

ARBITRATION TO DETERMINE
THE 2014 STEWARD OBLIGATION FOR THE Blue Box PROGRAM

B E T W E E N:

ASSOCIATION OF MUNICIPALITIES OF ONTARIO and THE CITY OF TORONTO

Applicants

- and -

STEWARDSHIP ONTARIO

Respondent

Wednesday, 17 March 2014

Affidavit of DEREK STEPHENSON


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1. My name is Derek Stephenson. My current work title is Director, Global Solutions, for the Reclay Group GmbH, a company specializing in recycling of post-consumer waste. I currently live in Switzerland and provide recycling consulting services internationally. My CV is attached.
2. I will be a witness at this arbitration only because I have been compelled to do so by summons. I am not retained or paid by either side.


I am not neutral

3. I take no position on the amount of the 2014 Steward's Obligation, but I am not neutral on the subject of Blue Box waste funding, as between municipalities and stewards. By stewards, I mean the obligated companies that supply packaging and printed paper into these markets. Generally these would be the brand owners or first importer of the product into the market.

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4. From the creation of Stewardship Ontario (SO) until 2009, I was SO's program director and principal negotiator on Blue Box funding. My annual bonus was determined in part on successfully negotiating the annual steward obligation to municipalities and approval of the annual fees for stewards.
 5. There are thousands of Blue Box stewards in Ontario, and many are small companies. However, approximately 100 large companies generate about 78 percent of Ontario Blue Box waste. The largest Brand Owners and Retailers have always dominated SO and some of these have been my principal clients.
 6. Until 2012, these large stewards or their trade associations were represented on the board of directors of Waste Diversion Ontario.
 7. I no longer accept work from SO, but I continue to consult to Blue Box packaging stewards in Ontario and to similar companies internationally.
 8. Instead of the monopoly industry funding organization model that SO represents, my current company promotes alternative recycling services and open market competition directly to individual stewards. We believe this can achieve better environmental outcomes at lower costs. However, establishing a competing compliance organization to SO is not permitted under the WDA, although it would be encouraged under new legislation (Bill 91) introduced by the Government of Ontario.


My background and experience

9. My involvement in municipal recycling programs in Ontario began in 1974, when I began work with the Is Five Foundation. This organization established Project One Recycling, a company that established the first formal curbside recycling program in Ontario, which served 80,000 households in the Toronto Beaches area.
10. In 1976, I became president of Resource Integration Systems (RIS), a consulting business established to support the not-for-profit activities of Is Five Foundation and to serve as a vehicle to transfer our experience in recycling and consumer behaviour change to other communities. We created the original "Blue Boxes" to collect printed papers and packaging, and to divert them from landfill.
11. I was the lead consultant for the first Blue Box program in Kitchener Ontario in the early 1980's and subsequently worked with municipalities, waste management companies and stewards to implement Blue Box and similar recycling programs throughout Ontario, North America and internationally.
12. Following the success of the Kitchener program, I was the architect of a voluntary industry funding program, Ontario Multi-Material Inc. (OMMRI), which paid one-third of the capital costs for Ontario municipalities to set up similar Blue Box recycling programs. Within five years, more than half the single family households in Ontario were receiving Blue Box recycling collection services.
13. I was subsequently employed, first as a consultant to, and later as the Senior Vice-President of, Corporations Supporting Recycling (CSR), an expanded version of OMMRI. CSR was a



not for profit non share capital corporation, whose members were "brand owners" that have responded to waste diversion issues associated with their products and packaging.

