

## ONTARIO LABOUR RELATIONS BOARD

**2687-11-ES David Mortman and Alexander Mortman, Directors of IQT, Ltd. AKA IQT Solutions AKA Integrated Quality Technologies, Applicants v. Adam J. Akey et al. and Director of Employment Standards, Responding Parties.**

Employment Practices Branch File No. 70093806-4

**0740-12-ES David Mortman and Alexander Mortman, Directors of IQT, Ltd. AKA IQT Solutions AKA Integrated Quality Technologies, Applicants v. Nilour Abedi et al. and Director of Employment Standards, Responding Parties.**

Employment Practices Branch File No. 70093806-4

**BEFORE:** Matthew R. Wilson, Vice-Chair.

**DECISION OF THE BOARD:** February 22, 2013

1. These are director applications for review under section 116 of the *Employment Standards Act, 2000*, S.O. 2000, c. 41, as amended (the "Act"), in respect of orders to pay issued under the Act.
2. The respondent employees ("Employees") in these applications are former employees of IQT, Ltd. AKA IQT Solutions AKA Integrated Quality Technologies ("IQT"), which ceased operations on or about July 15, 2011, and which was petitioned into bankruptcy in or around December, 2011.
3. An Employment Standards Officer ("ESO") of the Ministry of Labour issued orders to pay ("DOTPs") against each of the Applicants, in their capacity as 2 of the 4 directors of IQT.
4. In Application 2687-11-ES, the Applicants seek review of DOTP #39619 and DOTP #39620, dated September 28, 2011, each in the amount of \$503,794.97.
5. In Application 0740-12-ES, the Applicants seek review of DOTP #39626 and DOTP #39627, dated April 20, 2012, each in the amount of \$124,584.67.
6. Subsequent to the issuance of the DOTPs, a number of Employees applied for and received payments under the federal Wage Earner Protection Program allocated to wages and vacation pay ("WEPP Payments"). The effect of these WEPP Payments is to reduce the amount of wages and/or vacation pay owed by the Applicants to the Employees; that is, reducing the amount of the DOTPs as they relate to those Employees.

7. Without admitting liability and without prejudice, the Applicants have made a conditional offer to pay each Employee an amount equal to: 85% of the wages and vacation pay owing to that Employee as calculated by the ESO, less any WEPP Payment received by that Employee as advised by IQT's trustee in bankruptcy. These payments would be subject to applicable statutory withholdings.

8. The Applicants are making this offer in satisfaction of amounts owing to the Employees by IQT's directors under the Act.

9. For the sake of clarity, attached to this Decision as Schedule "A" (not released for public viewing), is a spreadsheet showing for each Employee: the original entitlement for wages and vacation pay, as calculated in the applicable DOTPs, the WEPP Payment, if any, received by that Employee, the net amount of that Employee's entitlement (*i.e.*, DOTP amount less WEPP Payment), and 85% of that net amount, which represents the amount offered to that Employee, by the Applicants, in this proposal.

10. The Director of Employment Standards has no authority to accept the proposal on behalf of the Employees, however, it does not object to the Applicants' proposal as a means of resolving the Applications.

11. In these circumstances, the Board orders that a copy of this Decision be sent to the individual Employees at the most recent addresses the Board has on file for them. If an Employee objects to the amount that is offered in this proposal, the Employee must advise the Registrar of the Board in writing, within 30 days of the date of this decision.

12. If no such objection in writing is received by the Board, the Applicants' proposal will become an Order of the Board in relation to each Employee.

13. After the expiry of the 30-day period, the Applicants shall pay the total amounts deemed to be accepted by the Employees, less applicable deductions, to the Director of Employment Standards, in trust, by certified money order or bank draft. The Director of Employment Standards will then distribute the settlement funds to each of the Employees who were deemed to accept the offer, in accordance with the net payment amounts showing in Schedule "A".

14. I am seized.

"Matthew R. Wilson"  
for the Board