

MILLER THOMSON LLP

Barristers & Solicitors, Patent & Trade Mark Agents

Robson Court, 1000-840 Howe Street
Vancouver, BC, Canada V6Z 2M1
Tel: 604.687.2242
Fax: 604.643.1200
www.millerthomson.com

February 24, 2006

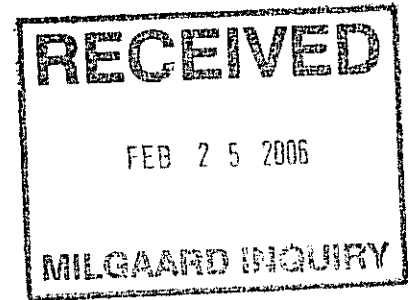
Donald J. Sorochan, Q.C.
Direct Line: 604.643.1214
Direct Fax: 604.643.1200
dsorochan@millerthomson.com

Private and Confidential

Commission of Inquiry
#1020 - 606 Spadina Crescent East
Saskatoon, SK S7K 3H1

File: 077680.0001

Attention: Mr. Douglas Hodson
Commission Counsel



Dear Mr. Hodson:

Re: Commission of Inquiry by Government of Saskatchewan Application of David Asper for Standing and Funding

Further to our discussions, please find enclosed my affidavit in support of the application by David Asper for Funding of counsel.

Also, as discussed, if it is thought to be necessary for us to provide any additional material or in support of the application, please advise us and we will do so.

Yours truly

MILLER THOMSON LLP

Per:

A handwritten signature in black ink, appearing to be "D. Sorochan", written over the typed name.

Donald J. Sorochan, Q.C.
Enclosure
dsoldso04013

**COMMISSION OF INQUIRY INTO THE WRONGFUL CONVICTION
OF DAVID MILGAARD**

**AFFIDAVIT OF DONALD J. SOROCHAN, QC
IN SUPPORT OF THE APPLICATION OF DAVID ASPER
FOR FUNDING OF COUNSEL**

I Donald J. Sorochan, QC, Barrister of the City of Vancouver of the Province of British Columbia, make oath and say as follows:

1. I have personal knowledge of the matters hereinafter deposed to, except where such matters are stated to be based upon information and belief and, with respect to these matters, I verily believe them to be true.
2. I am counsel representing David Asper who, by order of the Commissioner was granted standing as a Party to the Commission of Inquiry on the 22nd day of February, 2006. A resume of my experience in matters which touch upon the subject matter of the inquiry is attached as Schedule I to this Affidavit.
3. David Asper's application for an order that funding for services of counsel, including funding for services within the Guidelines of the Commission rendered since November 22, 2005, was adjourned pending the filing of additional material in support of the application.
4. I swear this affidavit in support of David Asper's application for funding.
5. The evidence before this Inquiry has established that between 1986 and 1992, David Asper provided legal counsel to David Milgaard as the junior associate of Hersh Wolch, QC.
6. David Asper performed numerous functions as legal counsel on behalf of David Milgaard that have been, or I am informed by Commission Counsel Douglas Hodson, will be the subject of testimony before or documents put into evidence at this Commission of Inquiry.
7. The Applicant wishes to be represented by counsel before this Commission of Inquiry and has retained me to represent him.
8. The applicant proposes that the intended use of funds received from the Commission will be to partly defray his legal fees and expenses incurred for his representation by myself as his counsel.
9. Any funding received from the Commission will be received by and accounted for with controls put in place by me to ensure that the funds are disbursed for the purposes of the Inquiry through the Vancouver office of my law firm Miller Thomson LLP, a national law firm with offices in Ontario, Quebec, British Columbia, Alberta and Yukon. The Vancouver office of Miller Thomson is located at suite 1000, 840 Howe Street, in the City of Vancouver, Province of British Columbia (telephone: (604)-687-2242).

8. Mr. Asper is a successful business man and a person of means. His business success and means are unrelated to his activities as a lawyer which brings him before this Inquiry. When he represented Mr. Milgaard as counsel, Mr. Asper did so on a *pro bono* basis or as part of his duties as a salaried junior lawyer who did not receive financial compensation for his representation of Mr. Milgaard, other than the salary to which he was otherwise entitled.

