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1. MEMBERS AND PERSONNEL OF THE TRIBUNAL

David P. Silcox
*Chairperson and Chief Executive
Officer*

Robert Bouchard
Vice-chairperson

Curtis Barlow
Member

Moka Case
Member

Meeka Walsh
*Member (her term ended on February
28, 2000)*

Josée Dubois
Executive Director and General Counsel

Jane Northey
Legal Counsel

Lorraine Farkas
*Director, Planning, Research and
Mediation*

Marc Boucher
Analyst, Research and Communications

Gilles Gareau
Chief, Administrative Services

Nancy Lévesque
Administrative Officer

Christine Desbiens
Information Coordinator

Linda Platt
Database and Information Coordinator

Nathalie Fortier
Student-at-Law

2. MEMBERS' BIOGRAPHIES

Mr. David P. Silcox **Toronto, Ontario**

David P. Silcox has been a member of the Tribunal since December 1995 and was appointed Chairperson and Chief Executive Officer of the Tribunal effective March 1, 1998. Mr. Silcox holds a Master of Arts from the University of Toronto and has been awarded an honorary Doctor of Letters degree by the University of Windsor. He is also an associate fellow of Massey College.

Mr. Silcox is the Director of the University of Toronto Art Centre. He is a recognized art critic and author. He is the author of an extensive biography of David Milne, published in 1996, and co-author of a catalogue raisonné of the paintings of the same artist which was published in 1998. He is also the co-author of a major book on the painter Tom Thomson.

He has extensive experience in cultural portfolios at the federal, provincial and municipal levels, having held such positions as Director of Cultural Affairs for the Municipality of Metropolitan Toronto, Assistant Deputy Minister (Culture) with the federal Department of Communications and Deputy Minister with the Ontario Ministry of Culture and Communications.

Mr. Silcox has also served on numerous boards and commissions. He was a Member, Vice-Chairman and Chairman of the Canadian Film Development

Corporation (now Telefilm Canada), a Board Member of the Canadian Conference of the Arts, Chairman of the 1978 International Sculpture Conference, and a Board Member of such organizations as the National Film Board, the Stratford Festival, the Gardiner Museum, and Victoria University, Toronto.

Mr. Robert Bouchard **Lac Beauport (Québec)**

Robert Bouchard has been a member of the Tribunal since April 1997. He is a member of the Quebec Bar and has been in private practice as a lawyer since 1978.

He is an associate instructor at the École nationale d'administration publique (Université du Québec) and at the Centre de formation en métiers d'arts (Cégep de Limoilou). Mr. Bouchard is the author of various publications focussing on individual rights and responsibilities. He studied music at the Conservatoire de musique de Québec.

Mr. Curtis Barlow
Charlottetown, Prince Edward Island

Curtis Barlow has been a member of the Tribunal since March 1, 1998. Mr. Barlow is the Executive Director and Chief Executive Officer of the Confederation Centre of the Arts in Charlottetown. He served as the Cultural Counsellor at the Canadian embassy in Washington from October 1990 to July 1996. Prior to that, he was the Cultural Counsellor at the Canadian High Commission in London and Director of the Canada House Cultural Centre also in London from 1986 to 1990.

Mr. Barlow was the Executive Director of the Professional Association of Canadian Theatres (PACT) from 1977 to 1986, during which time he also held the position of President of the Canadian Conference of the Arts for a two-year term (1984-1986).

Ms. Moka Case
Moncton, New Brunswick

Moka Case has been a member of the Tribunal since April 15, 1999. Ms. Case has been active in the cultural sector for a number of years and has broad experience in the music and theatre sectors. She has been a member of the East Coast Music Association Board since 1995 and acted as its Chair in 1996 and 1997. At the Théâtre Capitol Theatre Inc. in Moncton, she was Executive Assistant between 1992 and 1994 as well as Interim General Manager in 1994 and 1995. She has also

served as the Program Executive for the New Brunswick Arts Board.

Ms. Case has also served as a jury member on numerous peer assessment committees, such as, for the Canada Council Music Section in 1997 and 1998 and the Canadian Academy of Recording Arts and Sciences from 1996 to 1998.

