

**NOTICE OF INTENT TO SUBMIT CLAIM TO ARBITRATION PURSUANT TO  
CHAPTER ELEVEN OF THE NORTH AMERICAN FREE TRADE AGREEMENT**

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**DAVID BISHOP,**

**Investor,**

**v.**

**GOVERNMENT OF CANADA,**

**Party.**

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- A. The name and address of the disputing investor and, where the claim is made under Article 1117, the name and address of the enterprise.**

Mr. David Bishop  
27-2 Route de Ponts  
Cascapedia, Quebec G0C 1T0  
Canada

- B. The provisions of the Agreement alleged to have been breached and any other relevant provisions.**

Investor alleges that the Government of Canada has breached the following obligations under Section A of Chapter 11 of the North American Free Trade Agreement (“NAFTA”):

**Article 1102: National Treatment**

1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.
2. Each Party shall accord to investments of investors of another Party treatment no less favorable than that it accords, in like circumstances, to investments of its own investors with respect to the establishment,

acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

3. The treatment accorded by a Party under paragraphs 1 and 2 means, with respect to a state or province, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that state or province to investors, and to investments of investors, of the Party of which it forms a part.

4. For greater certainty, no Party may:

(a) impose on an investor of another Party a requirement that a minimum level of equity in an enterprise in the territory of the Party be held by its nationals, other than nominal qualifying shares for directors or incorporators of corporations; or

(b) require an investor of another Party, by reason of its nationality, to sell or otherwise dispose of an investment in the territory of the Party.

#### **Article 1103: Most-Favored-Nation Treatment**

1. Each Party shall accord to investors of another Party treatment no less favorable than that it accords, in like circumstances, to investors of any other Party or of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

2. Each Party shall accord to investments of investors of another Party treatment no less favorable than that it accords, in like circumstances, to investments of investors of any other Party or of a non-Party with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments.

#### **Article 1104: Standard of Treatment**

Each Party shall accord to investors of another Party and to investments of investors of another Party the better of the treatment required by Articles 1102 and 1103.

#### **Article 1105: Minimum Standard of Treatment**

1. Each Party shall accord to investments of investors of another Party treatment in accordance with international law, including fair and equitable treatment and full protection and security.

2. Without prejudice to paragraph 1 and notwithstanding Article 1108(7)(b), each Party shall accord to investors of another Party, and to investments of investors of another Party, non-discriminatory treatment with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict or civil strife.

3. Paragraph 2 does not apply to existing measures relating to subsidies or grants that would be inconsistent with Article 1102 but for Article 1108(7)(b).

### **Article 1110: Expropriation and Compensation**

1. No Party may directly or indirectly nationalize or expropriate an investment of an investor of another Party in its territory or take a measure tantamount to nationalization or expropriation of such an investment ("expropriation"), except:

(a) for a public purpose;

(b) on a non-discriminatory basis;

(c) in accordance with due process of law and Article 1105(1); and

(d) on payment of compensation in accordance with paragraphs 2 through 6.

2. Compensation shall be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place ("date of expropriation"), and shall not reflect any change in value occurring because the intended expropriation had become known earlier. Valuation criteria shall include going concern value, asset value including declared tax value of tangible property, and other criteria, as appropriate, to determine fair market value.

3. Compensation shall be paid without delay and be fully realizable.

4. If payment is made in a G7 currency, compensation shall include interest at a commercially reasonable rate for that currency from the date of expropriation until the date of actual payment.

5. If a Party elects to pay in a currency other than a G7 currency, the amount paid on the date of payment, if converted into a G7 currency at the market rate of exchange prevailing on that date, shall be no less than if the amount of compensation owed on the date of expropriation had been converted into that G7 currency at the market rate of exchange prevailing on that date, and

interest had accrued at a commercially reasonable rate for that G7 currency from the date of expropriation until the date of payment.

6. On payment, compensation shall be freely transferable as provided in Article 1109.

7. This Article does not apply to the issuance of compulsory licenses granted in relation to intellectual property rights, or to the revocation, limitation or creation of intellectual property rights, to the extent that such issuance, revocation, limitation or creation is consistent with Chapter Seventeen (Intellectual Property).

8. For purposes of this Article and for greater certainty, a non-discriminatory measure of general application shall not be considered a measure tantamount to an expropriation of a debt security or loan covered by this Chapter solely on the ground that the measure imposes costs on the debtor that cause it to default on the debt.

**C. The issues and the factual basis for the claim.**

**Factual Background**

Investor, David Bishop (“Mr. Bishop” or the “Investor”), is a citizen of the United States of America. In 1999, Mr. Bishop began to operate an outfitting business in the province of Québec under an outfitters permit. Mr. Bishop conducted his business as the sole investor and shareholder in Destinations Saumon Gaspésie Inc., a corporation formed under the laws of Canada. Substantial investments were made by Mr. Bishop in maintaining, marketing and promoting the business. Mr. Bishop invested several hundred thousand U.S. dollars between the years 1999 and 2006.

