The Employer is entitled to deduct from the Employee's compensation any applicable deductions and remittances as required by law.
- 3.2 Employee understands and agrees that any additional compensation to the Employee (whether a bonus or other form of additional compensation) will rest in the sole discretion of the Employer.
- 3.3 The Employer will reimburse the Employee for all necessary expenses incurred by the Employee and while travelling pursuant to the Employer's directions.
- 3.4 The Employer agrees to permit a reasonable degree of flexibility in work hours.
- 3.5 The Employee will be entitled to five weeks of paid vacation each year for the first year and six weeks thereafter during the term of this Agreement, the time for such vacation to be determined by mutual agreement between the Employer and

the Employee.

#### 4.0 Confidential Information

4.1 The Employee and Employer agrees not to divulge, reveal, report or use, for any purpose, any of the Confidential Information which the Employee has obtained or which was disclosed to the Employee by the Employer as a result of the Employee's employment by the Employer.

4.2 The Employee may disclose any of the Confidential Information:

- a. to a third party where Employer has consented to such disclosure; and
- b. to the extent required by law or by the request or requirement of any judicial, legislative, administrative or other governmental body.

4.3 Confidential information will not include information that:

- a. is now or subsequently becomes generally available to the public through no wrongful act of the Employee;
- b. information otherwise available to the PiliKani Nation or the PiliKani Nation Chief and Council;
- c. the Employee rightfully had in its possession prior to the disclosure to Employee by the Employer;
- d. the Employee rightfully obtains from a third party who has the right to transfer or disclose it.

#### 5.0 Return of Confidential Information

The Employee agrees that, upon request of the Employer or upon termination or expiration, as the case may be, of employment, the Employee will turn over to the Employer all documents, disks or other computer media, or other material in the possession or control of the Employee.

#### 6.0 Termination of Employment

6.1 The Employer may terminate the Employee's employment under this contract with 90 days notice only for cause. Upon termination of Employment for any reason the Employee shall be entitled to be paid a minimum of the balance of the contract or one years annual salary as defined in Section 3.1, plus any and all costs associated to collect the funds. For greater clarity this amount is a minimum of \$216,000 plus costs.

6.2 If the Employee wishes to terminate his employment with the Employer, the Employee will provide the Employer with 30 days notice.

6.3 Should the Employee terminate his employment pursuant to this Agreement, the Employee agrees to be reasonably available as a consultant for a maximum period of two weeks for the purposes of maintaining any projects or developments created while employed by the Employer.

6.4 The time specified in the notice by either the Employee or the Employer may expire on any day of the month and upon the date of termination the Employer will forthwith pay to the Employee any outstanding portion of the wage, accrued vacation and banked time, if any, calculated to the date of termination, including the amounts described in Section 6.1 above.

#### 7.0 Notices

All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and either served personally or sent by facsimile or e-mail. The address for any notice to be delivered to any of the parties to this Agreement is as follows:

Pilkani Energy Corporation: C/o P.O. Box 3087 Brocket, Alberta T0K 0H0

Dale McMullen: C/O 286 Springbluff Heights S.W. Calgary, AB T3H 5B7

or to such other address as to which any Party may from time to time notify the other.

#### 8.0 Modification of Agreement

Any amendment or modification of this Agreement or additional obligation assumed by either party in connection with this Agreement will only be binding if evidenced in writing signed by each party or an authorized representative of each party.

#### 9.0 Governing Law

It is the intention of the parties to this Agreement that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the Province of Alberta, without regard to the jurisdiction in which any action or special proceeding may be instituted.

#### 10.0 General Provisions

10.1 Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement.

10.2 This Agreement will inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns, as the case may be, of the Employer and the Employee.

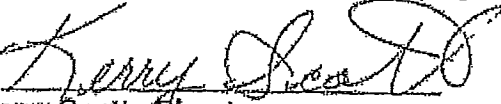
10.3 Time is of the essence in this Agreement.

10.4 If there is a previous employment agreement between the parties to this Agreement, the parties agree that this Agreement will replace that previous employment agreement.

10.5 This Agreement constitutes the entire agreement between the parties and there are no further items or provisions, either oral or written. As of the effective date of this Agreement, this Agreement supersedes all other agreements between the parties. Each of the parties acknowledges that it has relied on its own judgment in entering into this Agreement.

IN WITNESS WHEREOF Pilkani Energy Corporation has duly affixed its signature by authorized Directors and Dale McMullen has duly signed under hand this 1<sup>st</sup> day of February, 2009.

x   
Stan Knowlton - Director  
Pilkani Energy Corporation - Employer

x   
Kerry Scott - Director  
Pilkani Energy Corporation - Employer

x   
Dale McMullen - Employee



400, 602 - 11 Avenue SW  
 Calgary, Alberta Canada T2R 1J8  
 T 403 298 5800  
 F 403 296 2988  
 www.alger.ca

WITHOUT PREJUDICE

VIA EMAIL: [dalecmullen7@hotmail.com](mailto:dalecmullen7@hotmail.com)

July 6, 2010

Attention: Mr. Dale McMullen

Dear Sir:

RE: Piikani Energy Corporation – In Receivership

We are writing to you in our capacity as Court appointed Receiver and Manager of the captioned corporation. In our first report to the Court in our prior capacity as Conservator we identified a payment to you in the amount of \$240,000 made on December 18, 2009 which was characterized as a severance payment in accordance with an employment agreement. It is the Receiver's position that this payment was made at a time when PEC was insolvent and amounts to a fraudulent preference contrary to the provisions of the Fraudulent Preferences Act, RSA 2000, c. F-24 and the Bankruptcy and Insolvency Act, RSC 1985, c. B-3 as amended.

