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 Claims Process
 79 Wellington Street West
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Attention: Mr Paul Bishop

Without Prejudice
 Montreal May 3rd 2010

Re: Eriberito Di Paolo & Rita Blondin vs. The Gazette, a division of Canwest

Dear Sirs:

We represent the above named employees of the Gazette, a division of Canwest who have mandated us to submit their claim under the present claims process.

Our clients, have been working as typographers for the Gazette since the 1980s and are signatory to two (2) triparty agreements, signed in 1982 and 1987, by the Gazette, our clients and their union. The aforementioned agreements were negotiated in order to guarantee our clients' job security until the age of 65 in exchange for the Gazette's right to introduce technological changes in the work place, the whole, as may be seen from the first and second annexes, copies of the agreements.

It must be noted that as early as 1991, The Gazette had asked and the Quebec Court of Appeal acquiesced to validate the aforementioned agreements in another labour dispute, thus guaranteeing job security until the age of 65.

Despite the aforementioned agreements signed by the Gazette, the typographers were locked out as early as 1993. At the end of the first lock out in August 1994, 51 of the 62 remaining employees from the initial number of 200 typographers eventually opted for an early retirement scheme offered by the Gazette but eleven typographers chose to continue working at the Gazette of which two are represented by our firm. Therefore, over 90 percent of the work force of the composing room was eliminated.

Despite being bound by the terms of the aforementioned triparty agreements which guaranteed our clients' job security and related salary and

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benefits and required that the Gazette submit to an exchange of best final offers with the union during labour negotiations, the Gazette refused to abide by the terms of the aforementioned agreements and imposed several lock-outs on the typographers which lasted from May 1993 to May 2002, in order to deprive them of their salary and livelihood.

As noted by the Court of Appeal, the arbitrator accepted the proposals made by the union and the 11 employees according to which the two agreements signed in 1982 and 1987 had survived the expiration of the collective agreement in 1996 and the declaration of a lock-out, the whole, from page 12 of the 1999 decision.

In 1999, in a landmark decision by Quebec's highest tribunal, the Quebec Court of Appeal, the Gazette was ordered to abide by the terms of the aforementioned triparty agreements and to submit to the process of exchanging best final offers in order to end the labour dispute and its lock-out, as may be seen from the third annex enclosed herewith.

«In the case at bar, the two(2) agreements were signed by three parties, the employer, The union and the 11 complainants. As the arbitrator pointed out, the effect of these proceedings is unusual but is nonetheless the wish of the parties. The union and the employer created vested rights for the typographers, including the right o job security until the age of 65, a salary adjusted to the cost of living and a compulsory arbitration mechanism. Nothing in the law precludes such a solution. », as may be seen from page 26 of the decision (we have underlined)

Also, the Court reiterates and recognizes that the typographers were given vested rights and a job guarantee until the age of 65.

«To ensure the permanence of the guarantees given the employees, the parties agreed not to raise the objects of the agreements during future negotiations but to keep them in force until the last employee concerned had reached the age of 65. These agreements in keeping with the wishes of the parties, were integrated into the collective agreements, including that of 1993-1996, along with the introductory clause stating that the civil effects of the agreements would be preserved but would only come into effect outside the collective agreements », as may be seen from page 23 of the decision.

Also, in its page 29, its second paragraph:

« The three parties to the agreements expressly stated that the working conditions set out in the agreements and reproduced in the collective agreements were to remain in force until all the employees contemplated by the agreements had stopped work, as long as they were still union members in good standing »

Also, in confirming the arbitrator's findings, the court states on its page 30:

« In interpreting the textes submitted to him, the arbitrator was justified in concluding that the obligatory process for renewing the collective agreements provided for in article XI of the 1987 agreement had not been terminated by arbitrator Leboeuf's award, and that the employer failed to meet its obligations when it did not respond to the union's request on April 30th 1996 that it submit its best final offers »

Later in its decision, the court defines the fault committed by the Gazette in declaring a lock-out and remits the case to an arbitrator to determine the quantum of the damages:

« It may be that the lock-out was unduly prolonged by the employer's refusal to exchange best final offers as the union asked it to do within the time period provided for on April 30, 1996, and that the employees are accordingly entitled to damages. That will be for the arbitrator to decide », as may be seen from page 31 of the decision (we have underlined)

However, following arbitration decisions were appealed culminating in the 2008 decision by the Court of Appeal of Quebec which again ordered the return of the file to arbitration in order for the arbitrator to render a decision in accordance with the 1999 and 2003 rulings of the Court of Appeal which had ordered payment of damages to the typographers resulting from The Gazette's breach of its contractual agreements:

« I therefore grant the appeal with costs of both courts against the Gazette, annul the judgment of the Superior Court, grant the Motion in cancellation of the petitioners and order that the file be returned to arbitrator André Sylvestre in order for him to act according to our judgments dated December 15th 1999 and August 6th 2003 », as may be seen from last page of the 2008 Court of Appeal ruling, in annexe seven.

