PRINCE EDWARD ISLAND
LABOUR RELATIONS BOARD

File No. 05-021
06-007

Decision No.

IN THE MATTER OF AN APPLICATION FOR REVIEW OF A CERTIFICATION ORDER

BETWEEN:

POMERLEAU INC.

APPLICANT

AND:

CONSTRUCTION AND GENERAL LABOURERS' AND GENERAL WORKERS IN CONSTRUCTION, INDUSTRIAL AND COMMERCIAL, LOCAL UNION NO. 1077

RESPONDENT

COUNSEL FOR THE APPLICANT **G. Robert Basque, Q.C.**

COUNSEL FOR THE RESPONDENT **J. Gordon MacKay, QC.**

DECISION

Background

In an Application filed with this Board on December 22, 2005, pursuant to Section 54 of the *Labour Act*, R.S.P.E.I. 1988, Cap L-1 as amended, the Respondent requested an Order certifying of the Respondent as bargaining agent for all employees of Herve Pomerleau Inc. working as labourers, but excluding those above the rank of working foreman in the Province of Prince Edward Island. The Board granted the Order requested on January 23, 2006, *(Board File No. 05-021)*

An Application for Review, pursuant to Section 54(6) of the *Labour Act*, R.S.P.E.I. 1988, Cap L-1 as amended, was filed with the Board by Pomerleau Inc. on January 30, 2006, requesting review of the January 23, 2006 Order, pursuant to Section 54(7) of the *Labour Act,* on a number of grounds. *(Board File No. 06-007)*

While there was no Pre-hearing Conference, there was an informal exchange of communications between Counsel and the Board's CEO, Mr. Roy Doucette, to predict the main issues and hearing days required in this matter. A hearing date was set for 7 and 9 March 2006.

The hearing of these matters was convened on the 7th day of March, 2006, and re-convened on the 9th day of March 2006.

By way of Preliminary Matters it was noted and acknowledged by all parties that the corporation Pomerleau Inc., the Applicant herein, is the corporate successor of Herve Pomerleau Inc. pursuant internal reorganization procedures conducted in January 2006.

Written and oral submissions were received from the parties at the conclusion of the hearing on March 9, 2006.

Cases Considered

1. ***Sutton Place Hotel,*** [1980] O.L.R.B. Rep. October 1538;

2. ***Point-Claire (City) v. Quebec (Labour Court),*** [1997] 1 S.C.R. 1015;

3. ***Grant Development Corporation and/or the Ojibways of Pic River, First Nation,*** [1993] O.L.R.D. No. 301;

4. ***Corps of Commissionaires*** **v.** ***Labour Board*** 2004 PESCTD 55 (CanLII)

5. ***Corps of Commissionaires v. Labour Relations Bd.*** (PEI)2005 PEISCAD 11 - Date 2005 04 27 (CanLII);

6. ***York Condominium Corp. No. 46,*** [1977] O.L.R.B. Rep. Oct. 645;

7. ***Canadian Flight Attendants Association (Canadian Union of Public Employees - Airline Division)*** **and** ***Nation Air,*** (1987) 19 C.L.R.B.R. (NS) 81;

8. ***United Brotherhood of Carpenters and Joiners of America Local 83 and Seaboard Construction Incorporated,*** Decision #1275C L.R.B.N.S., Construction Panel, dated November 10, 1989;

9. ***United Brotherhood of Carpenters and Joiners of America Local 2486 v. Gorf Contracting Ltd.*** 2005 CanLII 3069 (ON L.R.B.);

10. ***United Brotherhood of Carepenters and Joiners of America v. Intracorp Developments Ltd.,*** 2000 CanLII 4573 (ON L.R.B.);

11. ***Teamsters Local Union No. 419 v. Lantic Sugar Ltd.,*** 2004 CanLII 23668 (ON L.R.B.);

12. ***Re IKO Industries Ltd. and U.S.W.A.*** (2002) 118 L.A.C. (4^{th}) 1;

13. ***Cameron Masonry Ltd. (Re),*** [1998] P.E.I.L.R.B. No. 1; and

14. ***Construction and General Labourer's and General Workers in Construction, Industrial and Commercial, Local Union No. 1077 v. Cameron Masonry Ltd.,*** [1999] P.E.I.J. No. 31.