9. In such circumstances, Mr. Asper submits that it is not appropriate that he should be required to fully utilize his own financial resources to retain counsel to represent his interests before this Inquiry. This is especially so when others, whose interests may be adverse to Mr. Asper, have counsel provided that are fully funded by government or at least partially funded by the Inquiry.

9. Mr. Asper is not seeking indemnification from all costs incurred by him as a result of his participation as a witness before and Party to this Commission. He is only seeking a partial funding of his legal fees and expenses. Beyond any funding that may be granted to Mr. Asper under the Commission's Guidelines, Mr. Asper has, and will continue throughout the inquiry, to contribute his own funds and his valuable time and resources to participate in the Inquiry.

10. Specifically, between November 22, 2005 and January 30, 2006 the following legal services were performed for Mr. Asper by me and my firm's legal assistants in relation to the Inquiry:

Mr. Donald Sorochan	70.1 hours
Ms. Cindy Brandes (certified legal assistant and Summation trainer)	27.0 hours
Ms. Alicia Lawson (junior legal assistant)	16.0 hours

11. Of these services, the Commission's Funding Guidelines for counsel of witnesses only provides funding for 16.3 hours of my time (time spent during actual meetings involving Mr. Hodson).

12. Mr. Asper requests a contribution to the legal fees incurred by him based on the Commission's funding guidelines for counsel of Parties but, even with this contribution, Mr. Asper has contributed his own funds to pay for required legal services and will continue to do so in the future.

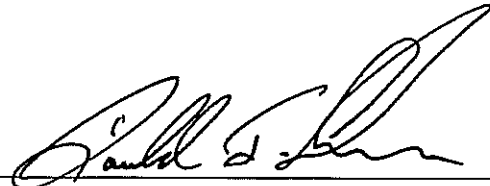
13. In my opinion the evidence before the Commission has established that the Applicant has an established record of concern for and has demonstrated a commitment to the interest sought to be represented by him before the Commission.

14. Is further my opinion that principles of fairness, justice and the even-handed treatment of parties in the conduct of this Inquiry require Mr. Asper to be granted the funding he has requested.

SWORN before me at the City of
Saskatoon, in the Province of
Saskatchewan, this 24th day of February,
2006.



A Commissioner for taking affidavits.



Donald J. Sorochan, QC

SCHEDULE I to the Affidavit of Donald J. Sorochan, QC

Resume of



DONALD J. SOROCHAN, Q.C.

Managing Partner, British Columbia and Yukon Offices
Miller Thomson LLP

Suite 1000, 840 Howe Street
Vancouver, BC, V6Z 2M1
(604) 643-1214

Donald Sorochan obtained his Bachelor of Arts degree from the University of Alberta (B.A., 1966), Mr. Sorochan graduated from the University of British Columbia Faculty of Law (LL.B., 1971). He was called to the Bar of Yukon in 1990 and was appointed Queen's Counsel (B.C.) in 1990.

He has represented both the federal and B.C. Provincial Crown in criminal prosecutions and appeals and has frequently been appointed to be a special prosecutor under the *Crown Counsel Act* of British Columbia.

CORRECTIONS

Mr. Sorochan has been active in the area of corrections, including:

Corrections Litigation

1. In 1973, was counsel in a case involving the constitutional validity of certain sentencing provisions relating to young offenders. The case went to the Supreme Court of Canada. As a result of the court proceedings, the Government of Canada repealed the provisions of the *Prisons and Reformatons Act* that were the subject of the challenge.
2. Was asked by the Legal Aid Society of British Columbia to represent numerous prisoners who were confined in the solitary confinement unit of the B.C. Penitentiary. After two years of preparation and a lengthy trial, the Federal Court of Canada declared that the prisoners had been subjected to cruel and unusual punishment. This case resulted in significant changes in prison conditions and procedures.

Citizens Advisory Committee for the B.C. Penitentiary

After the conclusion of this litigation, was instrumental in setting up a blue chip Citizens Advisory Committee for the B.C. Penitentiary in an attempt to avoid a crisis in the prison that was clearly on the horizon. Served on that Committee for some months, but unhappily the last role the Citizens Advisory Committee performed was to act as intermediaries in a riot that devastated the prison in 1976.