Formal demand is hereby made on you for repayment of these funds in the amount of \$240,000 which are to be forwarded to Suite 400, 602 – 11<sup>th</sup> Avenue SW Calgary, AB T2R 1J8 or by deposit in trust with our counsel, Caron & Partners LLP, within 14 days, failing which appropriate further recovery action will be taken.

This demand is specifically for repayment of the \$240,000 detailed above and does not prevent the Receiver or limit our rights to undertake further actions for the recovery of any other amounts.

Yours very truly,  
 Alger & Associates Inc.



Bruce Alger

T 403 296 2970  
[balger@alger.ca](mailto:balger@alger.ca)

CC: Stan Carscallen, VIA EMAIL: [carscallen@cllawyers.com](mailto:carscallen@cllawyers.com)  
 Rick Gilborn, VIA EMAIL: [rgilborn@caronpartners.com](mailto:rgilborn@caronpartners.com)

This is Exhibit " E " referred to  
 in the Affidavit of  
Bruce Alger  
 Sworn before me this 15th  
 Day of February A.D. 20 11  
D Morrison  
 A Notary Public, A Commissioner for Oaths  
 in and for the Province of Alberta  
**DEBRA MORRISON**  
 My Commission Expires  
June 20, 2011



CARSCALLEN LEITCH LLP

This is Exhibit " G " referred to  
 in the Affidavit of  
Bruce Alger  
 Sworn before me this 15th  
 Day of February A.D. 20 11  
Debra A. Morrison  
 A Notary Public A Commissioner for Oaths  
 in and for the Province of Alberta

July 14, 2010

BY EMAIL &amp; REGULAR MAIL

Stanley Carscallen, Q.C.

Direct Line: (403) 298-8451  
carscallen@clawyers.com

File No. 23268.001

**DEBRA A. MORRISON**  
 My Commission Expires  
 June 20, 2011

Alger & Associates Inc.  
 400, 602 - 11 Ave S.W.  
 Calgary, AB T2R 1J8

Attention: Mr. Bruce Alger and Mr. Gord Boersma

Dear Sir:

**Re: Piikani Energy Corporation (the "Corporation") Receivership  
 Claim of Fraudulent Preference**

We have been retained by Ms. Stephanie Ho Lem to act on her behalf in matters respecting the above referenced receivership.

Further to your letter of July 6, 2010, Ms. Ho Lem denies the allegation that the \$150,000.00 paid to her on December 18, 2009 (the "Annual Retainer") was a fraudulent preference contrary to the *Fraudulent Preferences Act* R.S.A. 2000, c. F-24 and the *Bankruptcy and Insolvency Act* R.S.C. 1985, c. B-3 as amended. This allegation has not been made out on the facts available. Ms. Ho Lem respectfully declines to make the payment you have requested. Her reasons are set out below.

It is the position of Ms. Ho Lem that the Corporation is not now insolvent, and was not an 'insolvent person' at the time of the Annual Retainer, as defined by section 2 of the *Bankruptcy and Insolvency Act*. Any payment made, therefore cannot be a fraudulent preference.

This position is evidenced, in part, by the investment in the hydro electric production of the Oldman River Dam (the "Oldman Hydro Project"). On the investment of \$7.8 million, a 25% interest in the ATCO Hydro Dam was purchased in a transaction closing July 1, 2007. To complete this transaction, seed capital was borrowed in the amount of \$2 million which was to be capitalized and refinanced once the cash flow from the equity investment in Oldman Hydro Project was completed. The Investigator's Second Report outlines a book value of this asset of

{00619139-6}

Carscallen Leitch LLP  
 Barristers and Solicitors

1500, 407 - 2nd Street S.W.  
 Calgary, Alberta T2P 2Y3

Phone 403.262.3775  
 Fax 403.262.2952

July 26, 2010  
Page 2

\$7.8 million.<sup>1</sup> The actual value of this asset is much greater however, as this initial investment provides an annual revenue stream of approximately \$1.3 million on a continuing basis. This continual revenue stream is sufficient to easily meet the Corporation's current and projected outstanding liabilities over the long term.<sup>2</sup>

In addition, the Corporation holds assets in the form of secured outstanding loans to Chief and Council of Piikani Nation ("Chief and Council") totalling approximately \$2.3 million inclusive of interest. Between the months of February 2006 through to September 2007, the Corporation advanced approximately \$2 million to the Chief and Council in support of their effort to avoid third party management. This loan was secured by a security agreement dated June 23, 2006 (the "Security Agreement") against the funds that were to be paid out to the Nation as proceeds from the AltaLink transaction under which the Nation was to receive \$7.45 million. The Nation has defaulted in its annual loan payments owing to the Corporation in the amount of \$487,781.39 for both the 2008 and 2009 time periods. To date, the Nation has received approximately \$4 million in revenue from the AltaLink transaction, none of which has yet been paid out to the Corporation. This \$2.3 million secured loan remains owing to the Corporation and currently is, and was at the time of the Corporation's payment to Ms. Ho Lem, readily collectible from the AltaLink funds.

The Corporation also has an interest in the determination of Queens Bench Action Number 0601-13081 between Piikani Nation and Piikani Investment Corporation v Raymond James et al. (the "Raymond James Litigation"). The Raymond James Litigation involves a claim for damages arising from the actions of certain members of the then Chief and Council and Lilliana Kostic, a purported investment counsellor. As a result of the actions described in the Statement of Claim, substantial losses were incurred. At the time of the payment to Ms. Ho Lem, which you have labelled a fraudulent preference, there was an offer of approximately \$3 million "on the table" that could have been accepted to bring that Raymond James Litigation to a conclusion.

The above comments outline just a few examples of the Corporation's solvency. Further details of which can be provided on request.

Even if the Corporation were said to be insolvent (which is not the case), payment of the Annual Retainer would nonetheless not be considered a fraudulent preference.