15. ***United Brotherhood of Carpenters and Joiners of America Local 83 and Herve Pomerleau Inc.,*** Decision # CIP-3022, L.R.B.N.S., Construction Industry Panel, dated May 19, 2006;

Statutes Considered

1. ***Labour Act***, R.S.P.E.I. 1988 Cap. L-1, sections 12, 13, 52 and 54.

Evidence

The Respondent presented evidence in the form of oral testimony from six witnesses being Mr. Lloyd MacDonald, Business Agent, Construction and General Labourers and General Workers in Construction, Industrial and Commercial, Local 1077, Mr. Pierre Guidon, Superintendent with Coffrage Alliance Ltee., Mr. Wayne "Perky" McKeigan, of McKeigan & Morrell Inc., Mr. Earl Dicks, Construction Labourer, Mr. Mark Feehan, Construction labourer, and Mr. James Clarkin, Foreman of Labourers with Coffrage Alliance Ltee. Through those witnesses there were seven exhibits tendered in support of the Respondent's position.

In making its case the Applicant, Pomerleau Inc., called one witness, Mr. Dino Roy, Superintendent with Pomerleau Inc., and tendered into evidence a total of ten exhibits.

The exhibits are listed in the Schedules attached to this Decision.

Issues

The issues raised by these matters before the Board are summarized as being whether:

1. the Applicant, Pomerleau Inc., is an "employer" within the meaning of the *Prince Edward Island Labour Act*, R.S.P.E.I. 1988, Cap. L-1; and

2. the bargaining unit is appropriate for purposes of collective bargaining;

3. the Application for Certification as bargaining agent has support from the majority of the employees in the unit; and

4. there are grounds for granting the relief sought by the parties.

Decision

The Parties have expended considerable effort in proffering their respective cases in regards to this matter. The Board has afforded careful consideration to the evidence presented and the submissions advanced by the respective Parties with the aid of the diligent participation of the parties and the able representation of their legal counsel.

The Law

The Board turns its attention to the first issue raised as to whether the Applicant is an "employer" under Prince Edward Island legislation. An employer, pursuant to the *P.E.I. Labour Act* R.S.P.E.I. 1998, Cap. L-1, s. 7(1)(i), is defined as:

> *"... a person, firm or corporation employing more than one employee but does not include Her Majesty or any person, corporation, board, department or commission acting for or on behalf or as an agent of Her Majesty; except that the Lieutenant Governor in Council may by order-in-council declare any person, corporation,*

board, department or commission acting for or on behalf of or as an agent of Her Majesty to be an employer within the meaning of this Part with respect to any group of employees designated in the order-in-council, whereupon with respect to the group so designated, the person, corporation, board, department or commission, as the case may be, shall be an employer until the order-in-council is rescinded."

As set out in the submissions filed by both parties, there is very clear authority that, on this first issue, the Board is to consider a number of factors in order to properly reach its conclusion. The ***York Condominium*** decision lists these factors. This position was reiterated in a most recent decision of the Nova Scotia Labour Relations Board in ***United Brotherhood of Carpenters and Joiners of America Local 83 and Herve Pomerleau Inc.***, The factors to be considered are as follow:

(1) the party exercising direction and control over the Employees performing the work;
(2) the party bearing the burden of remuneration;
(3) the party imposing the discipline;
(4) the party hiring the employees;
(5) the party with the authority to dismiss the employees;
(6) the party who is perceived to be the employer by the employee;
(7) the existence of intention to create the relationship of employer and employees.

It is equally apparent, from the authorities filed, that in the industry, and in labour relations generally, this is not an uncommon issue to be raised. One instance of the matter having been brought before this Board and subsequently addressed by the Prince Edward Island Supreme Court Trial Division was in ***Construction and General Labourer's and General Workers in Construction, Industrial and Commercial, Local Union No. 1077 v. Cameron Masonry Ltd.,*** [1999] P.E.I.J. No. 31, Docket: GSC-16754, and Mr. Justice David H. Jenkins comments:

[15] The Union has an uphill battle on this application. The Union acknowledges this challenge and says this is a classic case of the Board having failed to exercise its mandate by ignoring reality and thereby allowing the general contractor and a subcontractor to advance a mutually advantageous arrangement which defeats the expressed wishes of the employees and the Union to organize and certify the subcontractor.

