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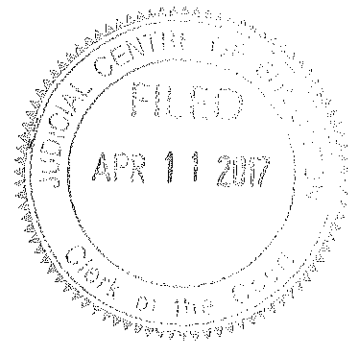
COURT **COURT OF QUEEN'S BENCH OF
ALBERTA**

JUDICIAL CENTRE **EDMONTON**

APPLICANT **ALBERTA LOCAL AUTHORITIES
RECIPROCAL INSURANCE EXCHANGE**

RESPONDENTS **Alberta Beach, Alberta Capital Region
Wastewater Commission, Alberta
Municipal Health and Safety
Association, Alberta Parks &
Recreation Association, and others**

DOCUMENT **WRITTEN SUBMISSION OF THE
APPLICANT, ALBERTA LOCAL
AUTHORITIES RECIPROCAL
INSURANCE EXCHANGE, ON
INTEREST, AS REQUESTED AT THE
HEARING ON MARCH 15, 2017**



<p>Counsel for the Applicant, Alberta Local Authorities Reciprocal Insurance Exchange</p> <p>Ogilvie LLP 1400, 10303 Jasper Avenue Edmonton AB T5J 3N6</p> <p>Attention: Grant S. Dunlop, Q.C. and Aaron M. Hymes</p> <p>Phone: 780.429.6283 Fax: 780.429.4453 email: grantdunlop@ogilvielaw.com File No.: 62064.1</p>	<p>Counsel for the Respondent, Strathcona County</p> <p>Rackel Belzil LLP 100, 10230 – 142 Street Edmonton AB T5N 3Y6</p> <p>Attention: Louis M.H. Belzil, Q.C.</p> <p>Phone: 780.392.3321 Fax: 780.451.8460 email: lbelzil@rackelbelzil.ca File No.: 65279-1 LMB</p>	<p>Counsel for the Respondents, Battle River Regional Division No. 31, and others</p> <p>Reynolds Mirth Richards & Farmer LLP 3200 Manulife Place 10180 – 101 Street Edmonton, AB T5J 3W8</p> <p>Attention: Peter T. Buijs</p> <p>Phone: 780.497.3311 Fax: 780.429.3044 email: pbuijs@rmrf.com</p>
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1. These submissions are in response to the invitation of the Court at the conclusion of the hearing on March 15, 2017 to make written submissions regarding interest.
2. ALARIE earned interest on its investment accounts and continues to do so.¹ ALARIE also earned interest on the premiums paid to Scottish & York for insurance coverage up to \$1 million, until claims reached 65% of those premiums, pursuant to the joint venture agreements.²
3. Interest earned by ALARIE for each year during which it issued insurance policies (1990 to 2002) is set out in Schedule 1 to the MNP report. The Attorney also earned a small amount of interest which is set out in Schedule 2 to the MNP report. The total interest earned by ALARIE and the Attorney, which MNP has been able to identify, from 1990 to 2016, is set out on Table 6 of the MNP Report.³
4. However, bank statements were not available for the period 2002 to 2007, so the amounts of interest earned in that period are unknown. All that is known about that period is that ALARIE's income, including interest, exceeded its expenses, by \$298,558.00.⁴
5. The insurance business in general, and ALARIE's operations in particular, involve collecting premiums in the year for which insurance coverage is provided, and paying some claims in the year they arose and others in subsequent years, in some cases long after the claim arose. This is illustrated by the fact that ALARIE last issued insurance policies in 2002, but it settled its last claim in 2015.⁵

