

File No. 04-019

Decision No.

**IN THE MATTER OF AN APPLICATION UNDER SECTION 4 OF THE
LABOUR ACT (APPLICATION FOR RECONSIDERATION)**

BETWEEN:

**UNITED FOOD AND COMMERCIAL WORKERS UNION,
LOCAL 864, et. al.**

APPLICANTS

AND:

POLAR FOODS INTERNATIONAL INC., et. al.

RESPONDENTS

**COUNSEL FOR THE COMPLAINANTS
COUNSEL FOR THE RESPONDENTS**

Eugene P. Rossiter, Q.C.
Murray L. Murphy

DECISION

Background

The Applicants Application for Reconsideration was received by the Board on May 14, 2004. The grounds of this Application for Reconsideration are set out in paragraph 3 thereof as being that the Board failed to properly consider material facts and evidence presented, before making certain determinations with respect to:

1. Findings of Unfair Labour Practices Complaints, as alleged; and/or
2. Ordering certain aspects of the remedy granted and awarded in the decision.

The specific aspects of the decision for which reconsideration was requested were outlined in paragraph 4 of the Application for Reconsideration to the effect that:

- a. Failure to find the adverse effects suffered by George Pollard as a result of the unfair labour practice committed upon him by Milton MacKay in relation to Complaint No. 01-004 and address the appropriate remedy;*

- b. *Failure to find evidence before the Board to support the finding that the Respondent had committed an unfair labour practice complaint in relation to Complaint No. 01-004;*
- c. *Failure to find that management of the Respondent actively approved or participated in an anti-union petition and, as such, failed to establish an unfair labour practice complaint in Complaint No. 01-015;*
- d. *Failure to find that the student rates were frozen during a period of a statutory wage freeze as alleged in Complaint Nos. 01-015 and 01-020;*
- e. *Failure to find that there was an nexus or connection between anti-union animus of the Respondent in the failure for Ms. Emma Rideout to be rehired as alleged in Complaint Nos. 01-15 and 01-025;*
- f. *Failure to find that the alleged statements of Milton MacKay to Eileen Anderson constitute an Unfair Labour Practice in relation to Complaint No. 01-030;*
- g. *Failure to find that the comments and statements by Jack Quinn at a buyers' meeting constitute an unfair labour practice in Complaint No. 01-004;*
- h. *Failure to find that parts of the documentation from Polar Foods to the Province of Prince Edward Island soliciting government support constituted an unfair labour practice in Complaint Nos. 01-014 and 01-015;*
- i. *Failure to make an appropriate remedy with respect to the January, 2001 lay-offs consistent with the evidence before the P. E. I. Labour Relations Board, that is, the evidence as presented by the individual workers with respect to:*
 - (i) *their normal hourly rate;*
 - (ii) *the hours of work they expected to work on a weekly basis in the winter of 2001; and*
 - (iii) *the number of weeks they expected to work during the winter of 2001; and, more specifically, erred in making an award that each individual is entitled to receive wages at the pay rate they were in receipt of at the time of the lay-offs, plus 4% vacation pay, and less C.P.P. contributions, E.I. premiums, and income taxes payable, which was to be remitted to the proper authorities; and to be paid those wages for the number of hours per week which is equal to the greater of either the hours worked in the week immediately prior to the January 22, 2001 lay-off or the average hours worked in their preceding eight weeks at Beach Point plant and their preceding six weeks at Souris plant, plus 4% vacation pay, less C.P.P. contributions, E.I. premiums and income taxes payable.*

The hearings respecting these matters between the parties convened on the 19th day of January, 2005. Written submissions were received from the Respondents on the 25th day of January, 2005, and from the Applicants on the 1st day of February, 2005.

Following initial deliberations of the Panel, Legal Counsel for the parties provided further written submissions; from Counsel for the Respondent the submission was dated March 24, 2005 and from Counsel for the Applicants the submission was dated March 25, 2005.

Cases Considered

1. ***Trigen Energy Canada Inc. and Trigen PEI v. The International Brotherhood of Electrical Workers, Local 1432*** [23 June 1999] PEILRB No. 99-005;
2. ***Borowski v. Canada (Attorney General)***, [1989] 1 S.C.R. 342;
3. ***Myers v. Walters Cycle Co.*** (1990), 71 D.L.R. (4th) 190 (Sask.C.A.);
4. ***United Food and Commercial Workers Union, Local 864, et al. v. Polar Foods International Inc., et. al.***, [29 March 2004] PEILRB;
5. ***Trigen Energy Canada Inc. and Trigen P.E.I. v. The International Brotherhood of Electrical Workers, Local 1432***, [21 April 1999], PEILRB No. 99-005;
6. ***Town of Kensington v. Canadian Union of Public Employees, Local 1174***, [8 March 2000] PEILRB No. 99-015;
7. ***United Food and Commercial Workers Union, Local 864 v. Polar Foods International Inc., carrying on business under the firm name and style of Polar Fisheries***, [22 October 2002], PEILRB No. 01-029;
8. ***Pharmaphil, a Division of R.P. Scherer Canada Inc.***, [1994] OLRB Rep. June 770;
9. ***Fort William Clinic***, [1997] OLRB Rep. May/June 406;
10. ***Wal-Mart Canada Inc. v. Retail Warehouse Canada, Local 700***, [1998] B.C.L.R.B. 515,60.10.00-01;
11. ***Re Welland County Roman Catholic Separate School Board and Ontario English Catholic Teachers Association***, (1992), 30 L.A.C. (4th) 353;
12. ***Memorial University of Newfoundland v. Memorial University of Newfoundland Faculty Association***, [1997] N.J. No. 188 (C.A.);
13. ***Galcor Hotel Managers Ltd. v. Imperial Financial Services Ltd.***, 1993 CarswellBC 172 (C.A.);
14. ***National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada) v. Perrin's Clinton View Lodge Ltd.***, [1 May 1996] PEILRB No. 96-008; and

15. *Retail, Wholesale and Department Store Union International v. Perfection Foods Limited*, [22 February 1994] PEILRB No. 94-003.

Statutes Considered

1. *Labour Act*, R.S.P.E.I. 1988, Cap. L-1, Sections 4 and 10..
16. *Labour Act, Regulations* (EC 521/71) Sections 18.
17. *Employment Standards Act*, R.S.P.E.I. 1988 Cap. E-6.2, Sections 1, 2, 4, 30 and 31.