As we are sure you are aware, an allegation of fraudulent preference may be rebutted by proof that the payment was made pursuant to a legally binding agreement entered into in advance of the relevant period prior to receivership or insolvency (see *Re Blenkarn Planer Ltd* (1958), 37 C.B.R. 147). In this circumstance, the Annual Retainer was made pursuant to the terms of Ms.

<sup>1</sup> The initial \$7.8 million equity investment was initially loaned from trust funds to Piikani Investment Corporation ("PIC") and secured by a financing commitment to the Corporation, as the General Partner of the Piikani Oldman Hydro Limited Partnership.

<sup>2</sup> Since the date that this investment was secured, the Corporation has been removed as the General Partner of the Oldman Hydro Limited Partnership.

July 26, 2010  
Page 3

Ho Lem's contract for services dated January 1, 2009 (the "Services Agreement"). The Services Agreement was supported by good and valuable consideration, was duly approved by a resolution of the Board of Directors of the Corporation and was entered into at a time when the Corporation was solvent without any intent to create a preference for Ms. Ho Lem. A copy of the Services Agreement is attached hereto in case you do not have a copy of it.

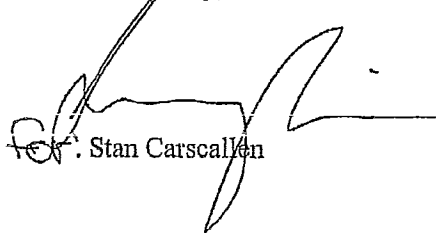
Pursuant to section 5.1 of the Services Agreement, Ms. Ho Lem was to receive compensation for services in the amount of \$150,000.00 per year (inclusive of GST), payable in full on the first day of each year. The Annual Retainer constitutes payment pursuant to section 5.1 for the 2010 calendar year. Section 7 of the Services Agreement further states that in the event that Ms. Ho Lem's services are terminated, the Corporation will be required to pay the annual retainer for the balance of the original 36 month term of the Service Agreement, or the annual base retainer (\$150,000.00), whichever is greater.

Ms. Ho Lem's services were terminated by the Receiver Manager by letter dated July 6, 2010. Pursuant to the terms of the Services Agreement, Ms. Ho Lem would be entitled to payment of the Annual Retainer in full, as well as payment in the amount of \$150,000.00 for the balance of the 36 month term contemplated by the Services Agreement.

In addition to the above, payment to Ms. Ho Lem of the Annual Retainer was made for good and valuable consideration pursuant to section 6 of the *Fraudulent Preferences Act*. The actions of Ms. Ho Lem in the service of the Corporation were constantly challenged by the actions of the Chief and Council and the motion to place the Corporation into receivership. This has resulted in time and effort being devoted to the Corporation by Ms. Ho Lem which far exceeds those contemplated in the Services Agreement. Payment of the Annual Retainer was therefore made for good and valuable consideration, with a clear benefit resulting to the Corporation through the services provided by Ms. Ho Lem. This is sufficient to rebut any presumption of a fraudulent preference.

On the basis of the above considerations, *inter alia*, we respectfully submit to you that payment of the Annual Retainer was not a fraudulent preference.

Yours truly,

  
Stan Carscallen

lrg

## AGREEMENT FOR SERVICES

This AGREEMENT MADE the 1<sup>st</sup> day of January, 2009.

BETWEEN:

Piikani Energy Corporation

A corporation duly incorporated pursuant to the laws of the Province of Alberta, Canada  
(hereafter called the "Corporation")

- And -

607385 Alberta Ltd.

A corporation duly incorporated pursuant to the laws of the Province of Alberta, Canada  
(hereafter called the "Consultant")

WHEREAS THE CORPORATION was created by the Piikani Nation ("Piikani") to assume overall responsibility for implementation of all phases of the Piikani Integrated Energy Strategy.

AND WHEREAS Piikani desires the Corporation to operate on a commercial and business basis in the best interest of the Piikani Nation.

AND WHEREAS THE CORPORATION will be relied upon by Piikani to perform certain actions including, but not limited to, securing capital funds, investing capital, executing agreements and joint venturing with counter parties, project management and generally conducting the on going business affairs of the Corporation on behalf of and for the benefit of Piikani, necessarily the Corporation will have to engage professionals, on a contract basis and or on an interim basis, to serve the Corporation and fulfill the roles and functions of corporate officers; and

AND WHEREAS Consultant, through Stephanie Ho Lem, possesses experience and qualifications related to the actions, roles and functions identified herein; and

AND WHEREAS it is the desire of the Corporation to engage Consultant through Stephanie Ho Lem, who is willing to perform services for the Corporation and/or its business entity or entities and to have Stephanie Ho Lem to act in the capacity of Vice President and Corporate Secretary of the Corporation, and shall conduct other work as assigned by the President and CEO including project management in the Piikani business entities all or more particularly described here (the "Services").

NOW THEREFORE the parties agree as follows:

1. Scope of Work

Consultant agrees to serve the Corporation in the capacity of Vice President and Corporate Secretary under the terms and conditions contained in this Agreement for Services (the "Agreement") and to undertake or facilitate the Services including other services and tasks as Consultant may be assigned.

2. Term

2.1 This Agreement shall be effective as and from the first day that Consultant agrees to the Term.

2.2 The term of this agreement shall be for a period of thirty-six (36) months commencing January 1, 2009 and continuing to December 31, 2011 inclusive.

2.3 The Consultant shall work at the Piikani Energy Corporation office located on the Piikani First Nation or where the Corporation has its business interests.

3. Reporting

The Consultant shall report to the President and CEO of the Corporation.

