

Joseph & Associates

Attorneys at Law
Suite 300
7272 Wisconsin Avenue
Bethesda, Maryland 20814
(301) 941-1989
Fax (240) 209-4000
josephassociates@comcast.net

Via Registered Mail
June 15, 2004

GOVERNMENT OF CANADA
Office of the Deputy Attorney General of Canada
Justice Building
284 Wellington Street
Ottawa, Ontario
K1A 0H8
Canada

NOTICE OF INTENT TO SUBMIT TO A CLAIM TO ARBITRATION PURSUANT TO CHAPTER ELEVEN OF THE NORTH AMERICAN FREE TRADE AGREEMENT

The Honorable Deputy Attorney General:

This letter is submitted in accordance with Article 1119 of the North American Free Trade Agreement (NAFTA).

This claim has been submitted less than three years from the date on which the Investors (Contractual Obligation Productions, LLC, Charles Robert Underwood and Carl Paolino) first acquired, or should have first acquired, knowledge of the breach and knowledge that the Investor had incurred loss or damage, pursuant to Article 1116 of NAFTA.

The Investors, Contractual Obligation Productions, LLC, Charles Robert Underwood and Carl Paolino, hereby give notice of their intent to submit a claim pursuant to Chapter 11 of NAFTA. Contractual Obligation Productions, LLC is a New York limited liability company. Charles Robert Underwood is an American citizen who resides in California. Carl Paolino is an American citizen who resides in New York State.

Canada has acted in a manner inconsistent with at least four provisions of NAFTA as follows:

1. National Treatment

NAFTA Article 1102 sets out NAFTA's national treatment obligation for investment. Under Article 1102(2) the investments of investors of other NAFTA parties must be given the best in-jurisdiction treatment with respect to the establishment, acquisition, expansion, management, conduct, operation and sale of other disposition of investments in like

June 15, 2004

circumstances to the investments of Canadian investors. When read substantively, the national treatment obligation ensures that all companies, whether domestic or foreign, are treated equally and without discrimination.

The Investors spent considerable time and money developing a television program for AMC, American Movie Classics and others (AMC), called "*The Wrong Coast*," for airing in Canada and other nations.

AMC, directly or indirectly applied to the Canadian Audio-Visual Certification Office (CAVCO) for subsidies for *The Wrong Coast*. CAVCO, and Canadian statutes, rules and regulations, require that only Canadian citizens work on projects that receive these subsidies. CAVCO has thus violated NAFTA by failing to treat Contractual Obligation Productions, LLC, Charles Robert Underwood and Earl Paolino the same as its own citizens.

CAVCO approved subsidies for the following Canadian firms to work on *The Wrong Coast*: Blueprint Entertainment, Cuppa Coffee, Curious Pictures and Moving Parts Productions, but failed to provide equal treatment to Contractual Obligation Productions, LLC, Charles Robert Underwood and Carl Paolino because it considered them to be ineligible for such subsidies.

Canadian statutes, rules and regulations prohibit Contractual Obligation Productions, LLC, Charles Robert Underwood and Carl Paolino from working in Canada, and thus have denied them equal treatment with Canadian citizens and companies in violation of NAFTA.

2. Minimum Standard of Treatment

NAFTA Article 1105 set out NAFTA's legal obligation for investment requiring that Canada treat the Investor and its investment in accordance with international law, including fair and equitable treatment. GATT, the General Agreement on Tariffs and Trade, is a part of applicable international law. Canadian and Canadian provincial subsidies concerning the manufacturing of film and television productions are in violation of the General Agreement on Tariffs and Trade (GATT).

GATT defines a subsidy to be "a financial contribution by a government or any public body within the territory of a Member" Article One of the Agreement on Subsidies and Countervailing Measures (ASCM), GATT, 1994. Canadian and Canadian provincial rebates and other payments to film production companies constitutes a subsidy under U.S. law and under GATT.

For a subsidy to be illegal under GATT, it must be provided to a specific industry. Section 2.1 of the ASCM. The subsidies in question have been provided only to one specific industry, the film and television production industry. GATT provides "A Member shall neither grant nor maintain subsidies referred to in paragraph 1. No Member should cause, through the use of any subsidy referred to in paragraphs 1 and 2 of Article 1, adverse effects to the interests of other Members. . . ." Section 3.2 of ASCM. Canada and the United States are members of GATT. As you know the World Trade Organization (WTO) ruled recently, based on a complaint

June 15, 2004

by Brazil, that agricultural subsidies were illegal under these same provisions of GATT.

3. Performance Requirement

NAFTA Article 1106(1) prohibits a number of specific governmental activities collectively referred to a performance requirements. Under Article 1106(1), a Party may not impose or enforce a "requirement, commitment or undertaking" in connection with the establishment, acquisition, expansion, management, conduct or operation of an investment with an investor.

Under subparagraph (1)(a) of Article 1106, a NAFTA Party may not require investors to include in their products or services any amount of goods or services that originate within the Party. CAVCO requires participation of Canadian citizens and companies in violation of this subparagraph.

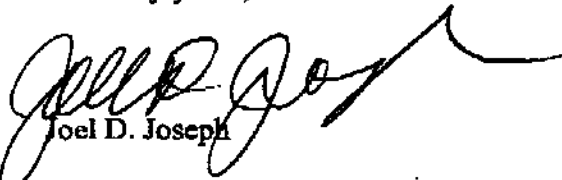
4. Expropriation.

A fundamental obligation contained in NAFTA relates to expropriation. This obligation is contained in Article 1110. It does not define expropriation, but it is clear that it is designed to protect against direct and indirect measures by extending its coverage to "measures tantamount to expropriation." Under international law, expropriation refers to governmental acts which deny use of property. Canada's film subsidies, and the conditions of these subsidies that require Canadian citizenship, is tantamount to expropriation of the property of those, including Contractual Obligation Productions, LLC, Robert Charles Underwood and Carl Paolino, who have suffered as a result of these illegal subsidies.

Under Article 1119 of NAFTA, claimants submit this claim and will provide at least 90 days before the claim is submitted for consideration by a NAFTA panel. During this 90-day period, I trust that Canada will endeavor to provide compensation to claimants so that formal submission of this claim is not necessary.

I look forward to your response.

Sincerely yours,



Joel D. Joseph

c.c. U.S. Trade Representative
Senator Barbara Boxer
Senator Diane Feinstein
Senator Hillary Clinton
Senator Charles Schumer