Texts Considered

1. Adams, *Canadian Labour Law*, Aurora, Canada Law Book, 1985, pp. 568 - 569.

Evidence

The written evidence before the Board on these matters consisted of a sworn affidavit of Mr. Joseph Healey, a Vice-President of Ernst & Young Inc. of its Saint John, New Brunswick office, dated the 18th day of January 2005, which was filed as Exhibit R-1. Also filed by the Respondents were two documents identified as Document #1 and titled Calculation of March 29, 2004 Prince Edward Island Labour Relations Board Order, and Document #2 which was titled Calculation of March 29, 2004 Prince Edward Island Labour Relations Board Order Re Employment Insurance Benefits.

Issues

The issues that are to be considered and decided by this Board are listed as follows:

1. Whether the Board should grant the Respondents' preliminary motion to dismiss the Application for Reconsideration on the basis of the application of the doctrine of mootness, or that the Application for Reconsideration fails to meet the three-fold threshold test;
2. Whether the Board should vary its decision with respect to its findings of Unfair Labour Practices Complaints; and/or
3. Whether the Board should vary its decision with respect to its Order as to certain aspects of the remedies sought and granted.

Preliminary Matters

The Board will first consider and rule on the Respondents' preliminary Motion, namely, that the Application for Reconsideration should be dismissed without further consideration.

The law in the matter of the application of the doctrine of mootness would seem to be well settled as both parties relied on the leading case of *Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342. The Supreme Court of Canada decision states that:

The doctrine of mootness is an aspect of a general policy or practice that a court may decline to decide a case which raises merely a hypothetical or abstract question. The general principle applies when the decision of the court will not have the effect of resolving some controversy which affect the rights of the parties. If the decision of the court will have no practical effect on such rights, the court will decline to decide the case. ...

The approach in recent cases involves a two-step analysis. First it is necessary to determine whether the required tangible and concrete dispute has disappeared and the issues have become academic. Second, if the response to the first question is affirmative, it is necessary to decide if the court should its discretion to hear the case.

It would also seem to be trite law that in considering the second stage of this two-step analysis that there are three factors that must be considered, namely:

1. The existence of an adversarial context,
2. The concern for judicial economy, and
3. The need for courts and tribunals to recognize their proper law-making function.

Considering the first step of the two-step analysis set out in the *Borowski* case, this Board finds that indeed there does remain a controversy between these parties, in particular in relation to the matters related to the remedies ordered by the Board, that amounts to a tangible and concrete dispute. Therefore the Board concludes that on the first step of the analysis it is obvious that the doctrine of mootness has no application in the matters currently before the Board. The Board will not dismiss the matters on the basis of the doctrine of mootness as requested by the Respondents.

Turning to the second ground of the Motion to Dismiss, being that the Application for Reconsideration fails to meet the three-fold threshold test, the Board must conclude that this argument serves to beg the very question as to whether there are grounds for reconsidering and

varying the decision of the Board. The Board must reject each of the submissions of the Respondents to summarily dismiss the Application for Reconsideration.

The Respondents' Motion to Dismiss is denied.

Decision

The Board has given careful consideration to the written pleadings placed before the Board, the written testimony of the sole witness, and the oral and written submissions presented in these matters in the course of reaching its decision.

The Law

The legislation grants this Board the power to reconsider its decision by virtue of the provisions of Section 4(1) of the **Labour Act** which states as follows:

(1) ... but nevertheless the board may at any time, if it considers it advisable to do so, reconsider any decision, interim order, order, direction, declaration or ruling made by it and vary or revoke any such decision, order, direction, declaration or ruling.

Once again the Board will state, as it did in **Trigen Energy Canada Inc. and Trigen PEI v. The International Brotherhood of Electrical Workers, Local 1432**, that the exercise of these powers are to be considered in light of the three (3) part threshold test which is set out in Section 18 of the **Labour Act, Regulations**, to the effect that:

Where it appears that the Board has made a decision in ignorance of some material fact, or by reason of some technical irregularity, or if there is good reason for the Board doing so, the Board may entertain an application to reconsider a decision or order made by it under the Act.

Conclusion

The Applicants, in the course of the hearing, have withdrawn their request that the Board's entertain a reconsideration of its determinations as set out in paragraph 4(d) of the Application for Reconsideration.

In its deliberation of the case set before it, the Board does not find that there has been any evidence presented nor any argument that has been presented that would establish that the Board has acted in ignorance of some material fact. While the Applicants are dissatisfied with some of the inferences drawn by the Board from the evidence presented in the course of the hearings of the matters, by their own admission, the Board has most certainly drawn inferences, in the course of its determination of the matters, with which they were entirely satisfied. The allegations of failures of the Board to draw inferences that the Applicants preferred to have been drawn cannot form a basis upon which the Board would be able to exercise, nor be disposed to exercising, its discretionary power to vary its decision.

The Board must also find that, upon what evidence and argument that has been presented, that neither does there exist any basis upon which the Board could conclude that there is some technical irregularity, as contemplated in the enabling legislation, that would merit a reconsideration pursuant to Section 4 of the *Labour Act*.

These two considerations and conclusions apply to each of the particular requests that the Board entertain reconsideration of the determinations referenced in paragraphs 4(a), (b), (c), (e), (f), (g) and (h) of the Application for Reconsideration.

Turning to the third leg of the threshold test, the Board is however moved to find that, in the circumstances of this case, there is good reason for an exercise of its discretionary power to embark on a reconsideration of its decision of March 29, 2004. As with the exercise of any discretionary power, the Board clearly is mandated to do so only in the appropriate circumstances. The Board finds that the submissions of the Applicants have satisfied this third aspect of the threshold test. Following its careful consideration of all the circumstances of this case, the Board finds that there is good reason to allow for the exercise those discretionary powers in the instances hereinafter set out.

While not specifically entered as a ground for the Application for Reconsideration, among the arguments raised by the Applicants was the submission that the effect of the Board's decision of March 29, 2004, is to add an additional requirement of "Adverse effect" onto the essential elements of the finding of a commission of an unfair labour practice. It is of great concern to the Board that its decision is open to an interpretation that would misrepresent the state of the law as it relates to the finding that an unfair labour practice has been committed.