14. (Under section 4(2) of the Waste Diversion Act, 2002 (WDA), CSR was entitled to appoint three members of the Waste Diversion Ontario (WDO) board from 2002 until 2012.)
15. The members of CSR included many of the largest brand owners of consumer products in Canada, including members of the following associations,
 1. Canadian Soft Drink Association (CSDA), which represents manufacturers, bottlers and distributors of soft drinks and their suppliers,
 2. Food & Consumer Products Manufacturers of Canada (FCPMC), which represents manufacturers and suppliers of food and consumer products,
 3. Canadian Council of Grocery Distributors (CCGD) which represents distributors of groceries,
 4. Environment & Plastics Industry Council (EPIC) which represents manufacturers and suppliers of plastic products and plastic packaging,
 5. Printing Paper Users Group which represents printers, major users of printing services and their suppliers,
 6. Packaging Association of Canada (PAC) which represents manufacturers and suppliers of packaging and packaging materials;
16. A primary goal of CSR was to promote a "level playing field" for all companies supplying packaged goods into the Ontario market, and later to the Canadian market. This included advocating for legislation to ensure that all companies selling packaged products would be required to make a financial contribution to recycling used packaging.
17. CSR was successful. Such legislation was adopted, in Ontario and in other provinces of Canada. In Ontario, that legislation was the Waste Diversion Act, 2002 (WDA). I was intimately involved, on behalf of brand owners, in negotiating the wording and adoption of the WDA.
18. The fundamental outlines of what became the WDA were worked out in 1999-2000, by a multi-stakeholder group convened by the Minister of Environment, the interim Ontario Waste Diversion Organization (OWDO). CSR was a major funder of this work and on behalf of CSR I was OWDO's overall program manager, and the steward's chief representative in the negotiations. On behalf of stewards, I had lead responsibility for the drafting the OWDO September 1, 2000 report.
19. One element of the OWDO report, and of the WDA, called for the creation of a special purpose corporation to collect and disburse the mandatory industry contributions to Blue Box program costs. In Ontario, this corporation became SO, the defendant in this arbitration.
20. With the passage of the WDA and the approval of the BBPP, which were the core interests of CSR, the organization then disbanded. In 2009, I formed and served as the President of StewardEdge Inc. which replaced CSR as consultants to SO and to individual stewards.


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21. From 2002 to 2009, SO retained CSR, and then StewardEdge, to design, write, implement and manage the Blue Box program that was to be, and was, created under the WDA. I was the primary representative for this work. Other CSR/ StewardEdge staff who worked for stewards on Blue Box matters included among others Gordon Day, Jane MacKenzie, Paul Flegg, Paul Gill, Liz Perry, Guy Perry, and Mustan Lalani.
 22. Our team negotiated each year, on behalf of stewards, with municipalities, on many topics, including the total amount on an annual basis to be paid by stewards for Blue Box programs.
 23. In 2010, the StewardEdge program management contract with SO was terminated, though I and several of our staff continued to provide some Blue Box program management functions and consulting services under contract to SO until 2012.
 24. On behalf of SO, I was the overall coordinator and primary author of the 2003 Blue Box Program Plan (BBPP). My team also drafted subsequent amendments to the BBPP, including contributing to the development of the Cost Containment Plan.
 25. At the initiation of the WDA the WDO did not have the resources or capacity to produce a program plan. It has been the practice in Ontario for stewards to prepare the waste diversion program plans requested by the Minister.
 26. From 2003 until 2009, I had lead management responsibility for development of the annual rules under which SO requires stewards to report on the quantities of Blue Box wastes they supply into the Ontario market and to pay fees to SO each year. With SO's lawyer, I represented the stewards in negotiations with Waste Diversion Ontario and the Ministry of Environment to obtain their approval of these rules and fees, which were subsequently approved each year by the Minister of Environment of the day.
 27. Throughout those years, we were tasked with keeping the cost to stewards of managing waste packaging and printed papers at the lowest possible level. Once the BBPP was developed and approved, we also strove to ensure that the stewards met their obligations under the BBPP, including achieving the recycling targets approved under the plan.
 28. As program managers, we kept SO informed of all our work, and obtained SO board approval whenever required. We always advised SO that they should achieve a negotiated agreement with municipalities prior to setting the fees for each program year and that the outcome of binding arbitration as an alternative to determining these costs would be uncertain.
 29. I was also responsible for leading the development of the Ontario Waste Electronic & Electrical Equipment (WEEE) Program Plan, on behalf of Ontario Electronic Stewardship (OES) and the Municipal Hazardous & Special Waste Program Plan, on behalf of SO.