4. Services


Services to include but not limited to the following work and projects for the Corporation and the business entities:

- o Corporate secretarial work for the Board
- o General administration and operations of the corporation
- o Due diligence on potential acquisitions and mergers
- o Project management of various projects to include but not limited to:
  - Wind farm development on and off reserve
  - Business development on and off reserve of energy related ventures
- o Monitor and maintain agreements with joint venture partners
- o Any other projects that the President and CEO assigns

5. Remuneration

- 5.1 The Consultant will be paid for Services according to the following protocol: Base Annual Retainer of \$150,000.00 payable on the first day of each year (plus GST if applicable) during the term of this Agreement. Compensation may include and is not limited to bonuses, options, equity participation and commissions.
- 5.2 The Corporation agrees to permit reasonable degree of flexibility in work hours.
- 5.3 The Consultant will be entitled to take on other consultant work but will give priority to the Corporation in completing the work assignments.
- 5.4 The Consultant agrees to work a minimum of 46 weeks annually, based on a 35 hour week, excluding statutory holidays.
- 5.5 The Consultant agrees to work additional weeks if necessary without additional remuneration to complete the work assignments.

*or as agreed to by the parties.*



6. Expenses

- 6.1 The following is the approved list of expenses that the Consultant will be reimbursed for the Services:
- Parking
  - Phone/Cell/Fax
  - Meals and Entertainment
  - Travel & Accommodation
  - Mileage \$0.42 cents per kilometer (to be reviewed annually)
  - Representing the corporation and attendance at related conferences
  - Any other reasonable expenses
- 6.2 While this agreement or any successor agreements are in force, PEC shall reimburse Consultant for expenses, as applicable, related to performance by Consultant of the Services. Consultant shall submit invoices at the end of each calendar month, and such invoices shall be paid by PEC within ten (10) working days of receipt.
- 6.3 The Corporation will provide Consultant suitable office space and parking. The Corporation will provide appropriate tools and equipment and a mileage reimbursement of \$0.42 per kilometer for use of her personal vehicle for Corporation business.

7. Termination

In the event Consultant initiates the termination for any reason other than non-payment, Consultant will assist in the transition of her work to another Corporation representative(s). In the event the Consultant is terminated, the Consultant has the option of purchasing the tools and equipment at a cost of \$1.00 and the Corporation will be required to pay the

Consultant the minimum of the balance of the 36-month term or the annual (twelve months) base retainer whichever is greater in addition to expenses incurred.

8. Indemnification

To the full extent allowed by law, the Corporation agrees to lease, indemnify and save harmless Consultant and Stephanie Ho Lem, its and her heirs, successors and legal representatives (the "Indemnities") from and against any and all losses, damages, liabilities, costs, charges or expenses related to this Agreement or from third parties, suffered or incurred as a result of or by reason of Consultant being or having been an independent consultant and/or Stephanie Ho Lem a director of the Corporation, including without limitation, any expenses were not suffered or incurred as a direct result of Consultant's or Stephanie Ho Lem's own fraud, dishonesty or willful default.

9. Amendment

The Agreement contains the entire understanding and agreement between the parties and there are no oral statements, representations or agreements between the parties. Any amendments to this Agreement must be in writing and signed by both parties hereto.

10. Successor and Assigns

The Agreement herein shall inure to the benefit of and be binding upon the parties, their heirs, legal representatives, successors and assigns, without restriction whatsoever.

11. Severability

The invalidity or unenforceability of any particular provision of this Agreement shall not affect any other provision hereof, and this Agreement shall be construed as through such invalid or unenforceable provisions were omitted.

IN WITNESS WHEREOF the parties have hereunto affixed their signatures under the hand of their properly designated officers and this agreement is effective as of the day and date first above written.

SIGNED, AND DELIVERED

PIIKANI ENERGY CORPORATION

Date: Jan 5/09

Dale McMullen  
Dale McMullen,  
President and Chief Executive Officer

607385 Alberta Ltd.

Date: Jan 5/09

Stephanie Ho Lem  
Stephanie Ho Lem



CARSCALLEN LEITCH LLP

This is Exhibit " H " referred to  
in the Affidavit of  
Bruce Alger  
Sworn before me this 9 15th  
Day of February A.D. 20 11  
Debraa Morrison  
A Notary Public, A Commissioner for Oaths  
in and for the Province of Alberta

July 14, 2010

BY EMAIL &amp; REGULAR MAIL

Stanley Carscallen, Q.C.

Direct Line: (403) 298-8451  
carscallen@ollawyers.com

File No. 23268.001

**DEBRAA MORRISON**  
My Commission Expires  
June 20, 20 11

Alger & Associates Inc.  
400, 602 - 11 Ave S.W.  
Calgary, AB T2R 1J8

Attention: Mr. Bruce Alger and Mr. Gord Boersma

Dear Sir:

**Re: Piikani Energy Corporation (the "Corporation") Receivership  
Claim of Fraudulent Preference**

We have been retained by Mr. Dale McMullen to act on his behalf in matters respecting the above referenced receivership.

Further to your letter of July 6, 2010 Mr. McMullen denies the allegation that the severance payment of \$240,000.00 paid to him on December 18, 2009 (the "Severance Payment") was a fraudulent preference contrary to the *Fraudulent Preferences Act* R.S.A. 2000, c. F-24 and the *Bankruptcy and Insolvency Act* R.S.C. 1985, c. B-3 as amended. This allegation has not been made out on the facts available. Mr. McMullen respectfully declines to make the payment you have requested. His reasons are set out below.

It is the position of Mr. McMullen that the Corporation is not now insolvent, and was not an 'insolvent person' at the time of the Severance Payment, as defined by section 2 of the *Bankruptcy and Insolvency Act*. Any payment made, therefore cannot be a fraudulent preference.

