



Ontario Bar Association
Association du Barreau de l'Ontario
300-20 rue Toronto Street
Toronto, Ontario M5C 2B8
416-869-1047 • 1-800-668-8900
Fax/Télécopieur: 416-869-1390
www.oba.org

October 27, 2006

The Honourable Greg Sorbara
Minister of Finance
Queen's Park Main Legislative Building
Room 316
Toronto, ON, M7A 1A4

Dear Minister,

I am writing to you on behalf of the more than 17,000 members of the Ontario Bar Association, representing lawyers, judges, law students and law professors in this province.

Bill 151, *The Budget Measures Act 2006, (No.2)*, provides for a much needed regulatory framework for the Canadian Public Accountability Board (CPAB). This is groundbreaking legislation that will, no doubt, be replicated in other provinces in short order. That may well open the door to discussions on the need for a single national securities regulator, and as many of our member firms are multi-jurisdictional we would welcome participating in such a dialogue.

However, the pressing matter at hand as this bill is now before the House for second reading debate, is the matter of solicitor-client privilege. Given that this is a fundamental principle for our profession, it is disappointing that there was no contact with relevant stakeholder groups in the legal profession for input in the development of this legislation.

While our issues have been addressed to a large degree in the existing provisions of the proposed legislation, we continue to have significant concerns pertaining to Section 11(4) requiring a participating audit firm to provide information or documents to the Board even where that information or documents are privileged.

The principle of solicitor-client privilege has been held by the courts to be sacrosanct and while Section 11(5) recognizes this principle we believe that the onus must rest on CPAB to demonstrate "absolute necessity". Section 11(2) requires a court order for third parties to obtain confidential documents and we strongly recommend that the same standard must be applied to the disclosure of privileged documents to CPAB.

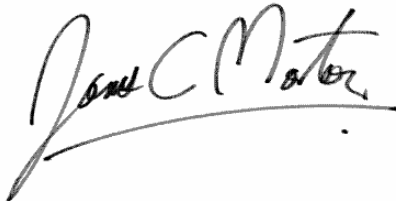
We believe that the public interest would be served by requiring, when the Minister approves the rules (Section 7(2)), that there be greater disclosure requirements pertaining to the results of inspections, the outcome of investigations and restrictions and sanctions imposed on audit firms. While we recognize that this bill provides for rules to be established in this regard, we would strongly recommend that this be written into the legislation. Other regulators make this information public and we fail to understand the reasoning that would hold CPAB to a lesser standard.

We understand and support the principle behind this regulatory framework for CPAB. However, we would also recommend that to enhance the ability of CPAB to carry out their mandate in a manner unfettered by the limitations (Section 9 (4) & (7)) that consideration is given to amending the composition of the Council of Governors.

We will be pleased to address this matter further should public hearings ensue after Second Reading.

Thank you for the opportunity, on behalf of the legal profession, to provide our recommendations for this important legislation.

Yours sincerely,

A handwritten signature in black ink, appearing to read "James Morton". The signature is written in a cursive style with a long horizontal stroke underneath.

James Morton
President
Ontario Bar Association

Cc: Diane Flanagan
Chief of Staff
Office of the Minister of Finance

Cc: Colin Nickerson
Senior Manager, Securities Policy
Ministry of Finance