OWDO: the 50/50 compromise

30. In the late 1990s, financial pressures on municipal waste diversion programs were increasing. The Minister of the Environment wanted a way to provide stable funding for municipal Blue Box programs, to maintain these programs and to increase the quantities of recyclable material diverted from landfill. Existing landfill space was filling up rapidly, and it was very difficult to site new ones.



31. At the same time, everyone was concerned about the cost, as waste diversion was usually more expensive than landfill, at least in the short term.
32. The WDA was negotiated as a political compromise between stewards and municipalities, largely brokered by Keith West of the Ministry of the Environment (MOE). I was the principal representative of the stewards in these negotiations.
33. We knew that the compromise was imperfect, but it was the best that we could do at the time. The plan was for the WDA to be reviewed after five years, and that any problems encountered would be fixed then.
34. The basic elements of the compromise were struck in negotiations among the members of the OWDO, who are listed in the September 1, 2000 report.
35. The Minister of the Environment set this group up in November 1999 with a Memorandum of Understanding, between:
 - a) The Minister;
 - b) CSR;
 - c) Canadian Newspaper Association (CNA);
 - d) Liquor Control Board of Ontario (LCBO);
 - e) Association of Municipalities of Ontario (AMO);
 - f) Canadian Paint and Coatings Association (CPCA);
 - g) Canadian Manufacturers of Chemical Specialties Association (CMCS); and
 - h) Recycling Council of Ontario (RCO).
36. The MOU challenged us to find a way to achieve 50% waste diversion from landfill. He also asked us to recommend what percentage, up to 50 percent of (actual) municipal Blue Box net operating costs, should be paid by stewards.
37. The MOU was a voluntary arrangement in which CSR, the LCBO and associations representing companies responsible for products and packaging which is recycled or diverted through Blue Box and other recycling and diversion programs could demonstrate product stewardship by providing funding for programs and activities. This was a temporary arrangement, intended to last approximately one year until replaced by more permanent arrangements. Among the tasks for the initial year was the preparation of recommendations with respect to the design of these longer term arrangements.
38. There was intense consultation and difficult negotiations among OWDO members and other stakeholders leading up to the September 1, 2000 report. The report illustrates the broad range of opinions that were expressed on all sides. In particular, there was vigorous debate about how much of Blue Box program costs stewards should have to pay.
39. Stewards reviewed a variety of approaches, including similar programs internationally. Ontario stewards chose a shared responsibility model with Ontario municipalities. The essence of this model was a 50/50 split of actual residential Blue Box program costs between stewards and



municipalities. None of the other accepted recycling program models allowed stewards to pay less than this on a long term basis.

40. Ultimately, OWDO board members agreed to unanimously support the final report. One of its recommendations was that stewards and the municipalities should share, 50/50, the actual net costs that all Ontario municipalities incurred in diverting packaging and printed papers generated by households from landfill.
41. For this purpose, it was essential to set up a way to collect and verify accurate municipal Blue Box costs. At the time, no one knew the true costs of Blue Box programs. Recycling program managers attempting to justify a Blue Box program to their councils had a tendency to underplay the costs. Once funding became available from stewards, the same managers naturally tended to more vigorously quantify and report various costs as Blue Box costs, given that there was the opportunity to get a portion of these costs reimbursed by stewards.
42. OWDO agreed that the amount to be split 50/50 would be determined through an annual Datacall process, to collect detailed and accurate information on actual municipal Blue Box costs and revenues, and to have those verified by stewards before acceptance.
43. Verification was necessary to ensure accuracy, and to ensure that all reported Blue Box costs were incurred to divert Blue Box waste. Some municipal Blue Box programs were claiming extra costs for other unrelated social objectives, such as providing jobs for the disabled. In our view, those costs were not incurred specifically "to divert Blue Box waste from landfill" but for other municipal objectives, however worthy, and should not be funded by stewards.
44. In other cases, municipal programs understated true Blue Box costs, e.g. by not allocating a share of municipal overhead and waste management administration costs to their recycling programs, which were often considered to be a public service provided to residents and not a significant element of the waste management services provided.
45. OWDO also agreed that some of the approved 50 percent owed to municipalities under s. 25(5) should be used to identify and assist high cost municipal programs to become more efficient, with a view to reducing future Blue Box costs. Many were still operating "first generation" programs utilizing outmoded collection equipment and sorting facilities.
46. We later implemented this concept in the Effectiveness & Efficiency Fund (E&E) and later in the Continuous Improvement Fund (CIF).
47. A third key element was that individual municipalities should have a financial incentive to improve their efficiency and effectiveness. This was to be one feature of how stewards' funds were distributed to individual municipalities through an agreed Municipal Funding Allocation Model (MFAM) or payout model.