Ms. Meeka Walsh
Winnipeg, Manitoba

Meeka Walsh was appointed as a member of the Tribunal in March 1995. Ms. Walsh was appointed to a second term that ended on February 28, 2000. She holds a Bachelor's degree in Art History. She has had extensive editorial experience as a publishing consultant to the Confederation Centre of the Arts in Charlottetown and the Winnipeg Art Gallery, where she also edited a number of major catalogues.

Ms. Walsh was President of the Winnipeg Periodicals Association in 1985 and 1986 and has also served as a member of the Publishing Policy Advisory Committee to the Minister of Culture, Heritage and Recreation in Manitoba. From 1989 to 1992, Ms. Walsh was Vice-President of the Manitoba Writers' Guild. She has acted as a juror for the Saskatchewan Arts Board and the Manitoba Arts Council. Ms. Walsh has been involved with the arts magazine *Border Crossings* in a number of capacities since 1983, and has been the magazine's editor since 1993. In 1996, she published a collection of short stories, *The Garden of Earthly Intimacies*.

3. THE TRIBUNAL'S MANDATE

The Canadian Artists and Producers Professional Relations Tribunal is the independent quasi-judicial agency established to administer the framework governing professional relations between self-employed artists and producers under federal jurisdiction that is prescribed by the *Status of the Artist Act* (hereinafter called the *Act*).

The *Act* defines "artists" as independent contractors who are authors within the meaning of the *Copyright Act*, directors, performers or other professionals who contribute to the creation of a production.

All broadcasting undertakings under the jurisdiction of the Canadian Radio-Television and Telecommunications Commission, all federal government departments and the majority of federal government agencies and crown corporations are considered to be "producers" for the purposes of the *Act*.

By following the procedures specified in the *Act*, associations representing self-employed artists can obtain legal recognition and the right to negotiate with producers for the purpose of entering into scale agreements. These agreements will specify the minimum terms and conditions under which self-employed professionals in a particular cultural sector will provide their services to producers in the federal jurisdiction.

The objective of the Canadian Artists and Producers Professional Relations Tribunal is to contribute to the enhancement of Canada's cultural community by

encouraging constructive professional relations between artists, as independent contractors, and producers in the federal jurisdiction.

The Tribunal's principal responsibilities are:

- to define the sectors of cultural activities subject to federal jurisdiction that are suitable for collective bargaining;
- to certify artists' associations to represent these sectors;
- to hear and decide complaints of unfair practices filed by artists, artists' associations and producers and to prescribe appropriate remedies.

The Tribunal reports to Parliament through the Minister of Labour. However, certain provisions of the *Act* specify a role for the Minister of Canadian Heritage.

4. THE TRIBUNAL'S ACTIVITIES

4.1 Introduction

The *Professional Category Regulations* were adopted and came into force on April 22, 1999. The Regulations define additional categories of professional artists who are eligible for coverage under the *Act*. Subject to the exclusions provided for in the Regulations, the categories include:

- camera work, lighting and sound design;
- costumes, coiffure and make-up design;
- set design;
- arranging and orchestrating; and
- research for audiovisual productions, editing and continuity.

The Regulations are on the Tribunal's Internet site and copies can also be obtained from the Tribunal's Secretariat.

Three applications for certification requiring the adoption of the Regulations were pending: the Société des auteurs recherchistes, documentalistes et compositeurs (SARDeC), the Association des professionnel-le-s de la vidéo du Québec (APVQ) and the Association des professionnels des arts de la scène du Québec (APASQ). The APVQ informed Since it began operations in May 1995, the Tribunal has received 29 applications for certification. As of March 31, 2000,

the Tribunal of its intent to proceed with its application for certification while SARDeC withdrew its application.

During the 1999-2000 fiscal year, the Canadian Media Guild filed an application for certification on behalf of the Professional Association of Canadian Talent. Also, the Association des journalistes indépendants du Québec informed the Tribunal of its intention to proceed with its application for certification that had been on hold. Finally, a complaint and an application for review were also received.

