

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (the “**Act**”);

AND IN THE MATTER OF a Notice of Intention to Make an Order for Compliance and Payment of an Administrative Penalty against Planet Energy (Ontario) Corp. (ER-2011-0409) (GM-2013-0269).

SUPPLEMENTARY MOTION RECORD

July 7, 2017

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AND TO: **James MacArthur**
[REDACTED]
[REDACTED]

AND TO: **Kayvan Nahid**
[REDACTED]
[REDACTED]

AND TO: **Roobinet Andrassin**
[REDACTED]
[REDACTED]

AND TO: **Robert Hawkins**
[REDACTED]
[REDACTED]

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TAB 1

ONTARIO ENERGY BOARD

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AFFIDAVIT OF DORIS LOO
(sworn July 7, 2017)

I, Doris Loo, of the City of Markham, Province of Ontario, MAKE OATH AND SAY:

1. I am a litigation administrative assistant with Stikeman Elliott LLP in Toronto, lawyers for Planet Energy (Ontario) Corp. ("**Planet Energy**"). As such, I have personal knowledge of the matters deposed herein except where stated to be based on information and belief, in which case I verily believe such information to be true.
2. Attached hereto and marked as Exhibit "A" is a copy of OEB Enforcement Team notes from an interview with James MacArthur dated March 24, 2016.
3. Attached hereto and marked as Exhibit "B" is a copy of OEB Enforcement Team notes from an interview with James MacArthur dated November 4, 2016.
4. Attached hereto and marked as Exhibit "C" is a copy of OEB Enforcement Team notes from an interview with James MacArthur dated December 20, 2016.
5. Attached hereto and marked as Exhibit "D" is a copy of OEB Enforcement Team notes from an interview with James MacArthur.

6. Attached hereto and marked as Exhibit "E" is a copy of OEB Enforcement Team notes from an interview with Robert Hawkins dated April 29, 2016.

SWORN BEFORE ME at the City of
Toronto, Ontario on July 7, 2017.



Commissioner for Taking Affidavits

MEL HOGG
LSUC No. 48076E



Doris Loo

IN THE MATTER OF the *Ontario Energy Board Act*, 1998,
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EB-2017-0007

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AFFIDAVIT OF DORIS LOO
(July 7, 2017)

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Lawyers for Planet Energy

TAB A

EXHIBIT "A"

referred to in the Affidavit of

DORIS LOO

Sworn July 7, 2017

A handwritten signature in blue ink, consisting of stylized, overlapping loops and curves, positioned above a horizontal line.

Commissioner for Taking Affidavits

Date March 24/16

Witness - Agent James MacArthur
(gen) - Agent for PE - worked for ACN

→ how many contracts signed - mostly sold electricity approx 8-9 sold.

ACN since 2013 - friend introduced - pd 500 to join

- no training

- always higher up sitting there helping with

text, always got signed by someone

→ wrote text there while working for ACN/A

- did not receive any training - someone reviewed products with him (for all lines)

- no manuals

- electricity contract - "save money" - statement not true

- should have said "I can ~~not~~ protect you"

- when global adjustment added, it is more expensive.

- not competitive

- Hawkins - not who complained.

- sold 5 contract. gave it to the Hawkins

- he signed him up on his own computer

- sold house in debt

- he understands rules but everyone is doing it
→ they back together

- other contracts signed up by court themselves

- he thought he was offering an opportunity to price protect the newby hydro prices

Date:

- focus was on savings to cust
- global adjustment - was explained during a meeting
- asked about price comparison / price disclosure statement
- ACD - no training
- 2,000 - 3,000 - people at meetings - rah, rah!!!
- sign up people under or
- text was written - someone sitting there with you providing answers
- text written in coffee shop

Mr Hawkins did move from one house

- asked for proof
- Mr Hawkins provided affidavit.

- terminated with ACD since last summer (2005)
- ⇒ Jim brought some senior people with him to meet with customers to explain global adjustment
- ⇒ Mr Hawkins is useful - yells, screams
 - complain sent by Jim on behalf of customer

- Jim is trying to help cust - Jim - Mr Hawkins -
 - whole program - multi-level marketing is wrong
 - not enough training

- he would be willing to sign affidavit - yes
- would testify - yes

- no tip sheets, marketing info available through back office

TAB B

EXHIBIT "B"

referred to in the Affidavit of

DORIS LOO

Sworn July 7, 2017

A handwritten signature in blue ink, consisting of a stylized 'M' followed by a large, loopy flourish.