This position is evidenced, in part, by the investment in the hydro electric production of the Oldman River Dam (the "Oldman Hydro Project"). On the investment of \$7.8 million, a 25% interest in the ATCO Hydro Dam was purchased in a transaction closing July 1, 2007. To complete this transaction, seed capital was borrowed in the amount of \$2 million that was to be capitalized and refinanced once the cash flow from the equity investment in Oldman Hydro Project was completed. The Investigator's Second Report outlines a book value of this asset of

{00619138-8}

Carscallen Leitch LLP  
Barristers and Solicitors

1500, 407 - 2nd Street S.W.  
Calgary, Alberta T2P 2Y3

Phone 403.262.3775  
Fax 403.262.2952

July 26, 2010

Page 2

\$7.8 million.<sup>1</sup> The actual value of this asset is much greater however, as this initial investment provides an annual revenue stream of approximately \$1.3 million on a continuing basis. This continual revenue stream is sufficient to easily meet the Corporation's current and projected outstanding liabilities over the long term.<sup>2</sup>

In addition, the Corporation holds assets in the form of secured outstanding loans to Chief and Council of Piikani Nation ("Chief and Council") totalling approximately \$2.3 million inclusive of interest. Between the months of February 2006 through to September 2007, the Corporation advanced approximately \$2 million to the Chief and Council in support of their effort to avoid third party management. This loan was secured by a security agreement dated June 23, 2006 (the "Security Agreement") against the funds that were to be paid out to the Nation as proceeds from the AltaLink transaction under which the Nation was to receive \$7.45 million. The Nation has defaulted in its annual loan payments owing to the Corporation in the amount of \$487,781.39 for both the 2008 and 2009 time periods. To date, the Nation has received approximately \$4 million in revenue from the AltaLink transaction, none of which has yet been paid out to the Corporation. This \$2.3 million secured loan remains owing to the Corporation and currently is, and was at the time of the Corporation's payment to Mr. McMullen, readily collectible from the AltaLink funds.

The Corporation also has an interest in the determination of Queens Bench Action Number 0601-13081 between Piikani Nation and Piikani Investment Corporation v Raymond James et al. (the "Raymond James Litigation"). The Raymond James Litigation involves a claim for damages arising from the actions of certain members of the then Chief and Council and Lilliana Kostic, a purported investment counsellor. As a result of the actions described in the Statement of Claim, substantial losses were incurred. At the time of the payment to Mr. McMullen, which you have labelled a fraudulent preference, there was an offer of approximately \$3 million "on the table" that could have been accepted to bring that Raymond James Litigation to a conclusion.

The above comments outline just a few examples of the Corporation's solvency. Further details of which can be provided on request.

Even if the Corporation were said to be insolvent however, (which is not the case), the Severance Payment would nonetheless be valid and would not be a preference as you have indicated. The payment of \$240,000.00 to Mr. McMullen was a *bona fide* payment made for good and valuable consideration pursuant to a binding agreement entered into at a point in time when the Corporation was not insolvent.

---

<sup>1</sup> The initial \$7.8 million equity investment was initially loaned from trust funds to Piikani Investment Corporation ("PIC") and secured by a financing commitment to the Corporation, as the General Partner of the Piikani Oldman Hydro Limited Partnership.

<sup>2</sup> Since the date that this investment was secured, the Corporation has been removed as the General Partner of the Oldman Hydro Limited Partnership.

July 26, 2010  
Page 3

As we are sure you are aware, an allegation of fraudulent preference may be rebutted by proof that the payment was made pursuant to a legally binding agreement entered into in advance of the relevant period prior to receivership or insolvency (see *Re Blenkarn Planer Ltd* (1958), 37 C.B.R. 147). In this circumstance, the Severance Payment was made pursuant to the terms of Mr. McMullen's employment agreement dated February 1, 2009 (the "Employment Agreement"). The Employment Agreement was supported by good and valuable consideration, was duly approved by a resolution of the Board of Directors of the Corporation and was entered into at a time when the Corporation was solvent without any intent to prefer Mr. McMullen. A copy of the Employment Agreement is attached hereto in case you do not have a copy of it.

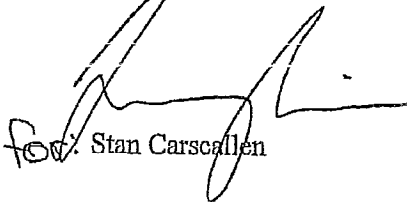
Pursuant to section 6.1 of this Agreement, and the terms of the subsequent severance agreement dated December 17, 2009 (the "Severance Agreement"), which was also approved by a resolution of the Board of Directors, Mr. McMullen is entitled to receive one year's annual salary, as set out in section 3.1 of the Employment Agreement. Payment to Mr. McMullen was made pursuant to those contractual terms. On that basis, the presumption that the Severance Payment constitutes a fraudulent preference by the Corporation to Mr. McMullen is rebutted.

Further and in the alternative, payment of the Severance was made for good and valuable consideration pursuant to section 6 of the *Fraudulent Preferences Act*, the consideration being the termination of Mr. McMullen's employment with the Corporation and execution of the associated release. The Severance Payment was not made with a view to giving Mr. McMullen a preference over other creditors of the Corporation. The fact that this payment was made for good and valuable consideration to the Corporation further rebuts any presumption that the payment was a fraudulent preference in favour of Mr. McMullen.

As you are also no doubt aware, the law in this area provides that the presumption of a fraudulent preference is rebutted where payment is made by a debtor in the *bona fide* expectation that this would enable the debtor to continue in business. The terms of the Severance Agreement stipulate the continuation of business as the basis for termination of Mr. McMullen's employment. A copy of the Severance Agreement is also attached hereto for your reference.

On the basis of the above considerations, we respectfully submit to you that payment of the Severance Payment was not a fraudulent preference.

Yours truly,

  
for Stan Carscallen

lrg

Employment Agreement

This agreement on the 1<sup>st</sup> day of February 1, 2009 between

Pilkani Energy Corporation (PEC)  
C/o P.O. Box 3087 Brocket, Alberta T0K 0H0  
(the "Employer")

OF THE FIRST PART

- and -

Dale W. McMullen, B Comm, CA  
(Chief Executive Officer and President)  
(the "Employee")

OF THE SECOND PART

**WHEREAS:**

- (a) The Employer is a Corporation established pursuant to Articles of Incorporation, dated for reference January 1, 2004.
- (b) The Employee is capable of providing executive managerial services and the Employer is of the opinion that the Employee has the necessary qualifications, experience and abilities to assist and benefit the Employer in managing its business affairs.
- (c) The Employer desires to employ the Employee and the Employee has agreed to accept and enter such employment upon the terms and conditions set out in this Agreement.