The Tribunal rendered a final decision on an application for review presented by the National Arts Centre Corporation. In another matter, the complaint was withdrawn following an agreement between the two parties.

During the course of its fifth fiscal year, eleven certifications issued by the Tribunal came up for renewal. Pursuant to subsection 28(2) of the *Status of the Artist Act*, the certification is valid for three years. It is automatically renewed for an additional three-year period unless a competing application for certification in respect of the sector, or an application for revocation of certification, is filed within the three months before the expiry of the certification. All eleven certifications were renewed.

18 final and 10 interim decisions were rendered with respect to these applications. In four cases, the

application was withdrawn. The Tribunal also received 11 other applications (applications for review of decisions or orders, applications for determinations or declarations and applications for consent to prosecute) and complaints. Six final decisions were rendered and three cases were resolved without a Tribunal hearing.

The Tribunal contracted with a consulting firm to conduct stakeholder consultations with a number of artists' associations and producers affected by the *Status of the Artist Act*. The Tribunal wanted to determine their level of satisfaction with its services and their perceptions of the ultimate benefits of the collective bargaining system provided for by the *Status of the Artist Act*. The consultants' report was due at the beginning of the 2000-2001 fiscal year.

The Tribunal also continued to carry out activities aimed at increasing public awareness of the *Status of the Artist Act* and the work of the Tribunal. About 15 presentations were made by the Tribunal Secretariat to different organizations which had made requests. The Tribunal's information booth was used at different events, for example at the Canadian Labour Congress' annual convention, Forum 99 organized by the Cultural Human Resources Council and various university career fairs (Halifax, Ottawa, Toronto and Québec).

Three issues of the Tribunal's *Information Bulletin* were published. This publication provides a summary of decisions issued by the Tribunal and other developments at the Tribunal, and details on a variety of matters of interest to parties bargaining under the *Status of the Artist Act*.

During this period, a member left the Tribunal. Ms. Meeka Walsh's term ended on February 28, 2000.

4.2 Applications for Certification

The following section presents a summary of the status of each application for certification during the 1999-2000 fiscal year.

Associated Designers of Canada (*File No. 95-0007-A*)

Sector sought:

“set, costume, lighting and sound designers working within the live performing arts industry.”

Public notice of the application was given January 27, 1996. The Professional Association of Canadian Theatres (PACT) and the Association des professionnels des arts de la scène du Québec (APASQ) notified the Tribunal of their intention to intervene. A hearing was scheduled for the month of May 1999 but was postponed at the applicant's request. A second hearing scheduled for June 15 and 16, 1999 was postponed at the request of an intervening party. Since then, the Associated Designers of Canada decided to re-open negotiations with APASQ and to enter into a jurisdictional agreement before scheduling a new hearing date. The matter was still pending at the fiscal year end.

Société des auteurs, recherchistes, documentalistes et compositeurs (*File No. 95-0009-A*)

In 1995, the Société des auteurs, recherchistes, documentalistes et compositeurs (SARDeC) applied to represent a number of independent contractors who work as researchers in the French language. This application could not be heard by the Tribunal before the enactment of the *Professional Category Regulations*. The Regulations were adopted in April 1999. SARDeC decided they would no longer represent researchers and asked the Tribunal to withdraw its application.

The Writers' Union of Canada and The League of Canadian Poets (*File No. 95-0014-A*)

In November 1998, The Writers Union of Canada was granted certification by the Tribunal. In December 1998, the Attorney General of Canada filed an application for judicial review in respect of Decision No. 028 in the Federal Court of Appeal. The application for judicial review will be heard in November 2000.

Editors' Association of Canada (*File No. 95-0019-A*)

The application for certification was incomplete and the applicant was asked to provide further materials in support of its application. The matter was still pending at the fiscal year end.

Association des professionnels des arts de la scène du Québec
(File No. 95-0021-A)

Sector sought:

“all set, costume, lighting, sound, accessory and puppet designers, stage directors, stage managers, set painters, technical directors, production managers and all costume assistants, set designer assistants and production assistants working in the province of Québec and at the National Arts Centre in the areas of the performing arts, dance and variety entertainment.”