The decision must be read in its whole context. The Respondents, in the course of the hearing of the Unfair Labour Practices Complaints, had in fact admitted, through the testimony of Mr. Paul Evoy, that the Respondent company's anti-union animus toward the Union organizing activities was the reason for the 22nd day of January, 2001 lay-offs at the Souris and Beach Point Divisions. That admission and the remedies that flowed from it including the certification of the

two plants and all the other remedies outlined in the decision of the Board dated March 29, 2004, have to be taken into consideration in assessing the Board's decision. It was not the intent of the Board to add another essential element to the test of whether there had been unfair labour practice. That being said, it remains that it is possible, as argued by the Applicants, that in some future case that the Board might well be faced with the argument that the decision of March 29, 2004 does serve to create yet another essential element of the proving of an adverse effect in order to succeed in an allegation of an unfair labour practice. The Board hereby rectifies the situation of the creation of some doubt as to whether such an essential element must be proved by categorically stating that this simply is not the case. The state of the law as it relates to Unfair Labour Practices Complaints has not and is not changed and future submissions to such an effect will assuredly be futile.

There are other matters dealt with in the Board's decision of the 29th of March, 2004, which must be clarified. These are apparent in the submissions of both parties and best summarized in paragraph 4(i) of the Application for Reconsideration which states:

4(i) Failure to make an appropriate remedy with respect to the January 2001 lay-offs consistent with the evidence before the P.E.I. Labour Relations Board, that is, the evidence presented by the individual workers with respect to:

- (i) their hourly rate;*
- (ii) the hours of work they expected to work on a weekly basis in the winter of 2001; and*
- (iii) the number of weeks they expected to work during the winter of 2001;*

and, more specifically, erred in making an award that each individual is entitled to receive wages at the pay rate they were in receipt of at the time of the lay-offs, plus 4% vacation pay, and less C.P.P. deductions, E.I. premiums, and income taxes payable, which was to be remitted to the proper authorities; and to be paid those wages for the number of hours per week which is equal to the greater of either hours worked in the week immediately prior to the January 22, 2001 lay-off or the average hours worked in their preceding eight weeks at Beach Point plant and their preceding six weeks at Souris plant, plus 4% vacation pay, less C.P.P. contributions, E.I. premiums and income taxes payable.

The Board's decision of the 29th of March, 2004, has created confusion on the part of all parties as to whom does the Order apply.

The Applicant Union is the certified bargaining agent for all of the employees of the Souris and Beach Point plants and has filed unfair labour practice complaints on behalf of all employees of those plants. Accordingly, the Board has jurisdiction over all of those individuals, whether named or not named, and the Board can, in fact, impose a remedy providing the Board has sufficient evidence to do so. As the Board pointed out in its Decision involving these parties on the 24th of April, 2002, the Applicant Union is a certified bargaining agent for the employees at the Beach Point and Souris plants.

By virtue of this Decision, the Board is making a determination as to the number of weeks that the evidence demonstrates the individuals would have been expected to work at either of the Beach Point or Souris plants. This determination will necessarily apply to individuals who have not testified.

However, while the Board recognizes that the Applicant Union is the certified bargaining agent of the employees in question at the two plants, the Board is cognizant of the fact that the Board does not have evidence from all individuals who were laid off in relation to the hours of work that they expected to work each week and what their normal rate of pay was. Since this evidence is crucial to the Board making an award, the Board is unable to make a specific award in relation to individuals who did not testify.

As was stated in the Board's decision of the 29th of March, 2004:

A . . . The Board will obviously entertain the submissions of any party affected by the January, 2001 layoffs at the Beach Point and Souris divisions of the Respondent company who have not made complaints against the Respondent company and/or have not testified in these matters.

The Board retains jurisdiction to allow the Applicant Union to provide evidence in the form of sworn Affidavit or other sworn documentation outlining the normal hourly rate of pay of the individual in question and the hours that individuals expected to work on a weekly basis. In the event this information is provided to the Board, the Respondent would have an opportunity to rebut in the form of sworn evidence.

The Schedules "B" and "C" annexed to the March 29, 2004, decision were interpreted by the Board to be a comprehensive list of all employees who were affected by the January 22, 2001 layoffs. The lists were included to identify all persons with a claim or potential claim. From its reconsideration of the evidence however, the Board now finds that these schedules were in error in that there were names omitted from the lists. Accordingly, the Revised Schedules "B" and "C" are annexed hereto.

In oral and in written submissions, it was contended that the Board erred in its appreciation of the evidence with respect to the number of weeks of work that would have been carried out at each of the plants but for the January 22, 2001 layoffs.

At page 25 of its decision of March 29, 2004, this Board wrote:

The Complainants sought to be compensated from the time of the lay-off in January 2001 to the commencement of the Spring lobster season in May of 2001 some twelve to fourteen weeks. The Respondents took the position that the compensation should be based on the product that was on hand in the plant at the time of the lay-off and the time it would take to process that product or approximately two weeks. In short, the Board finds that neither of these positions is a tenable one.

Taking into consideration all of the available evidence, the history of the usual seasonal operations in these plants for this time of year, the evidence of what product was on hand and product that could likely come available for processing in the plants, the Board has concluded that it is most likely, but for these unlawful closures, the plants would have remained in operation for a further eight weeks in relation to the Beach Point plant, namely from Monday, January 22, 2001 to Friday, March 16, 2001, and a further six weeks in relation to the Souris plant, namely from Monday, January 22, 2001 to Friday, March 2, 2001. The employees in these plants on the January 22, 2001 are entitled to be paid the wages they would have earned for those respective periods.

Upon reconsideration, if the Board is in error in any respect in relation to its written decision, it was probably wrong to have been too subtle in its approach to addressing this point. There were in fact submissions seeking fifteen weeks compensation which would have carried one week into the month of May, a week in which the plants had re-opened for the spring lobster season. It would have been an impossibility to legally compensate complainants for a week of work for which they had already been re-hired, worked and had been paid. There were a number of employees who testified before the Board that they had fully expected to be laid off at that time of year. This would mean no compensation would be owed. Obviously neither of these positions are tenable. The predictions of likely weeks of work told to employees by various management personnel were described by Mr. Evoy as being more in the character of enticements for out-of-province workers to remain available for work here in the province than in any way a knowledgeable opinion on the length of the winter work schedule. These predictions were mostly likely loose generalizations of time covering the period from December 2000 on into 2001. Historically the plants usually did not remain open for the months of February, March and April and a re-fit in the month of April in preparation for the Spring lobster season. The ability to buy product to keep plants open was a tenuous possibility at best. With so many contingencies at play, it is difficult to reach a categorical finding on the length of time each of the plants would have remained open. The fact that a decision may be a difficult one to reach has never relieved an adjudicator of their responsibility to reach a final resolution of the matter. All of that having been said, upon its reconsideration of this issue and in light of the Applicants' strenuous and moving submissions, the Board has concluded from the evidence of the numerous employees who testified that a more equitable finding would be that, but for the unlawful closures, the plants would have remained in operation for a further twelve (12) weeks in relation to the Beach Point plant, namely from Monday, January 22, 2001 to Friday, April 13, 2001, and a further seven (7) weeks in relation to the Souris plant, namely from Monday, January 22, 2001 to Friday, March 9, 2001. Therefore, the Board finds that the employees in these plants on January 22, 2001 who testified before the Board are entitled to be paid the wages that they would have earned for those respective periods.