The Investor’s outfitting business involved the scheduling, organizing, and offering of services related to fishing and hunting trips in the Province of Québec, particularly, the Gaspé Peninsula. The vast majority of the Investor’s business involved Atlantic salmon fishing trips.

These trips were conducted on the Grande Cascapedia, Petite Cascapedia, Bonaventure, and Nouvelle Rivers. The Investor's company would handle all aspects of a guest's fishing trip as needed, including licensing, room, board, fishing equipment and guides.

In order to service customers, the Investor was required by the Québec Government to procure proper licensing so that clients could legally fish rivers. Licensing was administered by a local organization called a Zone Exploitation Contrôlé ("Z.E.C.") or a Wildlife Reserve. Z.E.C.s and Wildlife Reserves are local organizations formed under the authority of the Québec Government. Pursuant to an operating agreement with the Québec Government, the Québec Government delegates authority to the Z.E.C. or Wildlife Reserve to manage a river, a portion of a river, or a territory. These organizations operate within the parameters and under ultimate control of the Québec Government.

#### **Improper Changes to the Fishing License Lottery System**

Through the 2005 fishing season, in order to procure the proper fishing licenses for guests, the Investor's company obtained, by lottery, fishing licenses called "rods" from the proper authority. Both the angler and his guest needed to obtain a daily right of access, or rod, in order to fish. The price of each rod was between CDN\$20 and CDN\$250. When a rod was obtained through the lottery, it enabled the winner and a guest access to a certain river sector for a designated day of salmon fishing. For each fishing season, which generally runs from June 1 through September 30, there were a set number of rods issued in limited rod sectors of each river. Each season, approximately half of the rods were made available through a lottery on November 1, and the remainder were sold two days before the scheduled fishing day. Under this system, rods were able to be used in such a manner that the winner of a rod did not need to be

present in order for his guest to fish on the second rod. Therefore, through the lottery system, once a rod was procured and the fee was paid, the second rod could be used by any individual or business for fishing access on the designated date and river.

Prior to the 2005 improper and unilateral governmental change to this lottery system, it is undisputed that the Investor's company was always in compliance with all governmental rules and regulations, and rightfully and legally obtained rods through the lottery system. The Québec Government was well aware of how the Investor conducted his business. The Investor operated the business legally and with the knowledge and consent of the Québec Government and local Z.E.C.

For the 2006 fishing season, in order to limit the number of rods that the Investor's company could obtain, in violation of NAFTA, the Government of Québec, in concert with the Federation Gestionnaires Saumon Québec (an organization representing certain Z.E.C.s and Wildlife Reserves), revised the lottery system for obtaining rods. Under the new lottery system (changed by Québec governmental regulations), a procurer of a rod has to be present during the specific fishing day that the rod is issued for use. In other words, the rods are no longer transferable among individuals. Admittedly, the government's sole purpose for this new procedure was to limit the number of rods that the Investor was able to obtain and, thus, limit the number of customers the Investor's company was able to service. Furthermore, this action diminished the quality of fishing that the Investor's company was able to offer as compared with previous years, adding to the reduction of clients and, in turn, profits and value of the company. This government action, in violation of NAFTA, severely damaged the Investor's business, including loss of customers, profits and goodwill, as well as the deterioration of the value of the

Investor's investments in Canada, including the value of his company, Destinations Saumon Gaspésie Inc.

At the time the lottery system was changed, the Québec Government acknowledged, through a high-ranking government official, that its action caused prejudice to the Investor's business and that compensation and/or accommodations to the Investor was necessary and proper. This top-ranking official in the Wildlife Ministry, which oversees outfitting businesses, had the decision-making authority and had the power to offer compensation to the Investor. After the changes to the lottery system were implemented, the Investor attempted to negotiate with the Québec Government in order to ameliorate any potential damage caused by the new lottery system. The Québec Government promised to remedy the prejudice, however, that promise was not kept. The Québec Government never compensated or otherwise resolved the injuries to the Investor. In 2006, as a result of the improper action taken by the Québec Government and resulting damage to the Investor's business, the Investor sold his company, Destinations Saumon Gaspésie Inc., at a grossly deflated price.

**D. The relief sought and the approximate amount of damages claimed.**

David Bishop, will submit a claim for arbitration seeking:

1. Damages of not less than US\$1,000,000 for loss of investment, sales, profits (past and future), goodwill and loss of value of business;
2. Cost associated with these proceedings, including professional fees and disbursements;
3. Prejudgment and post-judgment interest at a rate fixed by the tribunal; and
4. Such further relief as the tribunal may deem appropriate.

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Respectfully submitted,

Law Offices of Brett G. Canna, P.C.



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