It is hereby agreed by both parties as follows:

**1.0 Terms**

- 1.1 Commencement -- This contract will take effect on February 1, 2009 (the 'Commencement Date');
- 1.2 Location - The Employee shall work at the Pilkani Energy Corporation office located on the Pilkani First Nation, or where Pilkani Energy Corporation has its business interests;
- 1.3 This contract is for full-time employment;
- 1.4 This Agreement may only be terminated pursuant to the provisions of Section 6. The parties acknowledge that various

provisions of this Agreement survive past termination of employment.

- 1.5 Title – The Employee will have the title of President and Chief Executive Officer.
- 1.6 Term – The contract is a guaranteed minimum contract for four (4) years effective from February 1, 2009 to January 31, 2013 after which the employee will remain on as a full time employee in the same capacity.

## 2.0 Duties and Responsibilities

The Employee agrees to provide the following services according to the provisions of the Corporation and with the direction and approval of the Board of Directors.

- 2.1 Develop PEC's business and strategic plans;
- 2.2 Be responsible for the implementation and execution of the business plan, and for setting and managing the financial budget;
- 2.3 Monitor the Business Plan on a continuing basis to ensure the short and long term strategies are being attained, and continually develop strategies to mobilize financial resources for the growth of the Piikani Energy Corporation and safeguard the Corporation's interests;
- 2.5 Produce for review by the Board, regular financial and narrative reports on business activities and project development unless otherwise provided at Board Meetings;
- 2.6 Recruit and if necessary terminate key staff employees; communicate and enforce procedural and policy directives to staff; provide guidance, mentoring, counselling, and encouragement to staff, and facilitate the development of staff's skills and knowledge;
- 2.7 Ensure that all of the Piikani Energy Corporation's activities achieve planned outcomes or that revisions to these planned outcomes are made as needed;
- 2.8 Perform other duties as directed by the Board;
- 2.9 Participate in corporate planning, policy setting, and administration; and assist in corporate fiscal review and budgeting processes;
- 2.10 Represent the Piikani Energy Corporation accurately and effectively at meetings, and in any communications within and outside of the Piikani First Nation;

- 2.11 Develop and maintain relationships with clients, governmental agencies, and other relevant stakeholders as deemed appropriate;
- 2.12 Perform other duties as requested.
- 2.13 Authority and Reporting - the Employee shall:
- 2.13.1 Provide regular reports to the Pilkani Energy Corporation Board of Directors on the financial state of the Corporation and other relevant information as deemed necessary;
- 2.13.2 Regularly report to the Board the progress towards goals as well as plans for the next reporting period;
- 2.13.3 Have the authority to authorize expenses of a minor nature up to \$1,000 for the efficient operation of the Corporation;
- 2.13.4 Have the authority to authorize a loan, this function shall also be performed by the Board of Directors; and
- 2.13.5 Have full authority to negotiate or renegotiate terms and conditions of financial and business arrangements with respect to projects and investments approved by the Board of Directors.

### 3.0 Remuneration

3.1 The services rendered by the Employee as required by this Agreement, the Employer will pay to the Employee an annual salary of \$240,000.00 per year. Compensation will be payable on terms and conditions as agreed to by the parties and approved by the Board of PIC. The Employer is entitled to deduct from the Employee's compensation any applicable deductions and remittances as required by law.

3.2 Employee understands and agrees that any additional compensation to the Employee (whether a bonus or other form of additional compensation) will rest in the sole discretion of the Employer.

3.3 The Employer will reimburse the Employee for all necessary expenses incurred by the Employee and while travelling pursuant to the Employer's directions.

3.4 The Employer agrees to permit a reasonable degree of flexibility in work hours.

3.5 The Employee will be entitled to five weeks of paid vacation each year for the first year and six weeks thereafter during the term of this Agreement, the time for such vacation to be determined by mutual agreement between the Employer and

the Employee.

#### 4.0 Confidential Information

4.1 The Employee and Employer agrees not to divulge, reveal, report or use, for any purpose, any of the Confidential Information which the Employee has obtained or which was disclosed to the Employee by the Employer as a result of the Employee's employment by the Employer.

4.2 The Employee may disclose any of the Confidential Information:

- a. to a third party where Employer has consented to such disclosure; and
- b. to the extent required by law or by the request or requirement of any judicial, legislative, administrative or other governmental body.

4.3 Confidential information will not include information that:

- a. is now or subsequently becomes generally available to the public through no wrongful act of the Employee;
- b. information otherwise available to the Pliikani Nation or the Pliikani Nation Chief and Council;
- c. the Employee rightfully had in its possession prior to the disclosure to Employee by the Employer;
- d. the Employee rightfully obtains from a third party who has the right to transfer or disclose it.

#### 5.0 Return of Confidential Information

The Employee agrees that, upon request of the Employer or upon termination or expiration, as the case may be, of employment, the Employee will turn over to the Employer all documents, disks or other computer media, or other material in the possession or control of the Employee.

#### 6.0 Termination of Employment

6.1 The Employer may terminate the Employee's employment under this contract with 90 days notice only for cause. Upon termination of Employment for any reason the Employee shall be entitled to be paid a minimum of the balance of the contract or one years annual salary as defined in Section 3.1, plus any and all costs associated to collect the funds. For greater clarity this amount is a minimum of \$216,000 plus costs.

6.2 If the Employee wishes to terminate his employment with the Employer, the Employee will provide the Employer with 30 days notice.