British Columbia Corrections Association (now the British Columbia Criminal Justice Association)

Served as Director and then President of the British Columbia Corrections Association.

Western Correctional Association

Served on the Board of the Western Corrections Association, an association of corrections professionals in the Western U.S. and B.C., as Secretary, as well as serving on various committees.

Justice Institute of British Columbia

Was a member of the founding Board of Directors of the Justice Institute of British Columbia which was created under the *British Columbia Colleges and Institutes Act*. The Justice Institute of British Columbia is responsible for the training of police officers, prison guards, probation officers, court staff, fire and ambulance personnel and others involved in the justice system.

National Parole Board of Canada

Served six years as a Regional Community Board member of the National Parole Board of Canada which was a part-time appointment in which the members sit representing the community on parole applications by murderers, dangerous offenders, dangerous sexual offenders and habitual criminals.

COMMISSIONS AND INQUIRIES

Mr. Sorochan has also acted as lead counsel to several provincial, territorial and federal inquiries and investigations and served as Commission Counsel to standing Commissions. This experience includes:

British Columbia Police Commission

Appointed as Counsel to the Commission when that body was created in 1974 and served for over twenty years until the Commission was replaced by another tribunal. The Commission oversaw policing in British Columbia, was the appeal body for police discipline hearings and heard appeals of citizen complaints.

R.C.M.P. Public Complaints Commission

Appointed as ad hoc Counsel to the Commission. Responsible for the conduct of hearings into citizen complaints in B.C. and the Yukon region.

Inquiry Into Habitual Criminals in Canada (1983-84)

In 1977, Parliament abolished preventive detention of habitual criminals. After 1977, only persons who were found by the court to be dangerous offenders could be made

subject to an indeterminate preventive detention sentence. However, there were numerous "old habituals" left over from the old legislation and the government appointed a judge to conduct a Royal Commission to examine the case of each of the "old habituals".

Was appointed Commission Counsel to the Inquiry and assisted the Honourable Justice Stuart Leggatt in the conduct of hearings into the various cases throughout Canada.

Royal Commission on Incarceration of Females in B.C. (late 1970's)

Was counsel appointed by the Canadian Bar Association to represent inmates who were otherwise unrepresented in hearings of the Commission.

Royal Commission on Social Housing in B.C. (March-October 1986)

Was counsel to the Commission.

Commission of Inquiry into Prosecutorial Discretion (1990)

Was co-counsel to the Commission.

Canadian Bar Association Consultant to the Law Reform Commission of Canada

Over a seven year period served as one of six lawyers from across Canada representing the CBA and working with the Law Reform Commission of Canada in redrafting the Criminal Code of Canada. This project resulted in the Law Reform Commission of Canada preparing a model Criminal Code.

International Commercial Arbitration Centre Task Force

Member of a Task Force appointed by the Attorney General of B.C. to draft legislation regarding international commercial arbitration and to establish the British Columbia International Commercial Arbitration Centre.

B.C. Criminal Justice Review Committee

In 1988, chaired a committee for the Canadian Bar Association and drafted a submission relating to criminal justice reform on behalf of the Canadian Bar Association to a Commission studying the justice system in B.C.

Government of Yukon – Forensic Audit of the City of Dawson

In 2005, served as Independent Counsel to the Forensic Auditor, the Minister of Community Services and the Trustee of the City of Dawson with respect to a Forensic Audit tabled in the Yukon Legislative Assembly.

Mr. Sorochan is an active member of the legal community, and frequently lectures and presents papers on various aspects of law for the Canadian Bar Association, the Continuing Legal Education Society and other legal education organizations. He has published several papers for The International Society for the Reform of Criminal Law and is the editor of the Society's newsletter. He also served as an Adjunct Professor of Trial and Appellate Advocacy for the University of British Columbia Faculty of Law (1978-89).

Mr. Sorochan is a director, the treasurer and a member of the management committee of the International Society for the Reform of Criminal Law. Mr. Sorochan is also a member of the American Bar Association, the International Bar Association, The Association of Trial Lawyers of America, the American Society of International Law, the Canadian Council on International Law,

Society of International Law, the Canadian Council on International Law, the American Correctional Association, the American Probation and Parole Association and the Canadian Bar Association, B.C. Branch.