

**FEDERAL COURT
ACTION IN REM AGAINST THE S/V "AÇOR"
AND IN PERSONAM AGAINST
THE OWNER OF THE S/V "AÇOR"**

BETWEEN:

CAMPBELL RIVER HARBOUR AUTHORITY (CRHA)

PLAINTIFF

AND:

THE OWNERS AND ALL OTHERS INTERESTED
IN THE S/V "AÇOR", Captain E. G. da COSTA DUARTE

DEFENDANTS

APPENDIX B - AUGUST 15, 2010

We the undersigned, members and Harbour users of the Campbell River Harbour Authority (CRHA), wish to inform the Federal Court of Canada of our knowledge of the facts involving Federal Court File T-1003-10 and Criminal Court Files 36999-1 and 37034-1. Our knowledge extends to information not yet before the Federal Court involving several audio recordings, video recordings and images of contradictory evidence originating from Phyllis Titus and Tim Hobbs. The following main topics are of enough scope to request RCMP investigation and/or a Judicial Inquiry of the Campbell River Harbour Authority (CRHA) and its participating Board of Directors, Phyllis Titus and Ministry of Fisheries and Oceans (DFO) officials; Ken Smith and Robin Richardson. Also, we request the participation of the Attorney General of Canada to address serious contraventions of the following Acts of Parliament; *Canada Corporations Act, Canada Business Corporations Act, Fishing and Recreational Harbours Act and Fishing, Recreational Harbours Regulations and Federal Real Property and Federal Immovables Act.*

We the undersigned are willing participants at bringing justice to the CRHA facility, currently our time and effort is limited to gathering evidence for the courts, leaving no time to educate other harbour users of the corruptive on goings of the CRHA Board of Directors and Phyllis Titus. Currently the process of educating the average harbour user is too great, given the thirteen years head start initiated by the founding members; Bruce Kempling, Tim Hobbs, Hugh Silver, Tom Forge Dave Christian and Tom Green. Certainly, all the outcome of the Federal and Provincial Courts will be used as a tool to educate the current harbour users, whether a positive or negative outcome occurs.

The production of Appendix B does not install a support for all decision originating from Capt. E. G. da Costa Duarte. For example, his recent decision to not return to the CRHA facility until the outcome of the Criminal process, is rejected by all of us. Capt. E. G. da Costa Duarte was removed from the premises based on false accusations originating from an individual that makes it her life to disrupt our life, robbing us of our laws and rights, not dismissing that her work is representative of the CRHA Board of Directors. While Capt. E. G. da Costa Duarte has taken an interest to learn about the Canadian Judicial process, we are not at his level. Our current level of judicial understanding does not prevent us from questioning the involvement of Ms. Chapelski, solicitor for the CRHA. Her role fails reasoning, for example, the letter (Exhibit M) dated March 4, 2010, signed by Tom Forge, CRHA President, addressing a written request for financial details (exhibit J), fails reasoning and meets all the underhanded practices of the CRHA Board of Directors. The last paragraph of the letter states the following; **"Even if you were a member, you would not be entitled to review the accounting records asked for..."** This statement alone and in a "nut shell" nullifies this Federal law suit T-1003-10. Since when does a court process begin with a plaintiff demonstrating a flagrant disregard for a parliamentary Act, namely the Canada Corporations Act and Canada Business Corporations Act? Should Canadian taxpayers and CRHA members waste their money entertaining a civil law suit, when the Plaintiff's Board of Directors President Tom Forge practices highly questionable behaviour? Given that Ms. Chapelski is paid with membership money, where does the right to protect those that are destroying our Corporation merit stand above our right to the protection of the law. This criminal behaviour is not the only practice originating from Tom Forge. The letter (Exhibit I), dated February 18, 2010, is a direct result of an insistence to review the CRHA financial details. With no mandate from the CRHA membership, Tom Forge engulfed himself in criminal behaviour by protecting financial details from reaching the membership. Only, a criminally motivated

Board of Directors would appreciate the efforts of the flagrant Tom Forge. Unfortunately, Capt. E. G. da Costa Duarte is not the only victim of an abusive CRHA Board of Directors, our undersigned, Manfred Binger was prevented from voting at the 2010, CRHA Annual General Meeting. Why, because Manfred Binger wanted to record the general meeting for public scrutiny and because he continuously demanded a review of the CRHA Corporation finances. A request for financial review originating prior to 2007.