[16] Upon consideration of the scheme of the ***Labour Act****, the labour relations jurisprudence which was cited by the Board, and my assessment of the record, I would have come to a different conclusion than did the majority of the Board. In my opinion, the Board failed to find the true employer, within the scheme of the* ***Labour Act****. This is fairly apparent upon application of the "fundamental control" test to the evidence of the general contractor Fitzgerald and the subcontractor Cameron alone, and without resorting to any inferences. Their evidence states that Cameron agreed to "hire" the employees as part of its subcontract, that Fitzgerald hired and then "lent" the employees to Cameron, that the employees' work was devoted to carrying out the Cameron masonry subcontract, and the cost of the employees was ultimately charged back to Cameron as its cost. The private arrangement made between the general contractor and the subcontractor for calling the Union hiring hall and providing payroll administration does not materially inhibit the view of what was really occurring on the site. The labourers and bricklayers' helpers would be an integral part of performance of masonry work. The sole purpose of the workers being on the job site was to advance this work. The masonry work, having been subcontracted by the general contractor, was Cameron's work.*

[17] It is equally easy to see that this arrangement was mutually advantageous to the contractors vis a vis the Union. In the absence of other convincing business reasons for their private arrangement appearing on the record, the impression is left that it was a thinly masked scheme to avoid exposure of the subcontractor to certification. The general contractor would obtain the benefit of selection including non-unionized contractors bidding the job, and the subcontractor having no employees would be insulated from certification. Cameron's bid itself contains this handwritten note:

Note: As I was invited to tender job and upon discussions with Harry Snow regarding

labour situation I agree to do as discussed with Harry regarding a labour [sic] to mix mortar and when block start [sic] to hire another labour [sic] both to be supplied by Fitzgerald...

Indeed, the submissions of both Fitzgerald and Cameron expressly advised the Board that this practice is common in the construction industry. Cameron referred to it as "existing industry practice".

[18] The collective agreement requires the general contractor to make the collective agreement part of the subcontract, and Fitzgerald advised Cameron of this requirement. As well, the collective agreement requires that all workers be hired from the Union's list at the hiring hall, and Fitzgerald did this. Cameron could have made the call for workers as easily as Fitzgerald. The workers were ultimately a subcontractor cost. Cameron had its own payroll administration since it had other employees. While the decisions do turn on the facts of each case, labour boards are interested in realities not appearances. See Adams, ***Canadian Labour Law*** *(2nd ed.) at p. 6-33.*

[19] It is true that the Board's decision did not deny the workers any direct benefits on this particular job—Fitzgerald hired from the Union hall list and would have paid the associated Union levies. However, it appears to condone an employer practice which may hinder the Union's efforts to represent employees, and potentially impede employees generally from exercising their rights to be members of a trade union. These are both statutory rights.

[20] That being said, I conclude that this Court cannot, and should not, interfere with the Board's decision in this case. The Board reached its decision in a reasonable manner. It conducted a hearing in which everyone with an interest was given an opportunity to bring forth evidence; and it had before it evidence upon which it could reasonably find as it did. The Board's decision was not patently unreasonable.

[21] Finding the true employer was a question of fact which the Board had to determine at the threshold of its consideration of an application for certification. Section 52 of the ***Labour Act*** *defines "employee" as "any person employed in the construction industry..." subject to exceptions; and "employer" as "any person who employs...more than one employee and who operates a business in the construction industry". Section 54 directs Board investigation and decision regarding certification where a trade union makes an application for certification as bargaining agent "...for a unit of employees of an employer, ...".*

[22] The Board considered pertinent jurisprudence and the evidence and then applied the law to the evidence. The Board then made a conclusion which it could reasonably have made based on the evidence before it. The Board had evidence of numerous factors upon which it could have found as it did—hiring, payroll, assignment of work, layoff, expressed understanding of both Fitzgerald and Cameron, equivocal understanding of employees—upon which factors it was entitled to rely in reaching its conclusion.

The Board is also mindful of the apparent submissions of both parties that it is trite law that no single criterion of the criteria listed above would be determinative and that a Labour Relations Board is duty bound to determine who exercised fundamental control over the employees by engaging in an analysis of the particular fact situation and by balancing the aforesaid criteria.

Findings of Fact

The Board has before it the matter of the application by the Construction and General Labourers and General Workers in Construction, Industrial and Commercial, Local 1077, for certification of Herve Pomerleau Inc. The documentation provided to the Board in the form of exhibits indicated that the construction of a new Government of Canada building to be located in Charlottetown, Prince Edward Island had went out to tender with Herve Pomerleau Inc. being the

low bidder. A document issued by the Construction Association of PEI also purported to indicate that Herve Pomerleau Inc. was one of the confirmed general contractors. As cited above Pomerleau Inc. is the successor corporate body of Herve Pomerleau Inc. which was awarded the contract for the construction of the Federal Building in Charlottetown, Prince Edward Island. The Applicant takes the position that they were involved as project managers of the site and not the employer, while the Respondent alleges that Pomerleau Inc. acted as a general contractor and was the employer of the two employees in question.

