

Richard P. Stephenson
T 416.646.4325 Asst 416.646.7417
F 416.646.4335
E richard.stephenson@paliareroland.com
www.paliareroland.com

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Date March 10, 2006			
Re Complaint by OPSEU CAAT(A) against College Compensation and Appointments	File	14490	
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Name	Firm	Facsimile	Telephone
Don Sinclair, Executive Director	College Compensation and Appointments Council for the Colleges of Applied Arts and Technology	416-325-2917	416-325-2914
Wallace M. Kenny	Hicks Morley Hamilton Stewart Storie LLP	416-362-9680	416-864-7306
Roman Stoykewych	OPSEU	416-448-7464	416-443-8888 ext 8230

Message:

Please see attached.

Doc. 618910

Chris G. Paliare
Ian J. Roland
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March 10, 2006

Delivered by Hand

Donald K. Eady
T 416.646.4321 Asst 416.646.7421
F 416.646.4322
E donald.eady@pallareroiland.com
www.pallareroiland.com

File 14490

Tim Parker
Registrar
Colleges Relations Commission
505 University Avenue, 2nd Floor,
Toronto, ON M5G 2P1

Dear Mr. Parker:

Re: Complaint by OPSEU CAAT(A) against College Compensation and Appointments

We have been retained by OPSEU to file a complaint with the Colleges Relations Commission in respect of the ongoing strike by the OPSEU CAAT Academic bargaining unit.

Please treat this letter as a complaint made pursuant to clause 56(1)(f) of the *Colleges Collective Bargaining Act* ("Act") alleging a breach of s. 5 of the Act by the College Compensation and Appointments ("Council").

The Union seeks an order:

- a. declaring that the Council by acting in the manner described in this complaint has violated section 5 of the Colleges Collective Bargaining Act;
- b. directing the Council to forthwith return to the bargaining table, that it bargain in good faith, and that it table an offer that does not include in it the proposal that the limit to the number of sections in the work load provisions be removed;
- c. directing the Council to forthwith issue to all of the faculty members represented by the union a letter enclosing the previous directions made by the Commission and providing assurances that in the future it will bargain in good faith with their exclusive bargaining agent;
- d. such other remedies as the Commission may direct and Counsel may advise.

The contact information for the applicant is:

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Ian J. Roland
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Nini Jones
Jeffrey Larry
Patti L. Shedden
Brydie C.M. Bethell

Roman Stoykewych
OPSEU
100 Lesmill Rd.
Toronto, Ont. M3B 3P8
Canada

(416) 443-8888 ext 8230 (416) 448-7464 (fax) rstoykewych@opseu.org

The contact person for the applicant is:

Donald K. Eady
Paliare Roland Barristers
501-250 University Avenue
Toronto, ON M5K 3E5

416-646-4321 416-646-4301 (fax) Donald.Eady@paliareroland.com

The contact information for the respondent is:

College Compensation and Appointments Council
for the Colleges of Applied Arts and Technology
2 Carlton Street 11 Floor, Suite 1102
Toronto, ON M5B 1J3

General Inquiry: (416) 325-2914 Fax: (416) 325-2917

Don Sinclair, Executive Director
Phone: (416) 325-2908 Email: don.sinclair@edu.gov.on.ca

The contact person for the respondent is

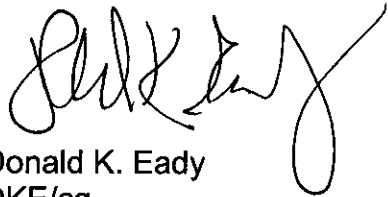
Wallace M. Kenny
Hicks Morley Hamilton Stewart Storie LLP
30th Flr., Toronto-Dominion Tower
PO Box 371, Stn. Toronto Dom.
Toronto, ON, M5K 1K8

(416) 864-7306 (416) 362-9680 (fax) wmk@hicksmorley.com

In support of its request, the applicant relies on the material facts set out in Schedule A to this letter.

Yours very truly,

PALIARE ROLAND ROSENBERG ROTHSTEIN LLP

A handwritten signature in black ink, appearing to read 'DKE', with a large, stylized flourish extending from the end of the signature.

Donald K. Eady
DKE/cg

cc. Wallace M. Kenny (via fax)
Don Sinclair (via fax)
Roman Stoykewych (via e-mail)

Doc. 618885

Schedule A

1. The Ontario Public Service Employees Union is the trade union that represents as their exclusive bargaining agent the approximately 9,100 faculty members, including teachers, librarians and counselors who work at the twenty-four colleges in Ontario's college system.
2. For the purposes of negotiating collective agreements between the OPSEU ("the union") and the faculty's employer, the union negotiates with The College Compensation and Appointments Council, ("the Council") a statutorily-created entity that, *inter alia*, is established to negotiate collective agreements on behalf of the various Colleges in Ontario's College system.
3. Since 1975, OPSEU and the Council have been party to a series of collective agreements setting out the terms and conditions of employment for the faculty, the most recent of which expired on August 31, 2005. Since 1985, these collective agreements have featured a sophisticated system of work load regulation that limits the amount of teaching work that may be assigned to individual teachers by the College.
4. This work load system is understood by both the union and the employer as a central provision of the collective agreement between the parties and is widely understood by the teachers subject to its terms to constitute a significant benefit arising out of the collective bargaining process. These provisions also have the effect of increasing the amount of contact time that an individual instructor may have with an individual student, thereby both enhancing

the professional experience of the teacher as well as significantly enhancing the educational experience of the students at the Colleges.