Commissioner for Taking Affidavits

Nov. 4/16

JIM MACARTHUR

TESTIFY - YES

ACN - NOT EMPLOYER

Multi level marketing

Re Fee - then you become a rep.

- Original heard about it 3-4 yr.
- Friend suggested meeting
- Person's house
- 20 people that were recruited by ACN
- Recruiter name: ^{not given} still with ACN
- At that meeting Jim signed up:
 - paid \$500 fee at first meeting
 - automatically in
 - give info - sales test
 - ~~no~~ some material given
 - test on internet with trainer present on a different night
 - 3-4 days later for test at somebody's house
 - Document provided about ACN products.
 - Also info on internet
 - Instruction how to sign people up.

- ① - Meeting at houses - new agents
 ② - Sign up consumers

- Still a rep. with AER
- has not enrolled consumers in 1 year
- Yes, signed with Planet Energy 12-15 contracts.
- Compliance discipline
- Not retrained
- Enrollment
 1. Signing up agents
 2. Sign up consumers
 - after 2 yrs. he noticed that focus switched to get 90 points
 - (# of contracts) - incl. consumers.
 - will share file (hard copy)
- He did not enroll agents.
- All contracts were frozen
- 4 commercial accounts
- 280,000 kWh consumer
- Enrollment
 - Showed them how much they could save
 - Charts available

al-maint
request info

- Planet's rate \$4.99 c/kWh
- → show savings
- → not correct bc. global adjustment.
- →
- Now he researched Gt 1 1/2 yr. in
- Total only to focus on rate
- During training ~~ACT~~ Gt never came up.
- Signed people up on his own computer
- Consumers provided bills - he signed them himself
- Lap top computer
- Was ACT aware:
 - Planet did not know that agents signed up computers
 - ACT accepted practice

Business website

- ACT + Planet not aware
- ACT - \$500 - BO - given a website
- send people to your website
- Agent did the enrollment himself.
- Accepted practice - Agents all did it

- to get to 90 points. - compensation 1
- Max fees
- Rev. based on diff. product.
- He gets \$50/month.
- Mr. Hawkins - 5 contracts
 - enrolled by Jim
 - 5 rental properties
 - sold 1 property Dec. 2014 - notice for cancellation fee \$1,400
 - within a day - notice from a collection agency
 - Bob called Jim
 - Jim contacted ACH & Planet Jim
 - ~~Bob~~ did not inform Bob about cancellation fees.
 - Bob did not pay cancellation fee.
 - called Real estate lawyer to provide in the
 - Planet wanted proof of office hours
 - Planet dropped collection action

Copies of e-mails.

2nd property

- collection agency

Jim informed Planet Energy that he enrolled himself

- Dropped cancellation fees.
- Looked into fine print after cancellation fee
- Jim demanded back-up from AEN - he admitted that he made mistakes
- Other BO ~~was~~ knew that Jim enrolled people on his own.
- A superior signed people up on his own. - clients ~~board~~ board room
- Planet Energy make a phone call to customers after enrollment to verify
 - Jim told customers about the call to verify
 - No every customer get the call
 - ~~to~~ Verify a 5 year contract.
- IP addressed:
 - system hides go out if wrong answer
- ~~He is in trouble!~~
 - Consumers:
 - Jim does not want to give names
 - Risk - friendships involved

- Every contract was enrolled by him on his own computer.
- It was done on a customer computer
- It on a tablet
- ~~Mr.~~ Bob done on his own computer - in his office
- Just the 5 contracts for Bob.
- Doing work for Mr. Hawkins
- Did not sign up anything else on ~~the~~ Mr. Hawkins's computer
- Cancellation clause is not reviewed
- Firm prints Terms & Conditions after enrollment at
Haining
- Sent follow-up email
- Prepared witness statement
- No communication between Planet & Agent.

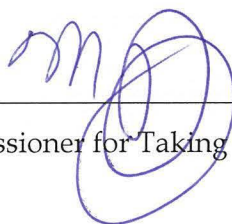
TAB C

EXHIBIT "C"

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DORIS LOO

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Commissioner for Taking Affidavits

Interviews

Dec. 20/16

J. Mac As the [REDACTED]

- OK to verify
- Robert Hawkins: sale of house
 - JM not aware that he needed to clarify penalty clause
- Collection agency trying to collect immediately after the sale.

