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VIA E-MAIL

May 18, 2010
Permanent Court of Arbitration
Peace Palace, Carnegieplein 2
2517 KJ
The Hague, Netherlands

RE: PCA Case No. 2009-21: Melvin J. Howard, Centurion Health Corp. & Howard Family Trust v. Government of Canada

Dear Sirs and Mesdames,

We are writing in response to the letter sent May 10, 2010. It would seem the NAFTA process has loopholes within the proceedings that may be designed to work in favor of the best connected and deepest pocketed parties. We bring this up based on communications between the various parties. These loopholes are trying to find a way for the Government of Canada attempting to duck out of their responsibility for the losses we sustained, without proper legal proceedings. I am completely unimpressed with the Government of Canada's numerous undisclosed conflicts of interest and the system's process which puts the financial responsibility upon Claimant's to bring to light and fix their alleged oversight.

I am admittedly completely against the Respondent's request that the Tribunal terminate the current arbitral proceedings and issue an award on costs in its favor for a number of reasons:

1. We believe an award on costs in the favor of the Respondent's to be a slap in the face to supposed International Free Trade and the NAFTA process. No judgment has been made, nor has the Government of Canada given us any fair and reasonable explanation on the grounds of their claim. Furthermore, it would lead us to assume the Government of Canada is not taking these proceedings seriously.
2. In past letters the Government of Canada has written that this claim is frivolous. That claim is not one for the Government of Canada to make, particularly in a formal letter to all parties. I do not appreciate the tactics used by the Government of Canada to undermine me and my companies for mistakes it made.

3. You will find attached a meeting agenda dated Tuesday, March 16, 2004. This agenda outlines details we took into consideration in the building and construction of the Regent Hill Health Centre. This project was no thoughtless undertaking and we take it and these proceedings very seriously and ask the Government of Canada to do the same and refrain from using unwarranted judgmental language such as frivolous.
4. With respect to costs incurred, we have spent close to \$10 million in Canada, attempting to perform legal business and now, defending it.
5. The Tribunal notes the Claimant has not paid the costs for the termination of the arbitral proceedings. We feel that we have spent more than enough money. Why is it our financial responsibility to correct the mistakes that have been made by the Government of Canada? Prior to our agreement on arbitrators for the case, there is no doubt in my mind the Government had not forgotten of Mr Alvarez' firm's participation in private clinic legal proceeding in the Province of British Columbia. Furthermore, while Mr Alvarez may come from a large firm with offices all over the world, it was his office that represented the private companies, direct competitors to what would have been our company, and any claims that he made of not knowing the connection, in my mind, are highly unfounded. Is it not reasonable to assume that financial responsibility over the waste of time we have incurred lie in the hands of Mr Alvarez as well?
6. In order to secure our longevity in the lengthy legal processes that are well known in the NAFTA process, we have taken steps to have a policy underwritten for these arbitral proceedings. It is our necessity to disclose any issues that may arise to our insurance company, including the challenge to Mr Alvarez. This added difficulty on our end is a further testament to our frustration with the way the Government of Canada is conducting itself throughout these proceedings.
7. On April 7, 2010, I wrote a letter to Mr Ziade. At his request, I sent the letter only to himself. In the letter I stated, "We now make the following comments after careful consideration and counsel and in light of the conflict issues. We seek to have the President of the World Bank appoint the appointing authority in this matter." I have attached this letter for your reference. In response to my concerns, Mr Ziade replied with, "I am in this context acting with full authority and complete independence. Accordingly, there is no basis to request the designation of another appointing authority." While Mr Ziade did CC his response to other parties in the proceeding, my letter was not attached. My claim was essentially ignored. We would like to know who determines the basis to request the designation of another appointing authority? For fear of sounding like a broken record and bringing up yet another conflict of interest, would it not be in conflict for Mr Ziade to make that call considering it would mean him stepping down?

In light of our concerns, we respectfully request the International Court of Arbitration to request the President of the World Bank to take over the role of appointing authority of arbitrators and a new arbitrator be appointed to replace Mr Alvarez.

We kindly thank all parties for their attention to this manner and taking these requests and proceedings as seriously as we do.

Sincerely

Melvin J Howard