¹ MNP Report, pp. 7 and 21

² MNP Report, Appendix E, para. 3

³ MNP Report, pp. 23 and 25

⁴ MNP Report, p. 23, Table 6, Note 1

⁵ Alan Wood Affidavit, para. 18 and Exhibit B, p. 2

6. As a consequence of the time lag between collecting premiums and paying claims, ALARIE earned at least some interest on each subscriber's base premium. Even where a subscriber's claims for a policy year exceeded its premium for that year, the premium was paid on day one, and the claims were paid at least days, and more typically months or years later. In the meantime, ALARIE held the premium in its accounts, where it earned interest for ALARIE.
7. However, for the reasons set out below, it is not now possible to determine the contributions to interest earned by ALARIE, on an individual subscriber basis.
8. ALARIE itself provided insurance coverage up to \$10,000 per claim, and it facilitated excess insurance coverage over \$10,000 per claim with the insurance company Scottish & York.⁶ The insurance broker, AON had an agreement with each of ALARIE's founding organizations, (AUMA, AAMD&C and ASBA) to return part of its brokerage fees to those organizations. ALARIE kept track of the resulting dividends on an individual subscriber basis.⁷
9. ALARIE relied on Scottish & York to adjust all claims, including the portion of claims under \$10,000, which were covered by the ALARIE policy. Claims for which ALARIE was responsible were not paid on an individual claim basis by ALARIE; they were paid by Scottish & York, which would make periodic requests to ALARIE for additional funds (cash calls) when necessary.⁸ Consequently, ALARIE might reimburse Scottish & York for an under \$10,000 claim a year or more after the claim had been paid by Scottish & York.
10. ALARIE operated as a clearing agent for joint venture agreement adjustments. These adjustments were calculated and paid when the final claim for a policy year was settled. Consequently the two-way retroactive joint venture agreement adjustments were made many years after the policy years to which they related.

⁶ Alan Wood Affidavit, para. 13 and MNP Report p. 21

⁷ MNP Report, p. 18

⁸ MNP Report, p. 22

For example, large joint venture agreement payments were made by ALARIE to the excess insurer in 2007 and 2009, years after ALARIE had ceased issuing policies.⁹

11. ALARIE comingled premiums for its own under \$10,000 coverage with the premiums due to Scottish & York for the excess insurance. This may have resulted in some excess coverage premiums being recognized as "ALARIE Contributions" in the financial statements.¹⁰

12. MNP attempted to reconcile the premium and loss expenses recorded on an individual subscriber basis in the subscriber accounts to the total premiums and total loss expenses recorded in the financial statements. They were unable to do so due to a lack of supporting information for the audited financial statements.¹¹ MNP was also not able to determine from the available records what the subscriber accounts balances were at specific past points in time.¹² Furthermore, it appeared to MNP that ALARIE prepared its financial statements on a cash basis, without separating premiums collected for its own under \$10,000 coverage from premiums collected for the excess insurance provided by Scottish & York.¹³

13. The total interest earned by ALARIE in each of its years of operation, 1990 to 2002, is set out in its audited financial statements and in Schedule 1 to the MNP Report. The portion of that interest attributable to each individual subscriber is not recorded in any document and cannot be determined because the individual subscriber accounts were maintained by policy year and not by the year in which premiums, claims and joint venture agreement adjustments were paid.

⁹ Alan Wood Affidavit, para. 21

¹⁰ MNP Report, p. 23

¹¹ MNP Report, p. 28

¹² MNP Report, p. 28

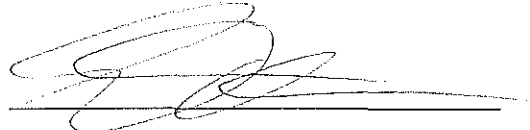
¹³ MNP Report, p. 28

14. The Summary of Deposits documents show an interest figure for each subscriber, but there is no information as to how that figure was calculated.¹⁴ Furthermore, those documents cover only the period 1990 to 1995.¹⁵
15. Each of the calculations performed by MNP (the Base, Capital and Comprehensive Calculations) includes interest in the total funds available for distribution (variable F).¹⁶ Including interest on the right-hand side of the formula ensures that the interest is included in the distribution.
16. None of MNP's calculations includes interest on an individual subscriber basis, on the left-hand side of the formula (variables A – E), because, for the reasons set out above, interest on an individual subscriber basis is unknown and unknowable given the way ALARIE operated and the records available now.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 10th day of April, 2017.

Ogilvie LLP

per:



Grant S. Dunlop, Q.C.

per:



Aaron M. Hymes

¹⁴ MNP Report, p. 18 and Appendix C

¹⁵ MNP Report, p. 19

¹⁶ MNP Report, pp. 32 – 33