Turning to the issue of calculation of the lost wages due the qualifying individuals, the Applicants' have cited a number of instances in their written submission where it is argued that it is impossible to calculate the average hours worked and therefor impossible to calculate the hours of pay owed to each entitled individual. The Respondents argued on the other hand that they were

able to produce a chart of their calculations which was submitted as Document #1 at the hearing in January 2005. However, it would seem that these calculations may have been in part based upon information that had not been tendered into evidence before the Board. As such, these calculations cannot be used by the Board. The Applicants have since produced their own tables summarizing their position on the matters of calculations of the lost wages resulting from the January 21, 2001 layoff.

As with most of the issues in this case, there is a divergence of evidence and interpretations of the evidence regarding the specific calculation of the loss of wages. The Board is most appreciative of counsel's preparation of the set of tables which so effectively culminates the relevant points of this issue. The most efficient way the Board finds to address all of the evidence, written and oral, from all of the witnesses and documentation filed, and all of the submissions, both oral and written, is for the Board to produce its own table for the specific financial matters. These tables are annexed hereto as Schedule "D" in relation to the Beach Point Division plant and Schedule "E" for the Souris Division plant.

As to hourly rates of pay, the Board has relied on both the written record and oral testimony to establish the applicable rates of pay. There were a number of instances where the written record reveals a higher or lower hourly rate of pay than did the oral testimony. In both of those types of instances, the Board concluded the accuracy of records created in January 2001 would be more reliable and therefore preferred the written record (Record of Employment, Exhibits R-8 and R-9) with respect to hourly rates. In terms of average hours worked, there were instances where the Board's appreciation of the evidence resulted in either a higher or lower calculation of average weekly hours than was included in the submissions. The Board has concluded that the more equitable resolution is to adopt the higher of the various calculations in each of these instances. For those individuals where the calculation of average hours worked is difficult, then the loss of wages will be calculated on the basis of forty hours of work for the number of weeks work ordered for the respective plant at the rate of pay for which that individual was hired, and if that rate is undeterminable then at the rate of \$7.10 per hour. Schedule "D" annexed hereto is the table prepared by the Board in relation to the Beach Point plant and Schedule "E" relates to the Souris division. Those schedules are comprised of two sections, namely a section dealing with those individuals who testified before the Board and another section dealing with those individuals who were employed by the Respondent but who did not testify.

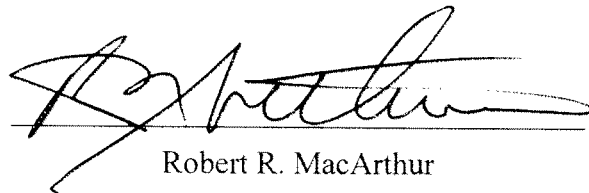
The Board awards the amounts outlined in Schedules "D" and "E" to those employees who testified before the Board.

In relation to the employees who did not testify, if evidence is provided to the Board from these other individuals who have not testified before the Board, it would be expected that the findings of the Board in relation to the number of weeks of work missed at the respective plants would apply to such claims as previously indicated in the Board's decision of the 29th of March, 2004.

As noted above, Schedules "D" and "E" also contain a section dealing with the individuals who were employed by the Respondent but who did not testify. The Board has reviewed the documentary evidence before it and has calculated the amount the Board believes those employees who did not testify are entitled to, in the event sworn evidence from those individuals is provided to the Board. In the event the Applicant Union does provide such evidence from those individuals to the Board, as the Board has previously noted, the Respondent will have an opportunity to rebut said evidence. In the absence of any rebuttal from the Respondent, the Board would expect that it would award the amounts outlined in Schedules "D" and "E" respectively to those individuals who have not testified.

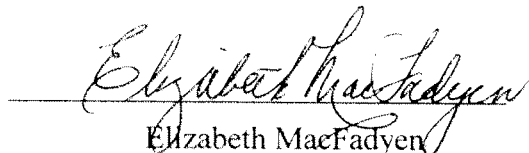
In summary, the Board finds that this Application for Reconsideration is granted in part. The Board rules accordingly. The Decision of March 29, 2004 is hereby amended in accordance with the reasons and rulings as set out above.

The Board also renews its offer to the parties that each of them is free to consult further with the Board for any further clarification of the intent of the Board in any aspect of the Board's reasons for its decision or the elaboration on any matter whatsoever.



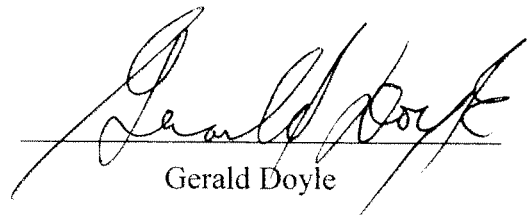
Robert R. MacArthur

Chair



Elizabeth MacFadyen

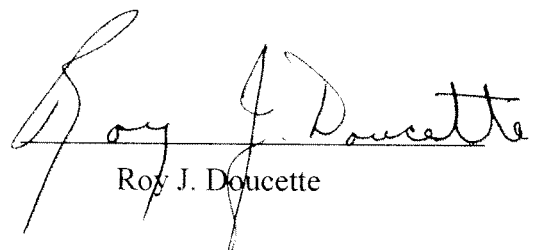
Member



Gerald Doyle

Member

This Decision made by the Prince Edward Island Labour Relations Board on the 24th day of October, A.D., 2005, and issued under the hand of its Chief Executive Officer on the 24th day of October, A.D., 2005.