The written request, Federal Court File T-1003-10, (Exhibit J), requesting financial details and the membership list, reviewed by Corporation Canada, Ministry of Industry, namely, Mr. Michel Duchesneau, Manager of Compliance, and submitted to the CRHA Board of Directors on February 18, 2010, was not a sole creation of Capt. E. G. da Costa Duarte, we, the undersigned participated on its creation. While Mr. Duchesneau was instrumental at arranging the review of Letters Patent, Objects of the Corporation and By-Laws. The CRHA Board of Directors continue to prevent the democratic process to take hold. Supporting the fact that no membership mandate is sought, the Board of Directors do as they choose and please. Accentuating the fact that the Campbell River Harbour Authority has no mandate or authority to file a civil law suit against any CRHA member, without the consent of the membership.

Again, bringing forth the participation of Ms. Chapelski, solicitor for the CRHA Corporation, her written RESPONSE TO REQUEST TO ADMIT dated August 5, 2010, states the following;

Excerpt from Capt. E. G. da Costa Duarte - Request to Admit:

YOU ARE REQUESTED TO ADMIT, for the purposes of this proceeding only, the authenticity of the following documents:

1. The original "incident/occurrence report" submitted to the defendant on February 18, 2010.
2. The original Letters Patent of the CRHA Corporation, Objects of the Corporation, By-Laws and Annuals.

The plaintiff is required to have copies or the original documents listed on paragraphs 1 and 2. The defendant has possession of the document listed in paragraph 1. Paragraph 2 was obtained from Industry Canada, Ottawa, Ontario.

Excerpt from Ms. Chapelski's response:

4. Denies the authenticity of the documents numbered : 1 and 2

for the following reasons:

Neither of the documents numbered 1 or 2 were attached to the Defendants' Request to Admit, and thus it is impossible for the Plaintiff to know the exact documents referred to and, if authentic, admit their authenticity, or if not authentic, deny their authenticity.

Despite the fact that Industry Canada has forward to us all the particulars of the Letters Patent, Objects of the Corporation, By-Laws and Annuals, Ms. Chapelski maintains the same tune, originating from the corrupt Board of Directors, insinuating that these documents do not exist. Our review of the CRHA Letters Patent, Objects of the Corporation, By-laws, and Corporation Annuals is strictly denied. Further, our Review of the CRHA Lease Agreement is strictly denied. Currently, these documents are in our possession, via several requests to Industry Canada and Freedom of Information within the recent past, given the current Criminal Court Files 36999-1 and 37034-1. This is an appalling practice originating from Directors of a not-for-profit Corporation, the Campbell River Harbour Authority, against its own members. A deprivation of our rights, fully supported by Ms. Chapelski, an officer of the Court mandated to uphold our Canadian laws.

Given the overwhelming evidence involving the above-mentioned audio recordings, video recordings, images, witnessed events and evidence already before the criminal court, the financial waste, spent paying Ms. Chapelski to initiate and conduct a federal Court law suit against Capt. E. G. da Costa Duarte and possible others, demands mandatory financial recupe from the currruptive CRHA Board of Directors. The evidence not yet before the courts reflect the following audio recordings;

Phyllis Titus - Numerous contradictions involvling; live-a-boards, Corporate finances, threats, women haters, the real purpose for the live-a-board agreement, etc...

Kent Moeller - Clarification that no audit was ever undertaken by Kent Moeller and his accounting firm, contrary to information posted on the CRHA Annuals sent to Industry Canada (possible criminal activity - forged document).

Tim Hobbs - An explanation of the CRHA Corporation, purposely distorting fact. This information was sent to Industry Canada at the onset of criminal court files 36999-1 and 37034-1.

Dave Ostler - Views of Phyllis Titus behaviour, etc...