The WDA


48. The WDA does not follow all the recommendations of the September 2000 OWDO report. However, it did adopt in, Section 25(5) of the WDA, the OWDO recommendation that industry and the municipalities should share, 50/50, the actual municipal costs of running Blue Box programs.



49. Some of our other recommendations, such as the Datacall and cost verification systems, the E&F Fund and the efficiency incentives in the payout model, were also adopted as part of the BBPP.
50. The Act is loosely written, and the Ministers were never very precise either. I attempted to provide rigour to the calculation of Blue Box program costs, and to minimize the amounts to be paid by stewards, through the design of the Blue Box program plan, the development of the policy and procedures established by the WDO for the annual Datacall, and through annual negotiations with municipalities.
51. I'm not a lawyer, but I always understood that the Minister has power to make amendments to the BBPP, simply by writing a program letter or through the process of approving our rules and annual fee calculations. If rules and procedures were approved by the SO Board of Directors, Waste Diversion Ontario and the Minister, then, as far as I was concerned, they became valid, enforceable, and effectively the law. Thus, once we determined the steward fees for a given obligation year, and had those fees approved by Waste Diversion Ontario and the Minister, as far as I was concerned the municipalities were no longer entitled to be paid any more than that amount for that year.
52. Given that the Act and the regulations always left considerable room for interpretation, our primary focus was to promote the recycling of the "next least cost tonne of material" in order to meet recycling targets at the lowest possible cost. For example, neither the WDA nor the designation regulation limited the Blue Box waste diversion program to residential waste. Still, we successfully narrowed the scope of the BBPP to Blue Box Wastes generated primarily by households.
53. This allowed SO not to reimburse municipalities for non-residential Blue Box waste, with some exceptions such as schools. This was not based on the WDA, or environmental impact, nor was it based on what Blue Box waste municipalities collect under Regulation 101/94. This limitation did further SO's objective, whenever possible, to reach BBPP recycling targets at the lowest possible cost to stewards.

In kind

54. I was not in support of several parts of the WDA, including the exemption for Brewers' Retail, the ability of some stewards to make voluntary contributions as an alternative to paying fees, the prohibition of recovering energy from waste as an acceptable form of waste diversion from landfill and the requirements in the WDA for funding WDO and for approving steward fees, among others.
55. I was also not in support of allowing members of the Canadian Newspaper Association to provide advertising space to municipalities in lieu of paying fees when the costs of collecting and processing old newspapers significantly exceeds the market price for the recovered material. This was a straight political concession negotiated directly by the newspapers and was announced shortly after photos in the newspaper showing the Premier leaving a meeting with newspaper publishers and this concession was not supported by other stewards.
56. The in-kind concession doesn't directly benefit or hurt the packaging stewards. But it does hurt Ontario magazine and periodical publishers, who must pay substantial fees for collection



of their printed papers, while newspapers and foreign magazines cannot be compelled to pay fees.