Roy J. Doucette

REVISED SCHEDULE "A"

BREAKDOWN OF EMPLOYEES, COMPLAINANTS AND WITNESSES

Consolidated Complainants: 60

Jamie MacKay	004, 028	Donald Caissie	026
Paul Penney	004	Lucy Caissie	022
Ron Wilson	004, 014	Vimy Gregory	004, 014, 028
Alan Johnston	004, 014	Cathy Hennigar	022
Michelle Bryand	004, 014	Agnes Skinner	022
Howard Moore	004, 014	Hannah Skinner	022
Shawn Stewart	004, 028	Beverly Creamer	022
Richard MacKay	004	Rebecca Skinner	021, 022
George Pollard	004	Tom Skinner	022
Dale MacKay	014	Georgina Gregory	022
Dianne Rafter	004	Rosalie Jamieson	022
Neil Brydon	014	Bessie Skinner	022
Trudy Jamieson	004	Jackie Cluney	026
Brooke Crant	004	Bernadine Fall	026
Rhonda MacKay	014	Olive Skinner	026
Glen MacLeod	004, 014	Adam Kendall	026
Donna Singleton	014	Steven LeBlanc	022
Errol White	014	Francis Madore	026
George Ferguson	014	Rodney Ford	026
Steven MacKay	014	Terry Peters	022
Deborah Papp	014	Lowell Gordon	004
Randy Richards	004	Robert Mills	022
Steven Butler	014	Susan Winters	022
Joan MacKay	014	Jocelyn Cheverie	026
Janet Gregory	014	Emma Rideout	025
Dominic Skinner	022	Bobby Rafuse	022
Linda Ronaghan	026	Jean McCormack	026
Kelly Ronaghan	026	Shannon Perry	026
Lorraine Ford	026	Margaret Jarvis	026
Josh Jarvis	026	Kenny Peters	022

Unconsolidated Complainants: 49

Matthew Rice	Sheldon Gauthier (02- 019	Donna Sheehan
Lisa Caissie	and 02-042)	Ken MacDonald
Tara Rice	Coralee Carter	Scott Guignard
Ben Moore	Kathy MacDonald	Josh Skinner
James Gordon	Norma Jean Guignand	Joseph Dowling
Heather Pollard	Edward Rice	Kirby VanInderstine
Betty Young	Brett White	Ivan Young
Tara White	Jeannie MacKinnon	Blair MacLeod
Tina Young	Greg Young	Carolyn White
Alvin Young	George Schurman	Patricia Benoit
Shirley Benoit	Shawn Gauthier	Darrell Regular
April Benoit	Donna Schurman	Randy Richards (<i>also</i>
Angel White	Greg Moore	<i>named in 01-014)</i>
Derek Ronaghan	Cory Holland	Joan MacKay (<i>also</i>
Colby Garlick	Daphne Sheehan	<i>named in 01-014)</i>
Chad Fall	Helen MacDonald	Lowell Gordon
Chris Carter	Crystal Anderson	
Michael MacCormack	Helen Callaghan	

Notes: Sheldon Gauthier: 02-019 pertains to 22 January 2001 lay-off; 02- 042 pertains to Student Rates

Randy Richards: 01-014 pertains to June 2001 lay-off, 02-012 pertains to 22 January 2001 lay-off

Joan MacKay: 01-014 pertains to June 2001 lay-off, 02-016 pertains to 22 January 2001 lay-off

Witnesses Who Are Not Complainants: 25

Dalvay Pollard	Danny MacDonald	Mark Gallant
Shawn MacLellan	Ryan Gallant	Melvin Burke
Matthew Moore	Kendall Schurman	Rodney Hennessey
Eileen Anderson	Peter Brydon	Jonathan Anderson
Ursula Simms	Angela Savoie	Jeremy Hebert
Allan Simms	Charlene MacAulay	William Drake
Sharon MacKinnon	Marlene Sheehan	Kevin Hanlon
Gregory Mahar	Jason Winters	
Lori MacEwen	Mark MacAulay	

Complainants Who Did Not Testify

Margaret Jarvis
Kenny Peters
Patricia Benoit
Darrell Regular

Employees Who Would Have Worked after 22 January 2001 but for the Lay-offs Who Neither Brought Complaints Nor Gave Evidence

Souris

Jason Arsenault	Adam MacIsaac
Eileen Bingle	Anne MacKinnon
Margaret Chaisson	Danny Nowlan
Barb Cheverie	Thomas Skinner
Esther Gillam	Michael Spencer
Carson Green	Gary Tassel
Karen Green	Rosena White
Mack MacDonald	

Beach Point

Gloria Acorn	Matthew La Costa
Dudley Bartlett	Carmen Lee
Patricia Benoit	Taylor Lush
Tony Benoit	Nicole Marian
Audrey Butler	Betty Moore
Cheryl Campbell	Corinne Moore
Michele Campbell	Darren Moore
Frank Clow	Desmond Osmond
Laverne Cuddy	Donna Penny
William Dort	Gail Redmond
Judy Fay	Daryle Regular
Eugene Ford	Angela Walsh
Trevor Gale	Alan White
Margaret Gordon	Chad White
Donna Herring	Jacqueline White

