

Karma Secretary's Report re Coop Lawyer Brian Iler (for June 7th Board Meeting)
May 13, 2010

On May 7th, Howard Kaplan wrote to Reg McQuaid:

Here's what I think we want to discuss with Brian. This is a mixture of asking specific questions and generally re-establishing a good working relationship with him, if that's what both sides want to do.

Reg: On May 13th I spoke by phone with Brian for 5-10 minutes.

1. Would he like to be Karma's official lawyer?

Yes. He has no problem with this.

2. Should we have any kind of formal agreement to that effect? (This may relate to question 4.)

Not necessary. He will just bill us for services rendered whenever we need him.

3. Many years ago, he gave Karma advice to the effect that we did not need to show member loans on our books once the members had been away for eight years without asking for their loans back. Has there been any legislative change or court decision since then that would cause any change in that advice?

This advice is still valid.

We'd like to get either another copy of the same advice or updated advice, whichever is appropriate, citing the relevant legislation.

It appears that the advice was orally given. This is how I interpret what Brian said. When a member is deemed inactive (8 years seems a reasonable period), Karma should try to get in touch with her/him and advise that they are being removed from the rolls, and that they should indicate how they want their member loan refunded. If we don't hear back from them within a reasonable time (6 months ?), the loan can be regarded as forfeit and becomes part of the coop's capital. He did not cite specific legislation. I suppose if we pressed him he could cite some legal justification.

We're not embroiled in any dispute -- we're just trying to remedy some of the gaps in our record-keeping. We're also trying to prepare (and to justify) an appropriate answer to an

FSCO question about our loan liabilities, in connection with their decision about whether or not we need an offering statement before borrowing more money.

Brian reminds us that in addition to the \$200,000 borrowing limit, we are also entitled to borrow up to \$1,000 from individual members (i.e. the member loan plus \$930). However, he recommends getting an offering statement even if we are not approaching the \$200,000 limit, as it gives more reassurance to prospective lenders.

4. Given my previous question, how should we keep track of legislative changes that might affect us, other than well-publicized changes like the forthcoming HST changeover? Does a Board ordinarily learn about such things through its own lawyer or through either grocery industry or co-op sector newsletters?

The board can learn of these changes by regularly monitoring the Ontario Co-operative Association's newsletter. Brian writes the legal articles for them. I am forwarding to you a copy of what they wrote concerning relatively recent changes in directors' liability. Both of the items he sent are in the director's binder provided by Deborah Cherry to incoming members of the 2008-09 board.

Also, several years ago we got a copy of our original articles of incorporation from Brian's office, and I made a legible but unofficial transcript of the barely-legible text for Board training purposes. I've never gotten around to giving Brian's office a copy of that transcript, which I've attached to this note. If you're going to be seeing him, this would be a good opportunity to print the transcript, take it along, and suggest he add it to Karma's file.

I shall be in the vicinity of Brian's office next month, and can drop off the transcript for their Karma file then.

Howard Kaplan

Reg McQuaid