Ted Thompson - Description of the event that took place on February 17, 2010, involving the sinking of his skiff and how Phyllis Titus reacted to the emergency, refusing to assist a member in need, conducive with her past mannerisms.

Evidence originating from video recordings and digital images represent the follows topics: **Pollution, unseaworthy vessels, CRHA document shredding, missing new fir planks, etc...**

We, the undersigned, see the Federal Court Process quickly becoming an obstacle rather than a facilitator. The absence of proper ministerial (DFO) conduct overseeing the operation of the Campbell River Harbour Authority, bringing forth the fact that the CRHA is a not-for-profit Corporation specifically designed to serve its members and Harbour users, directly contributed to an escalation in manipulative behaviour for the betterment of so few, the CRHA board of directors. Criminal Court Files 36999-1 and 37034-1 is a direct result of a Government failure to administer public property. However, the ridiculous and confusing mannerisms of Ms. Chapelski, solicitor for the CRHA Corporation and the involvement of the Federal Court are far more damaging to the democratic process, than any other criminal activity before witnessed by us, because it perpetuates the wrongs initiated by the criminal element, in this case, the CRHA Board of Directors and Phyllis Titus.

The following are additional issues of concern to us, addressed in numbered paragraph format:

- 1.** After several requests, both verbal and written, to the CRHA Board of Directors and CRHA staff, to obtain the CRHA membership list to ascertain legal voting practices, remain unrealized. **No membership list was ever shown to us.**
- 2.** Our membership in the CRHA Corporation and our usage of the facility is constantly under threat of removal, membership cancellation and Phyllis Titus own style of threats against our manhood and lack of conformity. Phyllis Titus, disrespect for our wives and children with idle accusations of "women haters"; applicable to Manfred Binger and Capt. E. G. da Costa Duarte. Threats involving our live-a-board status with retractions when we meet their desired conformity. The preceding threat is accompanied by an additional threat of a rate increase to a daily payment associated with the current transient rates of .75 cents per foot per day, opposed to \$3.12 per foot per month enjoyed by all of us. All these threats combined impose a stressful maritime existence, specifically when the facility is our Federal Property to enjoy.
- 3.** The conduct of the CRHA Annual General Meetings are contrary to Canadian Democratic practice, where the members are selected from individuals that show up at the door and pay the required one dollar. The practice basically follows a well orchestrated methodology showing the majority of members being of the same group that support the established status quo, developed by the original founding directors that serve the board for the last thirteen years. A practice contrary to the CRHA By-laws. Originating from witnessed mannerisms, not all members pay and receive a membership card, they are automatically allowed to vote regardless of membership requirements addressed to us. Specifically this attitude is applied to the fisherman that maintain a close relationship to Tim Hobbs establishment, Redden Net.
- 4.** Since March 2, 2010, the involvement of RCMP Sergeant Craig Massey brought peace to the CRHA facility allowing for the Criminal process to take its run. This action resulted in a period of unprecedented peace not available in the past, unfortunately since Capt. E. G. da Costa Duarte departed the CRHA facility, past mannerisms have returned, now with a slew of additional new threats. These new threats are a result of the Federal Court Injunction against Capt. E. G. da Costa Duarte and his vessel, where the Board of Directors claim victory, thus threatening to evict us in the same manner.
- 5.** Further, we bring forth the missing lumber, exemplifying one of our noted events, showing the removal of all new Fir wood planks nailed to new dock extensions (fingers 5,4, etc...), early 2009, and its replacement with new Cedar planks. Sometime during the 2009 year, CRHA Director Dave Christian together with his daughter removed all the new Fir planks from the noted fingers and replaced them with new Cedar planks. We, along with several other members, saw Dave Christian load it all on a trailer and remove them from the CRHA premises. A conservative estimate of the cost for treated Fir planks surpasses five thousand dollars. When the totality of Fir planks is considered, are the missing Fir planks theft, taking place in plain day light? The missing Fir planks, a lack of financial accountability, and creation of self-interest CRHA rules with no regard to the provisions of Parliament Acts and CRHA By-laws, etc.... What all indicates? Given that payments to contractors are never shown to the membership, how much did Director Dave Christian receive? Yet, this is a not-for-profit Corporation accountable to its membership.
- 6.** **Ms. Chapelski, solicitor for the CRHA Corporation, accertains that the CRHA harbour facility is a "commercial fishing harbour at Campbell River" further Phyllis Titus affidavit states the following; "the purpose of the organization is to maintain berthage at Campbell River for commercial fishing vessels". "Pleasure craft may be allowed to berth in the Harbour, but only as a supplement to the commercial fishing fleet". These statements are a farse and insult the commercial fisherman that use the facility. We, the undersigned are well aware of the numerous complaints originating from licensed commercial fisherman that use the CRHA facilities, when no space is available to them because Director Hugh Silver Yacht Club and pleasure transient boaters prevent fishing vessel berthage. This year, as per previous years, commercial fisherman were ordered to remove their vessels from the designated transient docks to make space available to pleasure craft. Therefore, we strongly recommend that Ms. Chapelski step down from her ivory tower and visit the CRHA facility to obtain a dosage of the facts governing Federal Court File T-1003-10. Futher, Ms. Chapelski should become aware of statements made by the Ministry of**