6.3 Should the Employee terminate his employment pursuant to this Agreement, the Employee agrees to be reasonably available as a consultant for a maximum period of two weeks for the purposes of maintaining any projects or developments created while employed by the Employer.

6.4 The time specified in the notice by either the Employee or the Employer may expire on any day of the month and upon the date of termination the Employer will forthwith pay to the Employee any outstanding portion of the wage, accrued vacation and banked time, if any, calculated to the date of termination, including the amounts described in Section 6.1 above.

#### 7.0 Notices

All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and either served personally or sent by facsimile or e-mail. The address for any notice to be delivered to any of the parties to this Agreement is as follows:

Pilkani Energy Corporation: C/o P.O. Box 3087 Brocket, Alberta T0K 0H0

Dale McMullen: C/O 286 Springbluff Heights S.W. Calgary, AB T3H 5B7

or to such other address as to which any Party may from time to time notify the other.

#### 8.0 Modification of Agreement

Any amendment or modification of this Agreement or additional obligation assumed by either party in connection with this Agreement will only be binding if evidenced in writing signed by each party or an authorized representative of each party.

#### 9.0 Governing Law

It is the intention of the parties to this Agreement that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the Province of Alberta, without regard to the jurisdiction in which any action or special proceeding may be instituted.

#### 10.0 General Provisions

10.1 Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement.

10.2 This Agreement will inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns, as the case may be, of the Employer and the Employee.

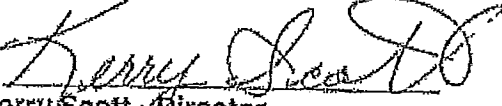
10.3 Time is of the essence in this Agreement.

10.4 If there is a previous employment agreement between the parties to this Agreement, the parties agree that this Agreement will replace that previous employment agreement.

10.5 This Agreement constitutes the entire agreement between the parties and there are no further items or provisions, either oral or written. As of the effective date of this Agreement, this Agreement supersedes all other agreements between the parties. Each of the parties acknowledges that it has relied on its own judgment in entering into this Agreement.

IN WITNESS WHEREOF Piiikani Energy Corporation has duly affixed its signature by authorized Directors and Dale McMullen has duly signed under hand this 1<sup>st</sup> day of February, 2009.

x   
Stan Knowlton - Director  
Piiikani Energy Corporation - Employer

x   
Kerry Scott - Director  
Piiikani Energy Corporation - Employer

x   
Dale McMullen - Employee



*Piikani Energy Corporation*  
*c/o 200 Lougheed Building*  
*604 First Street SW*  
*Calgary, AB T2P 1M7*  
*P. 403.265.8586 F. 403.265.1941*

December 17, 2009

Dale McMullen  
 c/o 286 Springbluff Heights SW  
 Calgary, AB T3H 5B7

WITHOUT PREJUDICE

Dear Mr. McMullen:

Re: Severance Agreement and Offer

As you have been advised, the Piikani Energy Corporation ("PEC") is unable to operate on a normal business basis as the result of the illegitimate, reckless and negligent conduct of a key shareholder, Piikani Investment Corporation ("PIC") and its ultimate shareholder, the Piikani Nation Chief and Council ("PNCC").

Of particular concern to PEC are the following issues:

1. The failure of PIC to repay a \$700,000 loan plus interest made by PEC to PIC in May 2008, after PNCC refused to pay PIC its operating cash as is stipulated in clause 6 of the Piikani Trust. The refusal to pay was made after the PNCC were caught by the CIBC Trustee on December 17, 2007 unlawfully diverting \$471,762.42 away from the Piikani Trust, and using PIC's security on a defaulted Piikani Land Holding Corporation \$500,000 loan to cover up the unlawful diversion. PIC complained about the issue in a letter to PNCC on December 21, 2007 and Council refused to pay PIC its operating cash for fiscal 2008.
2. The PNCC's refusal to repay PEC back an estimated \$2,609,000.00 plus interest on a prior business arrangement dated for reference February 6, 2006. PNCC was to repay PEC back the \$2,609,000 plus interest pursuant to a Security Agreement between the parties on receipt of money owed to the Piikani Nation for a deal PEC assisted in with AltaLink. It has been reported that \$3,750,000.00 has been paid to the PNCC, and that PNCC are now using the funds to pay Piikani band members a \$300.00 per capita payment in December 2009 among other costs. PNCC have no intention of honouring the Security Agreement.
3. PIC Shareholder Chief Reg Crow Shoe issued an "Irrevocable Assignment of Proceeds" to the Piikani Nations legal counsel, Walsh Wilkins Creighton LLP in September 2008 utilizing the very same proceeds due to PEC as described in aforementioned paragraph

- .. PIC Shareholder Trustee Reg Crow Shoe and PNCC's recent and ongoing attempt to liquidate PIC, and drag PEC into the matter, despite the fact that PNCC is indebted to PIC by way of promissory notes due to Piikani Land Holding Corporation, and despite the fact that PNCC control Oldman Irrigation Ltd., and it is in default of a \$275,000 loan due back to PIC, and despite the funds owed to PEC from PNCC from the AltaLink deal.
- 5. PNCC violating the terms and conditions of the Piikani Oldman Hydro Limited Partnership by assigning an Irrevocable Assignment of Revenue via BCR to Walsh Wilkins Creighton LLP.
- 6. PNCC's clear and blatant violation of the Piikani Trust and Settlement Agreement, by failing to comply with the 2002 Piikani Nation Settlement Revenue Account Bylaw "(SRAB)", and by now claiming in a Statement of Defence in court action No. 0801-04735 that the SRAB is ultra vires and of no force or effect. This issue significantly impinges upon the Piikani Trust, from which PEC has borrowed funds to operate and acquire its business interest in the Piikani Oldman Hydro Limited Partnership.