List of Employee Witnesses in Order of Appearance

1. Jamie MacKay
2. Paul Penney
3. Ron Wilson
4. Dalvay Pollard
5. Alan Johnston
6. Michelle Bryand
7. Howard Moore
8. Shawn Stewart
9. Richard MacKay
10. George Pollard
11. Dale MacKay
12. Dianne Rafter
13. Neil Brydon
14. Trudy Jamieson
15. Brooke Crant
16. Rhonda MacKay
17. Glen MacLeod
18. Donna Singleton
19. Errol White
20. George Ferguson
21. Steven MacKay
22. Deborah Papp
23. Randy Richards
24. Steven Butler
25. Joan MacKay
26. Janet Gregory
27. Dominic Skinner
28. Linda Ronaghan
29. Kelly Ronaghan
30. Lorraine Ford
31. Josh Jarvis
32. Donald Caissie
33. Lucy Caissie
34. Matthew Rice
35. Lisa Caissie
36. Tara Rice
37. Vimy Gregory
38. Cathy Hennigar
39. Agnes Skinner
40. Hannah Skinner
41. Beverly Creamer
42. Rebecca Skinner
43. Tom Skinner
44. Shawn MacLellan
45. Georgina Gregory
46. Rosalie Jamieson
47. Shannon Perry
48. Jean MacCormack
49. Bessie Skinner
50. Jackie Cluney
51. Bernadine Fall
52. Ben Moore
53. James Gordon
54. Matthew Moore
55. Olive Skinner
56. Adam Kendall
57. Steven LeBlanc
58. Francis Madore
59. Rodney Ford
60. Terry Peters
61. Eileen Anderson
62. Lowell Gordon
63. Heather Pollard
64. Robert Mills
65. Betty Young
66. Tara White
67. Tina Young
68. Alvin Young
69. Shirley Benoit
70. April Benoit
71. Angel White
72. Derek Ronaghan
73. Ursula Simms
74. Allan Simms
75. Colby Garlick
76. Chad Fall
77. Chris Carter
78. Mike MacCormack
79. Sharon MacKinnon
80. Sheldon Gauthier
81. Coralee Carter
82. Kathy MacDonald
83. Norma Jean Guignand
84. Susan Winters
85. Jocelyn Cheverie
86. Edward Rice
87. Gregory Mahar
88. Brett White
89. Jeannie MacKinnon
90. Lori MacEwen
91. Greg Young
92. Danny MacDonald
93. George Schurman
94. Shawn Gauthier
95. Ryan Gallant
96. Donna Schurman
97. Kendell Schurman
98. Greg Moore
99. Cory Holland
100. Peter Brydon
101. Daphne Sheehan
102. Helen MacDonald
103. Angela Savoie
104. Crystal Anderson
105. Helen Callaghan
106. Sharlene MacAulay
107. Marlene Sheehan
108. Donna Sheehan
109. Ken MacDonald
110. Scott Guignard
111. Josh Skinner
112. Joseph Dowling
113. Jason Winters
114. Mark MacAulay
115. Mark Gallant
116. Melvin Burke
117. Rodney Hennessey
118. Kirby VanIlderstine
119. Wayne Young
120. Ivan Young
121. Blair MacLeod
122. Jonathan Anderson
123. Jeremy Hebert
124. William Drake
125. Kevin Hanlon
126. Carolyn White
127. Emma Rideout
128. Bobby Rafuse

REVISED SCHEDULE "B"

**BEACH POINT EMPLOYEES WHO WOULD HAVE
CONTINUED WORKING BUT FOR 22 JANUARY 2001 LAY-OFF**

Individuals Who Testified

April Benoit
Shirley Benoit
Stephen Butler
Brooke Crant
James Gordon
Lowell Gordon
Vimy Gregory
Trudy Jamieson
Jamie MacKay
Richard MacKay
Shawn MacLennan
Ben Moore
Greg Moore
Mathew Moore
Paul Penney
George Pollard
Heather Pollard
Randy Richards
Allan Simms
Ursula Simms
Kirby Vaniderstine
Angel White
Tara White
Ron Wilson
Alvin Young
Betty Young
Greg Young
Ivan Young
Tina Young

Individuals Who Did Not Testify

Gloria Acorn
Dudley Bartlett
Patricia Benoit
Tony Benoit
Audrey Butler
Cheryl Campbell
Michele Campbell
Frank Clow
Laverne Cuddy
William Dort
Judy Fay
Eugene Ford
Trevor Gale
Margaret Gordon
Donna Herring
Matthew La Costa
Carmen Lee
Taylor Lush
Joan MacKay
Nicole Marian
Betty Moore
Connie Moore
Darren Moore
Desmond Osmond
Donna Penny
Gail Redmond
Daryl Regular
Angela Walsh
Alan White
Chad White
Jacqueline White

REVISED SCHEDULE "C"

**SOURIS EMPLOYEES WHO WOULD HAVE CONTINUED WORKING
BUT FOR THE 22 JANUARY 2001 LAY-OFF**

Individuals Who Testified

Crystal Anderson
Jonathan Anderson
Melvin Burke
Donald Caissie
Lucy Caissie
Helen Callaghan
Jocelyn Cheverie
Jacqueline Cluney
Beverley Creamer
Joey Dowling
Bernadine Fall
Rodney Ford
Lorraine Ford
Mark Gallant
Ryan Gallant
Shawn Gauthier
Georgina Gregory
Scott Guignard
Norma Guignard
Rodney Hennessey
Cathy Hennigar
Cory Holland
Rosalie Jamieson
Josh Jarvis
Adam Kendell
Steve LeBlanc
Mark MacAulay
Charlene MacAulay
Jean MacCormack
Ken MacDonald
Daniel MacDonald
Kathy MacDonald
Helen MacDonald
Lorie MacEwen
Jeannie MacKinnon
Blair MacLeod
Francis Madore
Greg Mahar
Robert Mills
Shannon Perry
Terry Peters
Robert Rafuse

Matthew Rice
Edward Rice
Kelly Ronaghan
Linda Ronaghan
Angela Savoie
George Schurman
Donna Schurman
Marlene Sheehan
Donna Sheehan
Thomas Skinner
Agnes Skinner
Josh Skinner
Olive Skinner
Bessie Skinner
Dominic Skinner
Rebecca Skinner
Thomas Skinner
Brett White
Carolyn White
Jason Winters
Susan Winters

Individuals Who Did Not Testify

Jason Arsenault
Eileen Bridges
Margaret Chaisson
Barb Cheverie
Esther Gillam
Carson Green
Karen Green
Margaret Jarvis
Mack MacDonald
Adam MacIsaac
Anne MacKinnon
Danny Nowlan
Kenny Peters
Michael Spencer
Gary Tassell
Rosena White
Sheldon Gauthier
Stephan Cheverie

SCHEDULE "D"