Datacall

57. Given that the WDA did not provide detailed direction on the key issue of defining and sharing Blue Box program costs, determining the annual financial obligation of stewards to municipalities required the development of detailed protocols between the parties.
58. In the early years, from 2003 to 2007, we focused on scrutinizing and challenging the amounts reported by municipalities through the Datacall. Stewards pressed hard to ensure that only appropriate costs were reported through the Datacall. Municipalities that charged unreasonable amounts were challenged through the WDO verification process and through third party audits, to ensure that numbers reported to the Datacall were accurate and reasonably related to the service provided. They should not, for example, be stretched to include barely related items such as a share of the mayor's salary.
59. The verification process and audits of municipal returns to the Datacall were successful in identifying over-reporting by some municipalities. This embarrassed municipalities and reduced their confidence in the Datacall numbers reported by some of their colleagues and in addition they suffered a financial penalty as a result. By 2007, we had saved stewards millions of dollars by this strategy.
60. In 2004 and 2005, municipalities agreed to deduct \$10 million and \$14 million respectively from the reported Datacall net costs, as the Datacall numbers were not yet reliable. The parties agreed that these were temporary cuts as we worked through the kinks of setting up and operating the Datacall. We called the agreed reductions for those years "reasonable cost bands".
61. It took a few years for more accurate and reliable information to be obtained from municipal Blue Box programs. By 2007, the quality of municipal data had greatly improved, as a result of repeated Datacalls, plus verification by Waste Diversion Ontario, and independent verification audits commissioned by WDO.
62. On September 8, 2007, we advised SO that no more significant cost savings could be expected from challenging the accuracy of municipal Datacall reports.
63. We kept stewards informed of the rationale for rising BBPP costs, the successes achieved in negotiating lower payments to municipalities, and the fact that program costs would inevitably increase in future years if the current cost sharing model remained in place. We actively promoted steward investments to reduce the future costs of recycling by using easier to recycle packaging and to invest in enhancing the value of recovered materials.
64. I interpreted the words "as a result of the program" to mean the municipal Blue Box costs that were reported to and verified by the WDO through the Datacall as outlined in the BBPP. We would not pay any costs for municipal programs that refused to provide their data. Especially in the early years, there were some smaller programs that refused to report through the Datacall, and as result SO did not make payments to these programs.




WDO

65. In the early years, WDO had very little staff of its own, just the executive director, Glenda Gies, and her assistant.
66. Because of its lack of internal resources, WDO relied heavily on SO.
67. A very large part of WDO funding came from SO. The fees required by statute were insufficient, and WDO got into financial trouble. In 2004 to about 2006, SO bailed them out and lent WDO enough money to pay its salaries and other operating costs.
68. Until 2012, stewards had the majority of seats on the WDO board.
69. Municipal representatives were generally anxious to show that they were reasonable and willing to compromise. Their negotiations were hampered by the lack of continuity, as municipal representatives to MPIC and to the WDO board had substantial turnover. They therefore tended not to challenge the way SO said things were to be done, or WDO. They did, however, emphasize in each annual negotiation that they believed that the WDA required stewards to pay 50% of their actual BB program costs and that any reduction was a temporary concession to ensure the continuation of the BBPP for the long term.

Payment containment

70. Cost containment and payment containment are different concepts and these were hotly debated in annual MIPC negotiations. Cost containment is about reducing actual future Blue Box costs, and depends on action by both stewards and municipalities. The BBPP was intended to provide incentives for both parties to reduce actual future costs:
 - a) municipalities to become more efficient, and to reduce the costs they incurred to collect and process obligated wastes produced by stewards and
 - b) stewards to choose to package their products in materials that were easier and cheaper to recycle.
71. Cost containment was an important element of Blue Box discussions from the very beginning. It is mentioned in the 1999 MOU and in the 2000 ODWO Report. The Minister of the Environment frequently called for cost containment, and directed WDO to add a Cost Containment Plan to the BBPP.
72. Payment containment is about negotiating annual costs lower than a 50/50 split, i.e. reducing the share paid by stewards below 50% of verified municipal reported costs, for the variety of reasons outlined above. Payment containment was frequently requested by stewards, but was not adopted in the 2000 ODWO Report or the BBPP.
73. Nothing in the CCP explicitly required payment containment, nor stated how any "payment containment" should be calculated.
74. I am not aware that any Minister of the Environment ever explicitly authorized or directed Blue Box payment containment in favour of stewards, nor how any payment containment should be calculated. On the contrary, starting in 2008, Ministers of the Environment began to call for a



move towards extended producer responsibility, which could increase the share of Blue Box costs paid by stewards.

