

## Commission of Inquiry Into the Wrongful Conviction of David Milgaard

### Schedule 'B' – LEGAL COUNSEL FUNDING GUIDELINES :

The Commission's Terms of Reference provide:

6. "The Commission shall, as an aspect of its duties, determine applications by those parties, if any, or those witnesses, if any, to the public inquiry that apply to the Commission to have their legal counsel paid for by the Commission, and further, determine at what rate such Counsel shall be paid for their services."

The Commission has established the following guidelines for funding legal counsel for parties appearing before the Commission:

1. Where so ordered by the Commission, legal counsel for a party will be paid *ex gratia* by the Commission for those legal services which directly relate to the representation of that party at those portions of the Commission of Inquiry for which standing has been granted. Payment shall be made in accordance with these guidelines.
2. There is no cap on fees for preparation or hearing time, but counsel's accounts are to be submitted monthly and must bear the following certification:

"I, (name of lawyer), of (City, Province), Barrister and Solicitor hereby certify that I act for (name of party), a party with standing in the Milgaard Inquiry [or a witness in the Milgaard Inquiry] in respect of the services described. These services were necessary in the representation of the direct interest of (name of party) and are in compliance with the Legal Counsel Funding Guidelines issued by the Commission. I understand that this account will be reviewed by the Commission's Taxing Officer whose decision is not subject to challenge or appeal.

"(Signature of lawyer)"

3. Counsel will recognize the degree of trust inherent in this procedure and are expected to be scrupulously fair in their billings, the accuracy of which will be judged by reference to the record of proceedings.
4. Funding will only be provided to legal counsel approved for funding by the Commission. Approval must be obtained in advance of any funded legal services. For the purposes of funding, a party shall designate a principal counsel for the Inquiry.
5. It is recognized that, due to scheduling conflicts and other reasons, it may be necessary or more economical to have second counsel attend hearings and perform other legal services related to the Inquiry. A party may apply for approval for funding of second counsel.
6. Where funding of second counsel is approved, funding will not be provided for any duplication of work. In particular, only one counsel will be funded for attendance at

hearings and the preparation required for that attendance. Only one counsel will be funded for attendance at any witness interview.

7. Funded counsel must be a member of the bar of one of the Provinces or Territories of Canada.
8. Approved counsel will be funded at the following rates:
  - a. Counsel with more than 10 years at the bar - \$200/per hour.
  - b. Counsel with 5-10 years at the bar - \$150/per hour.
  - c. Counsel with less than 5 years at the bar and students-at-law - \$75/per hour.
9. There will be no funding for legal services for other proceedings such as judicial review or court applications related to the Inquiry.
10. There will be no funding for legal counsel's travel time.
11. All accounts shall be submitted and certified by the counsel performing the services. Accounts for services rendered by students-at-law shall be certified by his or her principal.
12. Reimbursement of counsel's disbursements will be limited to counsel's reasonable travel and accommodation expenses and reasonable office expenses (telephone, facsimile, postage and photocopying). These expenses will be reimbursed at the rates allowed by the Government of Saskatchewan as set out in Schedule 'D'. Unless otherwise approved by the Commission, counsel's travel and accommodation expenses will be limited to attendances before the Commission.
13. Expert witnesses may be called only by Commission Counsel and no expenses for expert witness fees will be reimbursed.
14. Accounts for legal fees and disbursements shall be submitted on a monthly basis to the Executive Director for payment. The accounts shall be reviewed by a Taxing Officer, appointed by the Commission, and if approved will thereafter be paid by the Commission.
15. Notwithstanding anything herein, the Commissioner, in the exercise of his duty of oversight of costs, may refuse payment in whole or in part of any account which he finds to be excessive.