Fisheries and Oceans regarding the transfer of these public facilities for usage mainly by pleasure craft. We recommend Small Harbours webpages under DFO website.

7. Evidence obtained from the above-mentioned audio recordings, indicate a stronger involvement by DFO officials at dictating how the CRHA not-for-profit Corporation should operate. An indication that the CRHA Board of Directors are performing according to the interests of DFO, rather than directives from the membership. Also, the CRHA Lease Agreement states that the Lessor (DFO) "may terminate the Lease Agreement for any reason on 60 day's notice". See excerpt below;

Termination On Notice

26. (1) This Lease may be terminated at any time by either of the Lessor and the Harbour Authority for any reason on 60 day's notice in writing.

(2) This Lease terminates at the end of the notice period specified in this section.

Thus, making this whole not-for-profit Corporation exercise futile. There is no assurance that any effort to better the CRHA facility would result in a gain for the CRHA membership, after all, it can revert back to the Federal Government on 60 days notice and sold to a private party at the Government's discretion. Therefore, the only issue worthy of a resolution is the financial aspect of the CRHA Corporation. Is the CRHA monetary gain diverted to the financial gain of the CRHA Directors? and, what other gains the CRHA Directors collected during the thirteen years of management?

In essence, all the CRHA membership is doing is maintaining a Government facility, risk free to the Federal Government, until our Federal Government decides what to do with it; resulting in a future sale to the private sector with no benefit to the commercial fisherman. The first letter written by Capt. E. G. da Costa Duarte addressed to the Honourable Justice Allan Lutfy, describes the development of Bluffers Park located in Scarborough, Ontario, where the membership constructed marine facilities under a long term lease, rather than a lease favouring only the Federal Government. The Bluffers Park facility assured long term enjoyment of the facility to the membership as a product of their hard work.

8. Continuing along the same topic as paragraph 7 above-mentioned, even the basic needs of the facility are not met, even when there is surplus finances to accommodate these projects; no grid upgrades, no dinghy racks built, no removal of unseaworthy vessels from the CRHA facility, no pollution controls, etc...

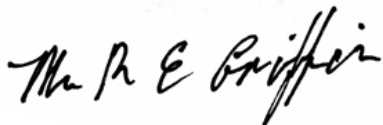
In conclusion, we are assured of one thing, every effort to better our life at the CRHA facility is controlled by forces unknown to us. The behaviour of the CRHA Board of Directors is irrelevant when a great deal of money is diverted to pay a lawyer to fight a groundless case that ultimately will be used against us, if we choose to question the current status quo of the CRHA Corporation and the Board of Directors. The two letters addressed to the Minister of Fisheries and Oceans produced by Capt. E. G. da Costa Duarte on behalf of all of us, resulted in no resolution. A strong indication that DFO is not an Honourable participant, rather an underhanded Government Ministry that fails its citizens.



Manfred Binger



Glenn Lusk



Ron Griffin



Sean Foy