Negotiations with municipalities

75. We were successful, on behalf of stewards, in negotiating substantial payment containment agreements with municipalities until StewardEdge stopped representing stewards on Blue Box negotiations in 2010.
76. Our payment containment successes started when we were first developing the Blue Box Program Plan in 2002 to 2003. Municipalities did not have reliable data on the cost of their programs, and stewards were able to use the increase in reported municipal costs in subsequent years to raise political concerns about the impact of increasing costs over which they had no direct control.
77. In the early years of the BBPP, we were successful in persuading municipalities to accept annual cost calculations lower than reported costs, given that rapid escalation in these costs could threaten continuation of the BBPP. In addition, there were some disturbing examples of over-reporting of costs by some municipalities, which shook municipal confidence in the numbers submitted by some of their municipal colleagues. Negotiations at the Municipal – Industry Program Committee (MIPC) often focused on the need to get the program numbers right over the short term to ensure the success of the BBPP over the long term and to secure payment of at least 50% of municipal program costs.
78. In the absence of good data, and in order to reach agreement on annual Blue Box funding costs so that SO could get its fees approved within the time available for negotiations, we persuaded municipalities to accept payment containment in 2003 and 2004. As a transitional measure for those two years, they agreed to accept an amount that was known to be less than 50 percent of reported municipal costs. We called this a “reasonable cost band” reduction.
79. We were also able to persuade municipalities to make other concessions that would help modify the impact of fluctuating municipal Blue Box program costs on stewards’ annual fees. For example, municipalities agreed to accept a calculation of average total revenues over three years, because commodity prices vary dramatically, driving net program costs unpredictably up and down. Averaging over three years damped those fluctuations in funding.
80. We also proposed, and municipalities agreed, not to simply average the revenue over three years. Instead, we averaged it on a per tonne basis. These tweaks resulted in lower steward fees over the years. The effect of these concessions were not always apparent to municipalities.
81. Despite extensive efforts to assist and encourage higher cost municipal systems to become more efficient, with considerable success, SO remained concerned that municipalities were inefficient, that inappropriate costs were being reported to the Datacall, and that some of the money being paid to municipalities was being wasted.


CCP and Best practices

82. Municipalities continued to work with stewards on long term cost containment, that is to minimize actual future municipal costs, through measures such as using program efficiency as a distribution criteria for the MFAM, and for grants from the E&E fund (later the CIF) for



municipalities to invest in improving program efficiencies. Both parties were concerned about rising costs.

83. One key step was the Cost Containment Plan (CCP), which was paid for through the E&E Fund (which are funds diverted from stewards payments that would otherwise have been made to municipalities), and supported by both stewards and municipalities. The CCP called for “best practices” to be used for municipal benchmarking, and for providing financial incentives for better performance by municipal programs.
84. The CCP did not explicitly call for payment containment, but it contained ambiguous language about using best practices for “funding”.
85. Municipalities agreed to commission the “best practices” benchmarking report that KPMG wrote in 2005 /2006. This was an extensive and elaborate study but I do not know if it has been kept up to date in recent years. It was funded with about \$2,500,000.00 from the E&E fund.
86. One reason for the project was that municipalities were anxious to have the available funding distributed fairly and reasonably among the individual municipal programs. There were complaints from some municipalities that the funding allocation model was difficult to understand and to apply and that they couldn’t predict what funding they would receive from year to year. High performing programs felt that they were not being fairly rewarded for their good performance. Municipalities wanted a more objective way of distributing the funds among themselves.
87. In the call for proposals which ultimately resulted in the KPMG report, we instructed bidders that “the Minister of the Environment has determined that Stewards’ obligation will be confined to 50% of Best Practice system costs by 2008.” Municipalities did not challenge this statement, which became part of the KPMG Report.
88. The KPMG Report was effective in identifying higher cost municipal programs within similar groupings of municipal recycling programs. After 2007, we used the term “reasonable cost bands” to mean these groupings. The groupings were useful, although no two municipal Blue Box programs are alike. Almost every factor that affects costs is unique to each program, and apples to apples comparisons are only possible in general terms.
89. As part of the report, KPMG developed a computer model, based on the “cost band” concept, to calculate what a hypothetical “efficient” version of municipal Blue Box programs might cost. I am not aware of a Minister of Environment having expressly approved this computer model or any of its subsequent variations.
90. SO was able to dedicate significant resources to identifying and promoting what it considered to be recycling “best practices” and to aggressively negotiating lower costs on behalf of stewards. Municipalities generally lacked the resources or the expertise available to the stewards in these negotiations, and we were generally able to achieve annual cost agreements that were less than 50% of municipalities reported costs.
91. In 2007 and 2008, when reported municipal costs fell within the range of theoretical “best practice” costs calculated by the KPMG model, SO paid municipalities 50% of their verified reported net cost for the first time. Stewards were surprised by this result. This proved to be an important transition point in helping to persuade stewards to become more active in making