As a result of the aforementioned illegitimate, reckless and negligent conduct of PNCC and PEC's shareholder, PIC, and the ensuing litigation as a result of the conduct; the PEC has regrettably found it necessary to terminate your employment effective December 17, 2009.

This letter sets out the terms of severance which PEC is prepared to offer to you. If you accept the terms of the proposal set out herein, please sign the duplicate copy of this letter (enclosed) and return it to PEC Director and Piikani Nation Councillor Kerry Scott by no later than 5 p.m. on December 18, 2009.

Please note that you will be required to provide PEC with the property and information set out below, as well as a signed Release in the form enclosed, which are required as a condition of the severance package. When you pick up your cheque, you must provide the signed Release.

#### Severance Offer

PEC hereby offers you the following severance package:

1. PEC requests that you waive the notice provisions and termination provisions as are found in Clause 6 of your February 1, 2009 Employment Contract, and instead PEC hereby offers you a lump sum payment equivalent to one (1) years' salary, in accordance with the requirements of the Employment Standards Code, in the amount of \$240,000.00.
2. PEC will also sell to you the computers that you used during your employment, which include a Toshiba Tecra laptop, bearing Serial # 98078977H and its accessories; plus a Asus desktop computer, bearing Serial # 72P0AL006169 and Acer monitor and accessories both for the price of \$300.00, which will be deducted from the amounts due to you on your expense statements as defined in paragraph 3 below.

- You must submit any outstanding expense claims for review and, if appropriate, reimbursement by not later than noon on December 18, 2009. Any expense claims submitted after this time will not be honoured by PEC. Expense claims submitted by noon on December 18, 2009 and approved by PEC will be paid by not later than 5 p.m. on Friday, December 18, 2009 by cheque.
4. As is the case of all departing employees, you will continue to be bound by those fiduciary duties of confidentiality and fidelity as apply to former employees of an employer.
  5. Nothing in this Severance Agreement and Offer is to be construed or interpreted to prevent the PEC from engaging Mr. Dale McMullen to act as a consultant, particularly in the area of litigation support, as the PEC Board deems necessary.
  6. PEC further acknowledges the Indemnification Agreement dated April 28, 2004 between yourself and the Piikani Nation, and acknowledges that this agreement will in no way whatsoever, diminish, negate, impinge upon or otherwise impact your rights under the Indemnification Agreement.

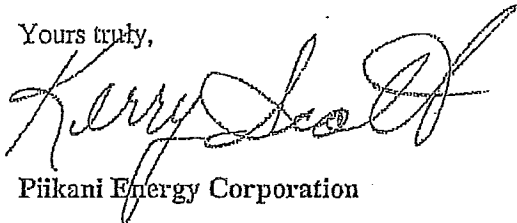
The package as set out above is subject to the following conditions:

1. The execution and delivery to our office of a Release in the form enclosed;
2. The return of all documents, not otherwise required for litigation support, in your possession are to be returned to PEC;

As indicated above, if you wish to accept this proposal, please do so by detaching the Release, signing the duplicate copy of the letter, returning the signed and accepted letter to PEC Director and Piikani Nation Councilor Kerry Scott no later than noon on December 18, 2009

The Release will be required when you receive the final cheque.

Yours truly,

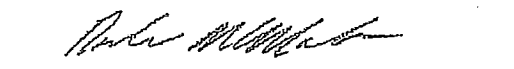


Kerry Scott

Piikani Energy Corporation

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ACCEPTED this 18th day of December, 2009




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Dale McMullen

EMPLOYMENT RELEASE

KNOW ALL PERSONS BY THESE PRESENTS that I, Dale McMullen, of the City of Calgary, in the Province of Alberta, for and in consideration of the sum of TWO-HUNDRED AND FORTY THOUSAND DOLLARS (\$240,000.00), paid to me or to my benefit by or on behalf of PIKANI ENERGY CORPORATION ("PEC"), a corporation having an office in the Town of Brocket, in the Province of Alberta, have remised, released, and forever discharged, and by these presents I do for my heirs, successors and personal representatives, remise, release and forever discharge the said PEC (herein called "the Employer") and its respective directors, officers, agents and employees, of and from all actions, causes of action, suits, debts, dues, sums of money, claims and demands whatsoever at law or in equity which I ever had, or now have, or which I, or my heirs, successors or personal representatives hereafter can, shall, or may have in relation to my employment with the Employer, or the termination thereof, including, without limiting the generality of the foregoing:

- a) any claims which I may have arising under and by virtue of the Employment Standards Code;
- b) any claims which I may have arising under or relating to any matter referred to in the Human Rights, Citizenship and Multiculturalism Act, and
- c) any claims which I may have arising under or in any way connected with any collateral benefit which may have been made available to me in connection with my employment with the Employer.

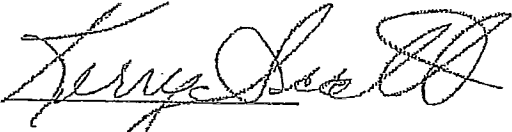
And for the said consideration, I further agree not to make any claim or take any proceeding against any other individual, body, or corporation who might claim contribution or indemnity from the individuals or corporations discharged through this release

I ACKNOWLEDGE and agree that the terms of settlement of my claim and this release are confidential and I covenant and agree to keep confidential all of such terms and I will not disclose the terms of settlement to any party except as may be required by law

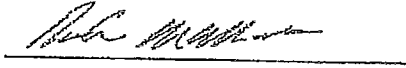
I ACKNOWLEDGE that I have been provided with an opportunity to obtain independent legal advice with respect to this release and my settlement of any claim that I may have against the Employer.

I ACKNOWLEDGE that the taking of this Release shall not be construed as an admission of any liability on the part of the Employer.

IN WITNESS WHEREOF I have executed this release this 17<sup>TH</sup> day of December, 2009.



WITNESS



Dale McMullen