

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: March 27, 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. In a decision dated February 22, 2013, the Board set out a conditional offer made by IQT’s directors to settle all amounts owing to the Employees. Employees were given the option to reject the settlement offer within a 30-day window.
4. The Board has been advised that it is the position of the Department of Justice, Canada, that the Employees in receipt of a payment under this settlement may have repayment obligations under the Wage Earners Protection Program Act (“WEPPA”) or may not receive any payment at all as Her Majesty the Queen in the Right of Canada is subrogated to any rights the Employees may have against IQT’s directors. More specifically, it has been brought to the Board’s attention that the Employees may have agreed to the following when applying for payment under WEPPA:

I understand that upon my receiving a payment under the WEPP, Her Majesty the Queen in right of Canada is subrogated, pursuant to s. 36 of the WEPP Act to any rights that I may have against my former employer or a director of that employer for the unpaid wages that are

covered by the WEPP payment that I receive. I understand that my right to recover debts against my former employer, or a director of that employer, is limited to any amount of unpaid wages that I may be owed by my former employer, or a director of that employer, above and beyond the amount of payment I receive under the WEPP. **In the event that I receive any amount from my former employer, director of that employer, the Trustee, or any third party for unpaid wages after receiving a payment under the WEPP, I hereby agree to remit to Her Majesty the Queen in right of Canada that amount to the extent of the amount I will have received under the WEPP.**

5. This potential repayment obligation was not included in the Board's earlier decision.

6. Given this important information, the Board is extending the period of time for employees to consider the settlement outlined in the February 22, 2013 decision. Any employee who has written to the Board to opt out of the settlement may change his/her decision by advising the Registrar of the Board in writing within 30 days of this decision. Similarly, any employee who objects to the amount that is offered in the proposal must advise the Registrar of the Board in writing within 30 days of this decision.

7. 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.

8. 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" of the decision dated February 22, 2013.

9. I am seized.

"Matthew R. Wilson"

for the Board