investments to increase the value of the used packaging materials being collected by municipalities.

92. In subsequent years when reported costs were higher than the calculated "best practices" costs, we tried to reduce payments to municipalities as much as possible and to no more than the calculated "best practices" costs. We were quite successful in using the best practices model to persuade municipalities to accept less than 50% of their reported costs.
93. Once municipalities agreed to the annual payment number, we would then set the stewards fees for the year, and have those fees approved by the WDO and the Minister. In our view, that made the negotiated annual cost estimate legal and binding for that year.
94. As a measure of the success of our approach, during this period, SO fee rates were generally lower than the packaging fees being charged to stewards in other provinces and other countries under their used packaging recycling regulations.

Less expensive alternatives?

95. Stewards are strongly of the view that they should not have to pay municipalities more than the lowest possible price for the waste diversion services that municipalities provide. While the BBPP was designed to be a cost sharing agreement for programs to be run directly by individual municipalities, stewards today would generally prefer to directly tender for these services on the open market, and to pay the lowest available market price for these services.
96. This is exemplified by the program now being implemented in British Columbia under the direction of some the largest stewards also participating under the SO program. In BC, stewards have full operational and financial responsibility for recycling used printed paper and packaging. Many stewards believe that by setting incentive payments for collection and processing and by directly contracting for services, that they will drive out any possible municipal program cost inefficiencies that may result from autonomous municipal decision making or from giving consideration to any other local public policy preferences.
97. This would be a different approach from the original design and operation of the WDA and BBPP.
98. There are many reasons why paying individual municipalities to run Blue Box programs is not the most efficient way to divert Blue Box waste from landfill. Many municipal programs are relatively small, are remote from recycling markets, are using older equipment and are too thinly populated to achieve economies of scale. Also, different municipal programs collect different materials. This can confuse the public and makes it harder to secure large quantities of materials to achieve the best possible prices for collected materials. These factors were known in the development of the BBPP.
99. More than 60 percent of municipal Blue Box collection and processing is currently provided by private sector companies, under contract to municipalities. Typically, those contracts also cover other waste management activities, not merely Blue Box. This gives municipalities little ability to demand specific changes in Blue Box management or costing while these contracts are in effect. And municipalities may also have other social priorities, including frequency and type of collection service provided, different from those of stewards, which dilute their attention to the financial bottom line.



Derek Stephenson

WITNESS

Sworn or Affirmed before me
On March 17, 2014
at the City of Lausanne
in Switzerland

Legalisation Nr 22'870.
I LAURENT BESSO, Notary Public at Lausanne (Vaud - Switzerland)
for the canton of Vaud, hereby certify the genuineness of the signature
apposed, on the present document before me, by Derek
STEPHENSON, with residence at Toronto (Canada).
Lausanne, the seventeenth of March two thousand and fourteen.

