

International Centre for Settlement of Investment Disputes

1818 H Street, N.W., Washington, D.C. 20433, U.S.A.
Telephone: (202) 458-1587 Faxes: (202) 522-2615 / (202) 522-2027
Website: <http://www.worldbank.org/icsid>

October 23, 2007

By courier (advance copy by e-mail)

Professor James Anaya
Room 245
The University of Arizona
James E. Rogers College of Law
1201 East Speedway Boulevard
P.O. Box 210176,
Tucson, Arizona 85721-0176

Re: Grand River Enterprises *et al* v. United States of America – NAFTA/UNCITRAL Arbitration Rules Proceeding

Dear Professor Anaya,

I write in regard to the challenge that the Respondent in this proceeding has raised to your service as an arbitrator in the proceeding.

I wish first to let you know that we consider the challenge to have been made within the time limit set out in Article 11(1) of the UNCITRAL Arbitration Rules, the challenge having been notified fifteen days after the circumstance mentioned in the Respondent's letter of March 30, 2007 became known to counsel for the Respondent.

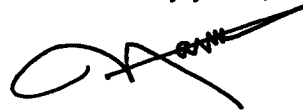
As we understand it from the correspondence that we have received from you and the parties, you are representing or assisting parties in procedures before the Inter-American Commission on Human Rights and the United Nations Committee on the Elimination of Racial Discrimination. It is our understanding that these procedures are ongoing and are for evaluating compliance by the Respondent with international human rights norms. The present proceeding in which you are serving as arbitrator similarly aims at the evaluation of compliance by the Respondent with its international commitments (under the NAFTA). Without in any way questioning your integrity or competence as an arbitrator, we have, in view of their basic similarity, concluded that representing or assisting parties in the first set of procedures would be incompatible with simultaneous service as arbitrator in the NAFTA proceeding.

In another proceeding under the UNCITRAL Arbitration Rules, we concluded, as appointing authority, that a challenged arbitrator's lobbying of the respondent State would be incompatible with his simultaneous service as arbitrator in the proceeding. We therefore wrote to the arbitrator, with a copy to the parties and the other arbitrators, asking the challenged

arbitrator to inform us, before taking a decision on the challenge, whether the arbitrator would continue to act as lobbyist during his service as arbitrator.

By the present letter, we likewise ask that you inform us whether you will continue to represent or assist parties in the above-mentioned non-NAFTA procedures during your service as arbitrator in the present NAFTA proceeding. Our decision on the challenge will be made once we receive your response.

Sincerely yours,



Nassib G. Ziadé
Deputy Secretary-General

cc:

Mr. Fali S. Nariman
Mr. John R. Crook

cc:

Grand River Enterprises Six Nations, Ltd.,
Jerry Montour, Kenneth Hill and
Arthur Montour
c/o Mr. Todd Grierson-Weiler
Calgary, Alberta, Canada
and
Mr. Robert Luddy
Windels Marx Lane & Mittendorf LLP
New York, NY
and
Mr. Arif Hyder Ali
Crowell & Moring LLP
Washington, D.C.
and
c/o Mr. Leonard Violi
Law Offices of Leonard Violi, LLC
Mamaroneck, NY
and
c/o Mrs. Chantell MacInnes Montour
Inch Hammond Professional Corporation
Hamilton, Ontario, Canada

United States of America
c/o Ms. Andrea Menaker
Chief, NAFTA Arbitration Division
Office of International Claims and
Investment Disputes
2430 E Street, N.W.
Suite 203, South Building
Washington, D.C. 20037-2800