The matter involves the employment of Mr. Earl Dicks, Construction Labourer, and Mr. Mark Feehan, Construction labourer, both of whom are card-carrying members of the Respondent, Local 1077.

The document submitted as Exhibit A-1 shows that on June 20, 2005, Pomerleau Inc. issued a letter to Coffrage Alliance Ltee. indicating that this company was to supply all the labour, products, tools and construction equipment required for the complete execution of the concrete form works and the concrete placement required for the new Government of Canada building to be located in Charlottetown. There were various terms and conditions that were described and the document was signed by Herve Pomerleau Inc. There was a place for it to be accepted by Coffrage Alliance Ltee. but the Board was not provided with a signed acceptance. There were two modifications to this contract [Exhibits A-2 and A-3] and again, both of these contracts were signed by Herve Pomerleau Inc. but the Board was not provided with a copy which was signed by Coffrage Alliance Ltee. It appears that the individuals, namely Mr. Earl Dicks and Mr. Mark Feehan, were first employed by McKeigan and Morrell Inc., subsequently employed by Coffrage Alliance Ltee. and then again later by McKeigan and Morrell Inc. on that building site.

Coffrage Alliance Ltee. had entered into a voluntary recognition agreement with Local 1077 and McKeigan & Morrell Inc., although not certified by the Labourer's Union, had in the interests of making and maintaining harmonious labour relations, hired these two employees from the Union Hall hire list.

In fact, the Subcontractor Orientation Form dated November 8, 2005 on the part of Mark Feehan and November 1, 2005 on the part of Mr. Dicks indicated that Mr. Feehan thought he was working for Morrell, presumably referring to McKeigan and Morrell Inc., and that Mr. Dicks felt he was working for Alliance, presumably referring to Coffrage Alliance Ltee.

The Herve Pomerleau site notebook has references to Coffrage Alliance Ltee. being a subcontractor throughout the period of January 3, 2005 to January 13, 2005.

Additionally, it appears that Coffrage Alliance Ltee. clearly was keeping track of the hours worked by either Mr. Feehan and/or Mr. Dicks during the January time-frame.

Considering the foregoing evidence together with the evidence that the Board heard from the various witnesses, the Board will now embark upon an analysis of the factors as outlined previously and these will be addressed under separate headings below.

<u>The party exercising direction and control over the Employees performing the work</u>

It is more than apparent from the body of evidence that direction and control of these two employees was exercised by the principals of all three companies to varying degrees at various times throughout the relevant period of time.

The Board characterizes this factor as being a shared responsibility and equally favours a finding of either party being found to be the employer.

The party bearing the burden of remuneration

The employees were, for purposes of remuneration, on the payroll of either McKeigan & Morrell Inc. or Coffrage Alliance Ltee., and never enrolled in the payroll of nor paid directly by Pomerleau Inc. The Board does not hold to the view that the billing of Pomerleau Inc. by the sub-contractor for the hours of work of the employees passes the burden of remuneration to Pomerleau Inc. That position, taken to its logical conclusion, would mean that since Pomerleau would by paid eventually by the Federal government authority, the burden of remuneration would ultimately be with the Federal government. The Board cannot hold that the Federal Government would ultimately be the employer of these employees in question.

The evidence in this matter on this point weighs in favour of the finding that the sub-contractors were the employer.

The party imposing the discipline

There is one particular incident that is quite telling in regards to this particular factor. It involved one of the employees leaving the site for an outside appointment. In the period of his absence, apparently for more than an hour, he was being sought by an employee of Pomerleau Inc. to perform a certain task. The employee returned to the site carrying a cup of coffee. Each party has its own interpretation of what then transpired, but, having the benefit of an overall perspective, the Board finds that the representative of Pomerleau Inc. did not directly discipline the said employee. The Pomerleau Inc. representative made a point of respecting the chain of command and sought out and voiced the companies concerns to the representative of Coffrage Alliance Ltee. that Pomerleau Inc. not be charged for the work time lost and that the employee be disciplined. While the representative of Pomerleau Inc. was probably quite accurately described as being quite agitated, it is also quite clear that the representative of Pomerleau Inc. did not impose discipline nor seek to impose discipline.

