Fwd: Opinion - Public Accounts

From: "Orencsak, Greg (TBS)" <greg.orencsak@ontario.ca>
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Date: Fri, 16 Sep 2016 17:55:41 -0400
Attachments: FAA - Extraordinary circumstances opinion (v9) CLOC.DOCX (58.13 kB); ATT00001.htm (168 bytes)

FYI

Begin forwarded message:

> **From:** "Hatzis, Len (TBS)" <Len.Hatzis@ontario.ca>
> **Date:** September 16, 2016 at 4:54:22 PM EDT
> **To:** "Orencsak, Greg (TBS)" <Greg.Orencsak@ontario.ca>
> **Cc:** "MacIntyre, Kyle (TBS)" <Kyle.MacIntyre@ontario.ca>, "Veinot, Cindy (TBS)" <Cindy.Veinot@ontario.ca>, "Hughes, Karen (TBS)" <Karen.Hughes@ontario.ca>, "Petsche, Nadine (TBS)" <Nadine.Petsche@ontario.ca>, "Kearney, Sean (TBS)" <Sean.Kearney@ontario.ca>, "Kaufman, Paul (TBS)" <Paul.Kaufman@ontario.ca>
> **Subject: RE: Opinion - Public Accounts**

We have heard back from the DAG's office on this issue and we attach the final MAG approved opinion.

On the main issue, MAG concludes:

i) **Issue 1: Whether the present circumstances qualify as "extraordinary circumstances" within the meaning of subsection 1.0.26(5) of the FAA?**

Although there is no direct case on point, we are of the view that there is at least a moderate to moderately high risk that a court would conclude that knowledge that the Auditor intends to issue a qualified report is not an "extraordinary circumstance" within the meaning of section 1.0.26(5) of the FAA. As a result, there is a corresponding legal risk that a court would conclude that the President of Treasury Board (the "Minister") failed to comply with her statutory duty to deliver the Public Accounts within the 180-day time period established by the Act.

From: Hatzis, Len (TBS)
Sent: September 16, 2016 7:53 AM
To: Orencsak, Greg (TBS)
Cc: MacIntyre, Kyle (TBS); Veinot, Cindy (TBS); Hughes, Karen (TBS); Petsche, Nadine (TBS); Kearney,

Sean (TBS); Kaufman, Paul (TBS)
Subject: Opinion - Public Accounts

Greg

As discussed, here is the legal opinion associated with the option and implications of extraordinary circumstances. I should note that the opinion is not considered final from MAG's perspective as the DAG has not approved as of yet but he understands we are sharing it with our clients. Happy to discuss.

Sent from my BlackBerry 10 smartphone on the Rogers network.