BEACH POINT

Employee	Sch. B List #	Evidence	Weeks	Hours Weekly	Hourly Rate / Weekly Salary	Avg. Weeks	Avg. Hours	Weekly Pay (including VP)	12 wks
Employees Who Testified									
V. Gregory	15	v		55	\$8.00 + V.P.		55,000	\$457.60	\$5,491.20
Jamie Mackay	20	v	10-11 wks 1	45-50	\$7.10 + V.P.	10.50	47,500	\$350.74	\$4,208.88
Ron Wilson	40	v	10-11 wks premi 2	40-45	\$7.10 + V.P.	10.50	42,500	\$313.82	\$3,765.84
G. Pollard	30	v	running 3	55	\$12.32	15.00	55,000	\$677.83	\$8,133.96
P. Penny	29	v	15 wks through year to Apr/01	68-75	\$9.10 + V.P.	15.00	71,500	\$676.68	\$8,120.16
D. Pollard*		v			\$12.32				
R. Mackay**	22	v	15 wks	50-60	\$10.00	15.00	56,060	\$560.60	\$6,727.20
S. Stewart		v	all winter 1						
T. Jamieson	16	v	15 wks	40-45	\$7.10 + V.P.	15.00	42,500	\$301.75	\$3,621.00
Michelle Bryant		v							
Brooke Crant	9	v	15 wks 1	40	\$7.10 + V.P.	15.00	40,000	\$295.36	\$3,544.32
Shawn Maclennan	23	v	10 wks 3	45	\$7.10 + V.P.	10.00	46,930	\$346.53	\$4,158.36
Randy Richards	33	v	15 wks 3	55	\$9.00 + V.P.	15.00	59,770	\$559.45	\$6,713.40
Stephen Butler	6	v			\$7.10 + V.P.		44,960	\$331.98	\$3,983.76
Ben Moore	25	v	all winter 3	40-45	\$7.10 + V.P.	15.00	42,500	\$313.02	\$3,765.84
James Gordon	13	v	15 wks 1	40-45	\$7.10 + V.P.	15.00	45,330	\$334.72	\$4,016.64
Mathew Moore	27	v	all winter	40-45	\$7.10 + V.P.	15.00	46,110	\$340.48	\$4,085.76
Lowell Gordon	14	v	few months	40-45	\$7.65 + V.P.	15.00	50,940	\$405.28	\$4,863.36
Heather Pollard	31	v	all winter	40-50	\$8.92 + V.P.	15.00	55,000	\$510.22	\$6,122.64
Betty Young	42	v	all winter 4	45	\$7.10 + V.P.	15.00	48,820	\$360.49	\$4,325.88
Tara Mae White	39	v	all winter 1	38-40	\$7.10 + V.P.	15.00	39,000	\$287.98	\$3,455.76
Tina Young	45	v	all winter 18	40-50	\$7.10 + V.P.	15.00	45,000	\$332.28	\$3,987.36
Alvin Young	41	v	15 wks 5	45-47	\$7.10 + V.P.	15.00	46,000	\$339.66	\$4,075.92
Shirley Benoit	3	v	all winter 5	40	\$7.10 + V.P.	15.00	40,000	\$295.36	\$3,544.32
April Benoit	2	v	full time	40	\$7.10 + V.P.	15.00	40,670	\$300.31	\$3,603.72

Angel White	38	V	all winter	5	40	\$7.10 + V.P.	15.00	40,000	\$295.36	\$3,544.32
Ursula Simms	35	V	all winter		45	\$7.10 + V.P.	15.00	45,000	\$332.28	\$3,987.46
Allan Simms	34	V	15 wks	4	45	\$7.10 + V.P.	15.00	45,000	\$332.28	\$3,987.46
Greg Young	43	V	6-8 wks	5		\$7.10 + V.P.	7.00	42,500	\$313.82	\$3,765.84
Greg Moore	26	V	15 wks	5	45	\$7.10 + V.P.	15.00	45,000	\$332.28	\$3,987.36
Kirby VanDerstine	36	V	all winter		40	\$7.46 + V.P.	15.00	43,500	\$321.20	\$3,854.40
Ivan Young	44	V	all winter	5	48	\$7.10 + V.P.	15.00	48,000	\$354.43	\$4,265.16
										\$131,707.28

Employees Who Did Not Testify

Dudley Bartlett	1					\$7.10 + V.P.	14.15	45,875	\$338.74	\$4,064.89
Tony Benoit	4					\$7.10 + V.P.	14.15	45,875	\$338.74	\$4,064.89
Audrey Butler	5					\$8.73	14.15	55,000	\$480.15	\$5,761.80
Cheryl Campbell	7					\$8.00	14.15	55,000	\$440.00	\$5,280.00
Michelle Campbell	8					\$7.10 + V.P.	14.15	45,875	\$338.74	\$4,064.89
Laverne Cuddy	10					\$7.29 + V.P.	14.15	55,000	\$416.99	\$5,003.88
Judy Fay	11					\$15.13	14.15	55,000	\$832.15	\$9,985.80
Trevor Gale	12					\$7.10 + V.P.	14.15	45,875	\$338.74	\$4,064.89
Matthew Lacosta	17					\$7.10 + V.P.	14.15	45,875	\$338.74	\$4,064.89
Carmen Lee	18					\$7.10 + V.P.	14.15	45,875	\$338.74	\$4,064.89
Taylor Lush	19					\$7.10 + V.P.	14.15	45,875	\$338.74	\$4,064.89
Joan Mackay	21					\$7.10 + V.P.	14.15	45,875	\$338.74	\$4,064.89
Nicole Marian	24					\$7.10 + V.P.	14.15	45,875	\$338.74	\$4,064.89
Desmond Osmond	28					\$7.10 + V.P.	14.15	49,000	\$374.56	\$4,494.72
Gail Redmond	32					\$7.35 + V.P.	14.15	49,000	\$374.56	\$4,494.72
Angela Walsh	37					\$7.10 + V.P.	14.15	45,875	\$338.74	\$4,064.89
Gloria Acorn						\$8.74		55,000	\$480.49	\$5,764.76
Patricia Benoit						\$7.10 + V.P.		48,000	\$354.43	\$4,265.16
Frank Clow						\$9.98		55,000	\$548.90	\$6,586.80
William Dort						\$8.32		55,000	\$457.60	\$5,491.20
Eugene Ford						\$9.69		55,000	\$532.95	\$6,395.40
Margaret Gordon						\$8.74		55,000	\$480.70	\$5,768.40
Donna Herring									\$359.20	\$4,250.40
Betty Moore						\$7.10 + V.P.		45,875	\$338.74	\$4,064.89
Corinne Moore						\$7.10 + V.P.		45,875	\$338.74	\$4,064.89
Darren Moore						\$9.00 + V.P.		77,000	\$720.72	\$8,648.64
Donna Perry						\$8.50 + V.P.		41,200	\$364.21	\$4,370.52
Daryl Regular						\$7.10 + V.P.		38,200	\$280.07	\$3,360.84

Alan White									\$8.00 + V.P.		33,330	\$246.11	\$2,953.32
Chad White									\$7.10 + V.P.		55,000	\$457.60	\$5,491.20
Jacqueline White											43,250	\$319.36	\$3,832.32
													\$150,548.73
												TOTALS	\$282,256.01

SCHEDULE "E"

SOURIS

(HOURLY RATE & WEEKLY HOURS)