In its 2008 decision, the court again reiterated Gazette's civil liability for damages caused by the imposition of its lengthy lock-out, as may be seen from page four, paragraph 24 of its decision:

« This point being made, it is important to note that our court, in its 1999 ruling, had clearly identified the contractual fault committed by The Gazette when it ignored the terms of article XI of the last triparty agreement of 1987 » (We have underlined)

It is clear from the aforementioned ruling and the ensuing decisions that its failure to get rid of the last of its typographers made the Gazette wage a legal warfare against its own employees which is continuing to this day due to numerous appeals, contestations and claims filed against the typographers and among them, our clients.

The last hearing before the arbitrator did not result in a ruling and the union and our clients have filed a motion for another arbitrator to be named. As another sign of the Gazette's bad faith, it is also contesting that motion.

Forty six (46) decisions have been rendered by various levels of tribunals since the start of this legal battle which has been caused by the Gazette's aforementioned fault, actions and omissions which have been confirmed eleven years ago by the highest tribunal of the Province. This matter has reached the Quebec Court of Appeal three (3) times with one leave, in 2000, to appeal to the Supreme Court filed by the Gazette which was denied, as may be seen from the forth annexe enclosed herewith.

The list of decisions are also enclosed herewith, as may be seen in annexe five (5) with references.

Under Quebec civil law, waging a legal battle against individual entities with little resources is punishable by imposition of hefty penalties and damages, as may be seen from the precedent set in a recent case involving the CIBC, the whole, from the copy of the decision of the Montreal Superior court, as may be seen from our sixth annexe whereby the CIBC was ordered to pay among other damages, \$1,500,000 in punitive damages.

As may be seen from the above summary of the legal battle imposed on our clients by the Gazette, and the subsequent establishment of its fault and

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liability by the Court of Appeal of Quebec, our clients are fully justified to claim and be granted damages against the Gazette for their loss of salary and benefits, including retirement and pension benefits for their moral and punitive damages in accordance with the law.

The actions of the Gazette not only contravened agreements signed by its own managements but they were also in breach of Quebec labour laws, namely the Labour Code, amended in 1994, which state that all annexes are valid until their stated duration, namely the 1982 and 1987 agreements, when signed, are deemed to be part of and incorporated into collective labour agreements.

An actuary report has been prepared in 2008 by our clients, as may be seen from seventh annexe, detailing their damages. However, due to the interest accumulated on the capital since 2008, the aforementioned total amount at this time is in the amount of \$6,599,074.30 for Mr. Eribero Di Paolo and \$6,413,714.30 for Ms. Rita Blondin.

The detailed calculation of the amounts are explained in the actuarial report prepared by Luc Berlinguette on June 26th 2008 to which we applied a conservative five(5%) percent interest rate for 2009 and 2010, the whole, from annexe number eight, attached to the present claim.

The Gazette's actions and misuse of legal procedure dates back to 1993, as established in the above. Due to the volume of the decisions, we have solely referred to a small portion of the decisions rendered. It is clear that The Gazette has been acting in bad faith toward its employees. The new Quebec Code of Civil Procedure, amended in 2009, prohibits this kind of behaviour and provided for remedies which are enumerated as follows:

In its article 54.4, the Code authorizes the Courts to order such parties to pay damages, namely legal fees and punitive damages:

«54.4 On ruling on whether an action or pleading is improper, the Court may order a provision for costs to be reimbursed, condemn a party to pay, in addition to costs, damages in reparation for the prejudice suffered by another party, including the fees and extrajudicial costs incurred by that party, and if justified by the circumstances, award punitive damages.»

It must also be noted that two (2) other claims for lock-outs are still pending before arbitration which relate to 1993-1994 and 2000-2002 lock-outs, those claims are also yet to be resolved and stem from The Gazette's fault, actions and omission with respect to the breach of the aforementioned labour agreements with our clients.

For further information, please communicate with our office.

Yours truly,



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