The Board finds that in these circumstances there is clearly support for the finding that the sub-contractor is the employer.

The party hiring the employees

At the initial hiring of these employees, Pomerleau Inc. played no part in their hiring save for the insistence that any hiring be made from the ranks of union members. Mr. Wayne "Perky" McKeigan, of McKeigan & Morrell Inc. therefore called the Union Hiring hall and that resulted in these two employees being sent by the Local. When their employ was transferred to Coffrage Alliance Ltee. there was mention by Pomerleau Inc. representatives that these two employees were trained and familiar with the site, so to that extent there was influence on this hiring. Similarly, at the re-hiring by McKeigan & Morrell Inc. there would have been influence by Pomerleau Inc. that these employees continue in their specialized taskings.

The Board finds that the evidence on this factor would support a finding of either the sub-contractors or Pomerleau Inc. being held to be the employer.

The party with the authority to dismiss the employees

In relation to this factor, the tardy return to work with a cup of coffee incident is quite telling. There was evidence from a number of witnesses that the Pomerleau Inc. representative would have fired the employee in question. In the end result, even if that were the intent or wish of the Pomerleau Inc. representative, that is not what was communicated to Coffrage Alliance Ltee. representatives. There was insistence that the time missed not be billed to Pomerleau Inc. There was no call for a firing, nor was there an attempt to have the sub-contractor exercise their authority to fire. Coffrage

Alliance Ltee did not fire the employee over that incident and the employee continued to work on the site and was so employed at the time of the hearing.

The findings in relation to this factor favours holding that the sub-contractor is the employer.

The party who is perceived to be the employer by the employee

The Subcontractor Orientation Form completed on the part of Mark Feehan indicated he was working for Morrell, presumably McKeigan & Morrell Inc., whereas Mr. Dicks felt he was working Alliance, presumably Coffrage Alliance Ltee.

Both individuals testified and they perceived Pomerleau Inc. to be their employer. The submission of the Respondent, Local 1077, in relation to this factor reads:

> *Both Dicks and Feehan testified that they perceived Pomerleau to be their employer until at least such time as McKeigan returned to the job site on January 10, 2006, which, of course, was subject to the Application for Certification, and subsequent to investigations by the Labour Relations Board of Prince Edward Island in accordance with the Labour Act as to who was the Employer of Feehan and Dicks as alleged by the applicant trade union.*

The Board finds that the evidence before the Board supports this statement and that this is an accurate depiction of the perceptions of the two employees in question. On that basis, the evidence on this factor favours a finding that Pomerleau Inc. is the employer.

The existence of intention to create the relationship of employer and employees

In regards to this factor, the Respondent's submission characterized the actions of Pomerleau Inc. as follows:

> 25. *Intention is subjective. What is clear is that it was the intention of both Pomerleau and Feehan and Dicks that they be employed on the Federal Building construction site.*
>
> 26. *Feehan and Dicks understood when they reported to the Federal Building site that they would be employed their as labourers. They were directed to report to the Pomerleau office, which they did. They did not meet with McKeigan but, instead, met solely with representatives of Pomerleau and were instructed that all of their direction would come from agents of Pomerleau and not from McKeigan or Coffrage. Coffrage already had labourers employed on the construction site. Both Feehan and Dicks were advised that they would be on the payroll of McKeigan which was immaterial to them. It was their intention to provide their working efforts to Pomerleau in consideration of being paid. It was immaterial to them where or how they were paid.*
>
> 27. *Pomerleau may well have intended that it not become the employer of Feehan and Dicks, however, that is a question of law and a factual determination to be made by the Board. What is clear from the evidence is that Pomerleau had an anti-union animous and did not want to be saddled with the obligations arising out having to bargain collectively with a trade union.*
>
> 28. *On the whole of the evidence it is the respectful submission of the applicant that Pomerleau was the true employer of the labourers, Feehan and Dicks. Consequently, on December 22, 2005, Pomerleau, claiming to have no employees in the defined bargaining agent, as a matter of fact, had two employees in the bargaining unit defined in the Application for Certification,*

both of whom have filed evidence with the Labour Relations Board that they wish for the applicant trade union to be certified as their bargaining agent and accordingly, the Applicant represents the majority of the employees in the defined bargaining unit and the Certification Order issuing from the Board under the authority of Sections 13 and 54 of the Labour Act ought not to be rescinded upon review pursuant to Section 54 of the Labour Act.

