



Docket LF07105
Order LF09-003

IN THE MATTER of an
investigation pursuant to Section 15 of the
Prince Edward Island Lands Protection Act

**BEFORE THE
COMMISSION**

on Thursday, the 5th day of February, 2009.

Brian J. McKenna, Vice-Chair
David Holmes, Commissioner
Anne Petley, Commissioner

Order

IN THE MATTER of an
investigation pursuant to Section 15 of the
Prince Edward Island Lands Protection Act

Order

WHEREAS in Order LF09-001 the Commission ordered and demanded that Melvin and Sylvia Griffin (hereinafter, “the Respondents”) hereby produce for the Commission, on or before 5:00 P.M. on January 30, 2009, the following information related to parent parcel number 141168:

- A copy of the Loan Agreement referred to by Mr. Griffin’s solicitor, Chris Montigny, in his response to the Investigating Officer dated July 16th, 2008, in which he describes an agreement between Mr. Griffin, Sylvia Griffin and Bob Brimmer to loan money to Mr. Smith;
- Confirmation of any shareholdings, officer positions or director positions of Marlin Properties Inc. presently held or historically held in Melvin and/or Sylvia Griffin’s name and supporting documentation including constating documents of Marlin Properties Inc., shareholder ledgers, director ledgers and officer ledgers and minutes in relation thereto.

AND WHEREAS the Commission has reviewed the correspondence from the Respondents dated January 30, 2009.

THE COMMISSION HEREBY FINDS that the Respondent, pursuant to Section 15.1(f) of the Prince Edward Island Lands Protection Act (hereinafter, “the **Act**”), contravened the **Act** by failing to comply with the demands of Order LF09-001.

THE COMMISSION HEREBY IMPOSES, pursuant to clause 15.1(1)(f) of the **Act**, a penalty in the form of \$6,000.00 for failing to comply with Order LF09-001 — to be reduced to \$3,000.00 upon the respondents coming into compliance with the Order, on or before February 11, 2009. The Commission sets payment of this penalty as February 11, 2009.

THE COMMISSION HEREBY ORDERS, that the Respondents come into compliance with Order LF09-001 on or before February 11, 2009.

THE COMMISSION FURTHER IMPOSES, pursuant to subsection 15.1(2) of the *Act*, a daily penalty of \$200.00,

- to commence on February 12, 2009; and
- to continue until such time as the Respondents satisfy the Commission that the requirements of Order LF09-001 have been met; and
- to be paid to the Island Regulatory and Appeals Commission on the last day of each month commencing February 28, 2009.

DATED at Charlottetown, Prince Edward Island, this 5th day of February, 2009.

BY THE COMMISSION:

(Sgd.) Brian J. McKenna

Brian J. McKenna, Vice-Chair

(Sgd.) David Holmes

David Holmes, Commissioner

(Sgd.) Anne Petley

Anne Petley, Commissioner

TAKE NOTICE that any person or corporation that fails to comply with a demand made under Subsection 15(2) of the **Act** is liable to a penalty, pursuant to Subsection 15.1(1) of the **Act**, of not more than \$10,000; and

Pursuant to Subsection 15.1(2): *Each day during which a prohibited activity subject to a penalty pursuant to subsection (1) is continued gives rise to a separate liability to a penalty imposed by the Commission not exceeding \$500 for each day; and*

Pursuant to Subsection 15.1(3): *If any person or corporation fails to pay any penalty imposed by the Commission within the time fixed by the Commission for the payment of the penalty, the Commission may make application, without notice to the person or corporation, to a judge of the Supreme Court for an order that judgment for the amount of the penalty or any unpaid portion of the penalty may be entered in the court against the person or corporation.*

AND FURTHER TAKE NOTICE

that Section 12 of the **Island Regulatory and Appeals Commission Act** reads as follows:

12. The Commission may, in its absolute discretion, review, rescind or vary any order or decision made by it or rehear any application before deciding it.

Parties to this proceeding seeking a review of the Commission's decision or order in this matter may do so by filing with the Commission, at the earliest date, a written Request for Review, which clearly states the reasons for the review and the nature of the relief sought.

Sections 13.(1) and 13.(2) of the **Act** provide as follows:

13.(1) An appeal lies from a decision or order of the Commission to the Appeal Division of the Supreme Court upon a question of law or jurisdiction.

(2) The appeal shall be made by filing a notice of appeal in the Supreme Court within twenty days after the decision or order appealed from and the Civil Procedure Rules respecting appeals apply with the necessary changes.