5. OPSEU commenced a legal strike on March 7, 2006. Prior to the commencement of the strike, the parties had engaged in collective bargaining negotiations on approximately 25 days, commencing on March 22, 2005, upon notice to bargain being served upon the Council in January 2005. Throughout the negotiations that give rise to this complaint, the chair of the union's negotiating committee and its central spokesperson was Ted Montgomery, who is a teacher employed at one of the Colleges. The chair of the Council's negotiating committee and its central spokesperson was Wallace Kenney. Both Mr. Montgomery and Mr. Kenney are highly experienced negotiators.

6. The Council tabled its initial position with the union in August 2005. The Council has maintained that position in a rigid and inflexible manner throughout the remainder of the negotiations, except as described herein. The Council's August 2005 position included a demand for a number of concessions. By far the most significant of these was the proposed deletion of the maximum number of "sections" that a teacher would be permitted to perform in a work week. This proposal, were it to have been accepted, would have substantially increased the scope of the employer's prerogative to schedule teachers and would have substantially reduced the work load protections offered by the current provisions of the collective agreement.

7. On November 28, 2005, the union placed before its membership the offer of the employer last received pursuant to clause 59(1)(d) of the *Colleges Collective Bargaining Act*. That offer included in it the aforementioned removal of the limit to the number of sections that a teacher could perform in a week. The offer was rejected by the membership by a 96% margin.

8. In response to the rejection of the position, the Council made a number of significant changes to its position, including an increase to its monetary proposal, the deletion of several minor concessions that it was previously demanding. Critically, the Council also removed its proposal that the work load provisions not be subject to a six section limitation. This latter move was considered by the union to be a significant step toward the resolution of a collective agreement, and it expressed this view to the representatives of the Council.

9. The parties met further on several occasions in January 2006. During this time, the Council made no substantial changes to its position, and in particular, made no reference to a desire to return to a position in which the six section limit would be deleted in the work load provisions.

10. The parties again met on February 15 and 16, with the assistance of a mediator, after the membership had rejected the employer's offer in a vote pursuant to clause 59(1)(e) of the *Colleges Collective Bargaining Act*. No progress toward settling the collective agreement occurred during these meetings and the employer did not alter its position.

11. The union had for many months established a strike deadline for 12:01 am on March 7, 2006. In the shadow of this deadline, the parties met again on March 2 through 6, 2006. Until 9:30 pm on March 6, 2006, there was no change in the position of the Council. At 9:30 pm, the Council tabled a new proposal that featured the uncoupling of several minor positions that were previously placed on the table in a conditional manner (which in the context of an impending strike, were meaningless) *as well as a return to its pre-November 28, 2005 position concerning the limit on sections in the work load provisions.*

12. As noted, this position was already rejected by the trade union, and was voted down by the membership by a margin of 96%. It was patently unacceptable to the union negotiators, and was obviously known to be such to the negotiators for the Council. The return to this previous position constituted, in the context of these negotiations, a substantial step backwards. It was, the union submits, an offer that was intended to be tailor-made to be rejected, and was intended to provoke the strike in which the parties are currently engaged.

13. Further, the union submits, the step backwards to an obviously less beneficial position constitutes a transparent effort by the Council to protect its interests at any impending third party resolution of the matter that, through its failure to bargain in good faith, may be required. The Council's conduct was designed to undermine the union and avoid a collective agreement. It was conduct designed to frustrate bargaining.

14. Therefore, the union respectfully submits that in so doing the Council is in breach of its obligation pursuant to section 5 of the *Colleges Collective Bargaining Act* in that it has neither negotiated in good faith, nor has it made every reasonable effort to renew the agreement between the parties.

15. Accordingly, the union respectfully request that the Commission:

- a. Declare that the Council by acting in the manner described in this complaint has violated section 5 of the *Colleges Collective Bargaining Act*;
- b. Direct the Council to forthwith return to the bargaining table, that it bargain in good faith, and that it table an offer that does not include in it the proposal that the limit to the number of sections in the work load provisions be removed;
- c. Direct the Council to forthwith issue to all of the faculty members represented by the union a letter enclosing the previous directions made by the Commission and providing assurances that in the future it will bargain in good faith with their exclusive bargaining agent;
- d. Such other remedies as the Commission may direct and counsel may advise.