John going with
Materials:

- Energy: Sheet - ACS document
- different levels of compensation
 - levels of the business structure
 - copy of energy contracts (electricity & gas)
 - received by ACS rep (can't remember the name)
 - teams
 - no training from the team
 - Pyramid scheme

Rallies: every Saturday - big crowd

- ~~People~~ People quaking about their own success.
- he left when the training started
training: only products
no details

• Training superficial

Re training:- I retrained and retested ~~and~~
one more time

- Advice in between 2012-2015
- answers were provided to me by another more experienced FCA agent.

• Was told not to worry about Gt. ~~was told~~

TAB D

EXHIBIT "D"

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Commissioner for Taking Affidavits

Hydro & ~~electricity~~ ^{Gas} → .

no Action w/ ACN
2013 to 2015 (summer).

electricity audits 8-9.
heat survey system.

2013 - got involved w/ ACN through a friend. paid \$800 to join

- No training.
- test done w/ ACN teaching was w/ instructor.
Instructor always signed up w/ some body.
- test had to be done twice. - (2x ∴ maybe expiring.)
- Agent did not rec'd training
- only new products sold. no manual, training.

What was the point of Eng contract? → get ppl ∴ able to save ppl \$

What should of been said is that there should have been price protection -

Global Adjustment kicked in made bill more high. - not competition w/ supplier.

5 Hydro contracts to Mr. Hawkins.

Agent signed contracts up on his computer. ∴ info was provided to him
Agent knew it was wrong but everyone from ACN did it.
email was consumer's email.

Requirements? Known? no computer sales.
biz card etc → Everyone was signing up.
no biz card, can't sign others up, badge
→ NOT DONE ←

Best to know other people. → known from conversation.

Other sign ups was done by themselves.

Early customers - Agent thought that he was able to Protect his customers. No one wanted to talk about global adjustment. Focus to consumers was on savings. Offered to save lots of money.

He was global adjustment learnt. → meeting w/ ACN Leader. GAT explained, but no one explained the global adjustment.

- Baseline student / Price comparison. → very little training → monkey see monkey do.

PE is supposed to provide training. → Agent was never trained by PE ~~or ACN~~

ACN did not really train - it was a motivational speech.
Want more people to sign up under you.

Test? to sell every test → someone sitting and giving the answer.
test completed in a coffee shop.

Agent brought ACN VP to meet w/ customers to explain Global Adjustment.
and everything would be fine.

- Agent came to the Board ∴ he was helping his friend.
- Pyramid scheme and a lot of misrepresentation.

PERSONAL ACN WEBSITE:

Ben dyer on website: showed clients who signed up.

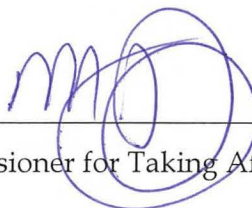
TAB E

EXHIBIT "E"

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DORIS LOO

Sworn July 7, 2017



Commissioner for Taking Affidavits

Date

Robert Hawkins (Bob) (61 years old) April 29/16
 10:30

Began - conversation with agent - about money, no contract
 (Agent is a girl)

→ first time for it finally agree
 → gave context money things as were, finally
 discussed by agent

I showed figure of how to save:

→ agent → signed sheet up while agent there
 - immediately gave info. with person
 - had signature

- did not discuss any information about product
 - did not see price comparison, disclosure
 statement

- could have - did not think there would be a
 consequence
 - started getting notices from B. - then collection
 agency - threatening

- Thompson was not aware of penalties or consequences

- gave "idea to" / did not tell him
 - in evidence, agent did not label any of this

2. Bob said he didn't authorize, Jim enrolled for
 Bob, gave Hayes bills
 - provided email address
 - name of email

Date

- residential property - mixed end.
- 3 contracts signed up with a person.
second property sold after 3 months
- proper email address - no recollection
- he has never talked to Planet Energy - however.
we know that agent has tried to get out of contract
- when info was provided, his intent was to get cheaper leads with no commitment.
- do not remember getting paperwork
- was waiting for paperwork
- not provided with any opportunity to read information ahead of time
- He thinks that the agents are not trained properly
- wants cancellation of all contracts
- wants PE to clean up act -
not training properly
- salesperson did away from him
- did not really notice a change in bill but
started getting collection notices
- when back to gym & started questioning
- no badge, no business card.

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