Employee	List #	Evidence	Weeks	Hours Weekly	Hourly Rate	Avg. Weeks	Avg. Hours	(Including VP)	7 wks
Employees Who Testified									
G. Gregory	24	v	6-10 1	40-48	\$7.10	8.0	44.00	\$312.40	\$2,186.80
R. Rafuse	52	v	10 3		\$7.85 + V.P.	10.0	44.00	\$359.04	\$2,513.28
Thomas Skinner	62	v	5-6 1	45-50	\$8.10 + V.P.	5.5	44.25	\$372.58	\$2,608.09
Rosalie Jamieson	30	v	6-8 1	48	\$7.10 + V.P.	7.0	48.00	\$354.24	\$2,479.68
Dominic Skinner	67	v	8-10 2	40-48	\$7.35 + V.P.	9.0	44.60	\$340.74	\$2,385.21
Kelly Ronaghan	55	v	6-8 2	40-48	\$7.38	7.0	44.00	\$324.72	\$2,273.04
Linda Ronaghan	56	v	6-8 2	40-48	\$7.38	7.0	44.00	\$324.72	\$2,273.04
Lorraine Ford	17	v	6 1	40-48	\$7.38	6.0	44.00	\$324.72	\$2,273.04
Agnes Skinner	63	v	10 2	48	\$7.10 + V.P.	10.0	48.00	\$354.24	\$2,479.68
Donald Caissie	6	v	8 2	40-48	\$7.10 + V.P.	8.0	44.00	\$324.72	\$2,273.04
Lucy Caissie	7	v	6-8 2	40-50	\$7.38	7.0	42.50	\$313.65	\$2,195.55
Beverly Creamer	13	v	6-8 3	48	\$7.20 + V.P.	7.0	48.00	\$359.52	\$2,516.64
Josh Jarvis	32	v	6-8 3	50	\$6.95 + V.P.	7.0	57.50	\$416.30	\$2,914.10
Cathy Hennigar	28	v	6-8 3	40	\$7.10 + V.P.	7.0	40.00	\$295.20	\$2,066.40
Matthew Rice*	53	v	6 3	25	\$7.20	6.0	36.06	\$259.62	\$1,817.42
Kathy MacDonald	41	v		40	\$7.38	7.0	40.75	\$300.74	\$2,105.14
Shannon Perry	49	v	6-8 3	40-48	\$7.10 + V.P.	7.0	44.00	\$324.72	\$2,273.04
Jean MacCormack	37	v	6-8 1	40-48	\$7.10 + V.P.	7.0	44.00	\$324.72	\$2,273.04
Bessie Skinner	66	v	all winter	48	\$7.10 + V.P.	9.0	48.00	\$354.24	\$2,479.68
Jackie Cluney	12	v	6-8 2	40	\$7.10 + V.P.	7.0	40.00	\$295.20	\$2,066.40
Bernardine Fall	15	v	6-8 1	40-48	\$6.95 + V.P.	7.0	44.00	\$318.56	\$2,229.92
Olive Skinner	65	v	5-6 1	40-45	\$7.10 + V.P.	5.5	42.50	\$313.65	\$2,195.55
Adam Kendall	33	v	6-8 1	40-48	\$6.95 + V.P.	7.0	44.00	\$318.56	\$2,229.92
Steven LeBlanc	34	v	7 1	48	\$7.10	7.0	48.00	\$340.80	\$2,385.60

Francis Madore	46	V	8		40	\$7.35	8.0	47.85	\$351.70	\$2,461.35
Rodney Ford	16	V	5-8	1	40-48	\$7.35	6.5	46.81	\$344.05	\$2,408.35
Terry Peters	50	V	6-8		45	\$7.35 + V.P.	7.0	48.00	\$366.72	\$2,567.04
Robert Mills	48	V			50	\$7.45 + V.P.	7.0	50.00	\$387.50	\$2,712.50
Norma Guignard	26	V	8	2	40	\$7.23	8.0	40.00	\$289.20	\$2,024.40
Susan Winters	75	V	6-8 through V		40-54	\$7.23	7.0	42.50	\$307.27	\$2,150.09
Jocelyn Cheverie	11	V	6-8 WKS	1	40-45	\$7.10 + V.P.	7.0	42.50	\$313.65	\$2,195.55
Edward Rice	54	V	6-8 through		43-44	\$6.95 + V.P.	7.0	43.50	\$314.94	\$2,204.58
Gregory James Mahar	47	V			40	\$6.95 + V.P.	9.0	40.00	\$289.60	\$2,027.20
Brett White	71	V			35-45	\$7.10 + V.P.	7.0	40.00	\$295.20	\$2,066.40
Jeannie Mackinnon	44	V	6-8		40	\$7.10	9.0	40.00	\$284.00	\$1,988.00
Lori MacEwen	43	V	10		40+	\$7.10 + V.P.	10.0	41.00	\$302.58	\$2,118.06
Daniel MacDonald	40	V			50-60	\$8.00	7.0	57.75	\$462.00	\$3,234.00
George Schurman	58	V	6-8	1	37-40	\$7.20 + V.P.	7.0	40.25	\$301.47	\$2,110.51
Cory Holland	29	V	8-10		35-40	\$7.10 + V.P.	9.0	57.95	\$427.67	\$2,993.70
Helen MacDonald	42	V			48	\$7.10 + V.P.	7.0	58.43	\$431.21	\$3,018.49
Angela Savoie	57	V			40	\$7.10 + V.P.	7.0	40.00	\$295.20	\$2,066.40
Crystal Anderson	1	V	6	1	40	\$7.10 + V.P.	6.0	40.00	\$295.20	\$2,066.40
Helen Callaghan	8	V			40	\$6.95 + V.P.	7.0	40.00	\$289.60	\$2,027.20
Lorna C. MacAulay	36	V	6-8		40-48	\$7.10 + V.P.	7.0	44.00	\$324.72	\$2,273.04
Martene Sheehan	60	V	6		40-48	\$7.10 + V.P.	6.0	44.00	\$324.72	\$2,273.04
Donna Sheehan	61	V	all winter		40-48	\$7.10 + V.P.	9.0	44.00	\$324.72	\$2,273.04
Ken MacDonald	39	V	6	1	40-45	\$7.45 + V.P.	6.0	46.90	\$363.47	\$2,544.32
Scott Guignard	25	V	6-8		40	\$6.95 + V.P.	7.0	40.00	\$289.60	\$2,027.20
Josh Skinner	64	V			50	\$6.95 + V.P.	7.0	56.25	\$407.25	\$2,850.75
Joey Dowling	14	V	6-8	1	40	\$6.95 + V.P.	7.0	40.00	\$289.60	\$2,027.30
Jason Winters	24	V			70-75	\$8.85	9.0	72.50	\$641.62	\$4,491.37

