2024 01G 0937

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
GENERAL DIVISION

BETWEEN:

NEIL BOSE, THE PRESIDENT AND VICE-CHANCELLOR *PRO TEMPORE* OF MEMORIAL UNIVERSITY OF NEWFOUNDLAND

APPLICANT

AND:

MICHAEL HARVEY in his capacity as THE INFORMATION AND PRIVACY COMMISSIONER OF NEWFOUNDLAND & LABRADOR

FIRST INTERVENOR

AND:

MATTHEW BARTER, THE ACCESS TO INFORMATION REQUESTER AND COMPLAINANT BEFORE THE COMISSIONER

SECOND INTERVENOR

AND:

GENESIS GROUP INC.

THIRD INTERVENOR

AND:

C-CORE

FOURTH INTERVENOR

A CASE-MANAGED PROCEEDING BEFORE THE HONOURABLE JUSTICE STACK

AFFIDAVIT OF KELLY MARTIN

SUMMARY OF CURRENT DOCUMENT	
Court File Number(s):	2024 01G 0937
Date of Filing Document:	August 30, 2024
Name of Party Filing or Person:	Neil Bose, The President and Vice-Chancellor *Pro Tempore* of Memorial University of Newfoundland
Application to which Document being filed relates:	Originating Application pursuant to section 50(2)(a) of the *Access to Information and Protection of Privacy Act, 2015*, c A-1.2
Statement of Purpose in filing:	To support the above-noted Originating Application

I, **KELLY MARTIN**, of the Town of Conception Bay South, in the Province of Newfoundland and Labrador, make oath and say as follows:

1. I am the Payroll Manager for Memorial University of Newfoundland ("**Memorial**"), in Memorial's Human Resources ("**HR**") Department.

2. Memorial acts as payroll agent for approximately fourteen (14) clients, including the following three (3) separately incorporated entities:

    a. C-Core;

    b. Genesis Group Inc. ("**Genesis**"); and,

    c. The Canadian Centre for Fisheries Innovation ("**CCFI**").

    (collectively the "**SIEs**").

3. As payroll agent, Memorial is responsible for facilitating payment to employees of the SIEs for remuneration purposes. This would include, amongst other things, the following:

    a. bonuses / special payments paid to C-Core executives and bonuses paid to C-Core management employees from January 1, 2019 to October 23, 2023;

    b. all bonuses and special payments paid to Genesis executives and all incentives paid to Genesis management employees from January 1, 2019 to October 23, 2023;

    c. all vehicle allowances paid to Genesis executive and management staff from January 1, 2019 to present; and,

    d. all vehicle allowances paid to Canadian Centre for Fisheries Innovation executive and management staff from January 1, 2019 to November 2, 2023

    (the "**Requested Information**").

4. In my role as Payroll Manager, I oversee payroll administration for Memorial and its payroll clients, inclusive of any payments associated with the Requested Information. As such, I have personal knowledge of the matters discussed herein.

5. Memorial administers payroll for the SIEs much like any other third-party payroll agent that could provide the service. Memorial provides the service to the SIEs in exchange for in-kind services.

6. Administration of SIEs' payroll includes ensuring employees of the SIEs receive appropriate amounts for earnings, withholding the appropriate deductions, filing payroll taxes and delivering payment to employees.

7. The SIEs fund the cost of their own payroll, and provide instructions to Memorial regarding each employee's pay and benefits structure. Memorial administers the SIEs' payroll strictly pursuant to the SIEs' instructions and applicable law.

8. All of Memorial's payroll clients submit their employee information and payroll instructions to Memorial via email to myhr@mun.ca. The emails ought to include the details necessary to facilitate regular payments to the employee. The email account is also used to provide instructions for changes to an employee's pay, such as the provision of a bonus or vehicle allowance. Any requests for payment associated with the Requested Information would have been issued to Memorial via the myhr@mun.ca email account.

9. Upon receipt of the email, a "case" is automatically created in Memorials' case management system, called "LBI". When a case is created in LBI, a payroll officer who reports to me, works to implement the payroll request.

10. There have been occasions when instructions are provided to my Memorial email account or a payroll officer's email account, instead of the myhr@mun.ca email. In those circumstances, the instructions are forwarded to myhr@mun.ca, or a payroll officer may action the request directly from the email.

11. The payroll officer downloads the information provided by the SIE and saves it in On-Base. On-Base is a records management system. Every person for whom Memorial processes payroll has a file stored in On-Base with the records and documentation relied on to facilitate payroll for that person.

12. Only Memorial HR employees have access to the SIE personnel files in On-Base, and the files are used solely for the purposes of administering payroll. SIE's can request access to these files by making a request to the HR Manager of Memorial's Records Center. In contrast, greater access permissions may be granted to On-Base files of Memorial employees.

13. BannerHR is a software system used by Memorial to facilitate payroll administration for its employees, and Memorial's payroll clients.

14. Payroll officers in my department input information received from SIEs necessary to facilitate payments into BannerHR.

15. Each person that Memorial processes payroll for has an ID number and position code in BannerHR. Employees of the SIEs have a position code starting with "X." Each position code in BannerHR is attributed an organization number. Each SIE has distinct organization numbers. This provides segregation of organization information in BannerHR and allows Memorial to restrict access.

16. BannerHR access is task-specific. Only HR employees who require access to SIE remuneration information, including the Requested Information, in BannerHR for payroll administration purposes have access to it.

17. Payroll is rolled out through BannerHR. When payroll is processed, the year-to-date tables are updated. Data is classified in various ways so as to restrict access to data, for instance by organization and fund. The SIEs can run reports pertaining to each SIE's data, but cannot see data pertaining to other organizations. For example, each SIE can run payroll expense reports.

18. Insofar as Memorial's access to SIE payroll information is concerned, the payroll systems analyst, payroll officers, and I have access to run payroll reports within BannerHR. I have additional permissions that allow me to run more detailed reports than those who report to me. Payroll officers only have access to the data only for the purposes of processing payroll for the SIEs. The Payroll Systems Analyst and I also have access to the data for the purposes of data quality review and ensuring appropriate information is available to the SIEs to support SIE decision-making. For example, ensuring that data is available to the SIEs in a manner that allows them to make operational decisions.

19. For greater certainty, Memorial HR does not use SIE remuneration information, such as the Requested Information, for the benefit of Memorial. It is only used to provide a payroll service to the SIEs.

20. I have never been asked by a person within Memorial to produce a report containing SIE remuneration information, including the Requested Information. If I received such a request I would say no. If the person asking was in a senior leadership position, I would seek advice from the Office of the General Counsel within Memorial.

21. I have a Chartered Professional Accountant Designation and I used to work with Deloitte. I treat the information provided by Memorial's payroll clients, including the SIEs, the same way I treated Deloitte's client's information. The SIE information belongs to the SIEs and I act on their instructions.

22. I make this Affidavit in support of Memorial's application for a declaration pursuant to section 50(2)(a) of the *Access to Information and Protection of Privacy Act, 2015*, c A-1.2, and I swear that the information contained herein is true to the best of my knowledge, information and belief.

SWORN/AFFIRMED before me at the City of St. John's, in the Province of Newfoundland and Labrador, this 29th day of August, 2024.

A Commissioner for taking affidavits.
Barrister – NL.

KELLY MARTIN