Public notice of the application was given on April 6, 1996. With respect to stage directors (“metteurs en scène”), a competing application for certification was filed by l’Union des artistes (UDA). On July 24, 1998, following a representation vote, the UDA was certified to represent stage directors. The rest of APASQ’s application was still pending at fiscal year end.

Fight Directors, Canada
(File No. 96-0023-A)

Certifications given to the Canadian Actors’ Equity Association, ACTRA Performers Guild and l’Union des Artistes have removed many of the independent artists from the sector which Fight Directors, Canada was seeking to represent. The applicant has been asked to advise the Tribunal whether it wishes to proceed with an application for a much

smaller sector than it originally sought. The matter was still pending at fiscal year end.

Association des professionnel-le-s de la vidéo du Québec
(File No. 96-0026-A)

In November 1996, the Association des professionnel-le-s de la vidéo du Québec (APVQ) applied to represent a sector composed of a number of professional categories. Since some of the categories were not specifically defined in the *Status of the Artist Act*, the applicant requested that its application be deferred until Regulations prescribing additional categories of artists were enacted. After the *Professional Category Regulations* were enacted on April 22, 1999, the APVQ filed an amended application for certification. Public notice of the application was given in December 1999.

The proposed sector is:

“all professional independent contractors in Québec, engaged by a producer subject to the *Status of the Artist Act*, in all audiovisual productions, in all forms and in all mediums other than film, including television, video and the recording of commercials, in all languages, who practise professions that contribute directly to the creative aspects of the production and who perform the following functions:

(1) camera work, lighting and sound design, in particular the following positions: assistant director, director of photography, camera operator, cameraman (including steady-cam, baby-boom, and camera operated through a specialized system [C.O.S.S.]), assistant cameraman, still photographer, lighting director, chief lighting technician, lighting technician, chief electrician, electrician, lighting console operator, motorized projector operator, sound man, boom man, sound assistant, sound technician, sound effects technician, key grip, grip, rigger, computer graphics designer, computer graphics special effects technician;

(2) costume, coiffure and make-up design, in particular the following positions: art director, make-up designer, supervising make-up artist, make-up artist, make-up assistant, special make-up effects artist, prosthetic make-up technician, prosthetic make-up assistant, hair stylist designer, assistant hair stylist, hair dresser, assistant hair dresser, wig-maker, assistant wig-maker, hairpiece technician, costume designer, costumer, wardrobe mistress, assistant wardrobe mistress, wardrobe assistant, dresser, propsman specialist, cutter, seamstress, puppet designer, puppet handler;

(3) set design, in particular the following positions: assistant art director, set designer, assistant set designer, set design assistant, set co-ordinator, set decorator, propsman specialist, props designer, propsman crewleader, property assistant, location property assistant, chief studio stagehand, studio stagehand, head painter, painter, scenic painter, assistant painter, sculptor-molder, head carpenter, carpenter, assistant carpenter, studio special effects technician, assistant studio special effects technician;

(4) editing and continuity, in particular the following positions: production co-ordinator, floor director, production assistant, floor manager, location manager, logistics manager, assistant logistics manager, script-clerk, script assistant, safety co-ordinator, transportation co-ordinator, technical director, assistant technical director, switcher, ISO switcher, image controller (CCU), videotape operator, slow motion operator, cue prompter operator, video credits designer, video projectionist (including giant screen and video wall), key video grip, video grip, off-line editor, in-line editor, editor, sound editor, sound mixer, assistant editor, videographer, airwave transmission operator, satellite transmission operator,

microwave transmission
operator.”

Following the publication of the notice, the APVQ asked the Tribunal to temporarily defer consideration of its application for certification.

**Association des journalistes
indépendants du Québec**
(File No. 96-0028-A)

Proposed sector:

“all professional freelance journalists and researchers who are authors of works in French, engaged by a producer subject to the *Status of the Artist Act* in the following areas: publication or distribution of periodicals, newspapers, magazines, or any other means of publication or distribution, film, video, television, radio and sound-recordings.”