The Applicant's characterization of its actions is understandably quite different from the Respondent's. It is the position of the Applicant that they were a company engaged in project management solely and not as a general contractor.

It is left for the Board to determine whether there was, as suggested by the Respondent, a ruse on the part of Pomerleau Inc. to set up a barrier to its certification under the *Labour Act* by way of establishing intermediate employers in those two other companies, or a legitimate desire on the part of Pomerleau Inc. to maintain a status of project manager and not an actual employer. The evidence presented in this hearing has not led this Board to conclude that there was anti-union animus on the part of Pomerleau Inc.. The measures taken by it were a legitimate effort on the part of Pomerleau Inc. to remain in the role of project manager.

The Board finds that on this final factor the evidence weighs in favour of finding that the Applicant is not the employer, and that the true employer would be the sub-contractors.

Conclusion

In summary, on this issue "who is the employer", the weight of evidence leads the Board to find that, after total consideration of all the factors and the Board's specific findings on each of these factors, on balance, a majority of the relevant factors support the position taken by the Applicant.

In conclusion, the Board finds that the Respondent, Pomerleau Inc., for the purposes of the Application for Certification that is the subject of these matters, is not the "true employer" of the subject employees and is not an employer as defined in the *Prince Edward Island Labour Act*, R.S.P.E.I. 1988, Cap. L-1. The Board also finds that, while each of the two employees on the Federal Government building job site, Mr. Earl Dicks and Mr. Mark Feehan, would come under the jurisdiction of the Prince Edward Island Labour Relations Board, the subject company, Pomerleau Inc., was not an "employer" as perceived by the legislation and the Board was therefore not justified in issuing the Certification Order dated January 23, 2006.

The conclusion of this panel of the Board, upon its consideration of the Application for Review of Certification Order, in light of the finding that the Board was not justified in issuing the Order, is that the Certification Order should be rescinded. The Board rules accordingly.

In addition, it is not necessary to address either of the other issues raise, namely whether or not the bargaining unit is appropriate for purposes of collecting bargaining purposes or whether or not there was majority support from the employees for the union being named their bargaining agent.

Robert R. MacArthur
Chair

Alan Fraser
Member

Brendon McGinn
Member

This Decision made by the Prince Edward Island Labour Relations Board on the 21st day of September, A.D., 2006, and issued under the hand of its Chief Executive Officer on the 25th day of September, A.D., 2006.

Roy J. Doucette
Chief Executive Officer

EXHIBIT LIST

for the Applicant, Pomerleau Inc.

A1 Letter dated June 20, 2005 from Pomerleau addressed to Francois Pomerleau, Coffrage Alliance Ltee. regarding new Government of Canada building (signed by Pomerleau Inc.)

A2 Modification to contract MC 64002 dated October 10, 2005 (signed by Herve Pomerleau Inc.)

A3 Modification to contract MC 65300 dated October 20, 2005 (signed by Herve Pomerleau Inc.)

A4 Document from Pomerleau to MacKeigan and Morrell Inc. (signed by Herve Pomerleaus Inc.)

A5 Subcontractor Orientation Form dated November 8, 2005 signed by Mark Feehan (indicates company is Morrell)

A6 Subcontractor Orientation Form dated November 1, 2005 signed by Earl Dicks (indicates company is Alliance)

A7 Composite Exhibit of Site notebook of Pomerleau dated January 3rd, 4th, 5th, 6th, 12th, and 13, 2006

A8 Document of Coffrage Alliance Ltee. PO No. 3874 dated January 18, 2006

A9 Document of Coffrage Alliance Ltee. PO No. 3875 dated January 15-21, 2006

A10 Document of Coffrage Alliance Ltee. PO No. 3878 dated January 8-14, 2006

EXHIBIT LIST

for the Respondent, Construction and General Labourers' and General Workers in Construction, Industrial and Commercial, Local Union No. 1077

Respondents

R1 Time activity detail for Mark Feehan with MacKeigan & Morrell Inc.

R2 Time activity detail for Earl Dicks with MacKeigan & Morrell Inc.

R3 Construction Association of PEI newsletter being Volume 18, No. 14, April 15, 2005

R4 Construction Association of PEI newsletter being Volume 20, No. 07, February 18, 2005

R5 Purchase Order dated August 15, 2005

R6 Purchase Order dated November 25, 2005

R7 Handwritten work directions