Public notice of the application was given in December 1999. The matter was still pending at the end of the fiscal year.

**Professional Association of Canadian
Talent**
(File No. 1310-00-001)

On March 31, 1999, the Canadian Media Guild filed an application for certification to the Tribunal on behalf of the Professional Association of Canadian Talent to represent background performers.

4.3 Applications for Review

National Arts Centre Corporation (File No. 1350-99-001)

In June 1999, the National Arts Centre Corporation (NAC) presented a request to review Decision No. 010 rendered on April 25, 1996, which granted certification to the Canadian Actors' Equity Association (CAEA). Specifically, the NAC requested that the Tribunal "*reconsider or amend [Decision No. 010] or alternatively under section 26 of the Act, clarify the scope of the sector determination...*".

In Decision No. 030, the Tribunal determined that the grounds mentioned by the NAC to justify its application for review were insufficient and that it was unnecessary to review the sector definition or to clarify its scope.

Allyson Brown

4.4 Complaints and Applications for Consent to Prosecute

Canadian Actors' Equity Association (File No. 97-0001-C)

A complaint and an application for consent to prosecute were filed by the Canadian Actors' Equity Association (CAEA) against the Professional Association of Canadian Theatres (PACT) and Alberta Theatre Projects (ATP) on July 2, 1997. On October 10, 1997, with the consent of the parties, the Tribunal appointed Elizabeth MacPherson and Lorraine Farkas as mediators, instructed them to meet with the parties and endeavour to resolve the complaint and application for consent to prosecute. The mediation did not lead to a settlement, the parties continued to negotiate and the matter was still pending at fiscal year end.

Société des auteurs, recherchistes, documentalistes et compositeurs (File No. 97-0003-C)

A complaint was filed by the Société des auteurs, recherchistes, documentalistes et compositeurs (SARDeC) against TVOntario pursuant to paragraph 32(a) of the *Status of the Artist Act*. When the parties agreed to commence negotiations, SARDeC requested that the Tribunal postpone its proceedings with regard to the complaint. The Tribunal agreed to the request and adjourned its proceedings *sine die*. The matter remained pending at fiscal year end.

(File No. 98-0015-C)

A complaint was filed pursuant to section 35 of the *Act* by Allyson Brown against ACTRA Performers Guild and 3 Miles Apart Productions Ltd. in November 1998. The Tribunal was informed that the parties had reached an agreement and the complainant withdrew her complaint in February 2000.

Canadian Actors' Equity Association
(File No. 1330-00-001)

A complaint was filed by the Canadian Actors' Equity Association (CAEA) pursuant to section 53 of the *Status of the Artist Act* alleging failure to bargain in accordance with section 32 of the *Act*. The complainant named as the respondents the National Capital Commission and the Canadian Museum of Civilization. The matter was still pending at the end of the fiscal year.

5. TRIBUNAL CASELOAD

Applications for certification

	1995-96	1996-97	1997-98	1998-99	1999-2000
Brought forward from previous fiscal year	n/a	18	14	10	7
New applications received	21	7	0	0	1
Notices published	15	5	2	1	2
Public hearings held	3	11	3	3	0
Interim decisions rendered	7	1	2	0	0
Final decisions rendered	2	10	3	3	0
Cases withdrawn	1	1	1	0	1
Renewals	n/a	n/a	n/a	2	11
Pending at fiscal year end	18	14	10	7	7

Other applications* and complaints

	1995-96	1996-97	1997-98	1998-99	1999-2000
Brought forward from previous fiscal year	n/a	0	1	4	4
New applications* or complaints received	1	3	6	1	2
Notices published	0	0	1	0	0
Hearings held	1	1	3	1	1
Interim decisions rendered	0	0	0	0	0
Final decisions rendered	1	0	3	1	1
Cases settled/withdrawn	0	2	0	0	1
Pending at fiscal year end	0	1	4	4	4

* Includes applications for review of decisions or orders and applications for determinations or declarations, and applications for consent to prosecute.