

**DEFAMATION SUIT AGAINST NIOCAN, BY THE PRESIDENT OF THE OKA CITIZEN'S COMMITTEE,
ANDRÉ CHAPUT, REJECTED BY SUPERIOR COURT**

Montreal – September 28, 2001. At a superior court hearing, held on September 17, 18 and 19 last, Judge Jean-Guy Dubois presided over proceedings on a claim for 'damages to the reputation and related stress' initiated by Mr. André Chaput against the mining company NIOCAN Inc.. Mr. Chaput is President of the Oka Citizens' Committee, a local group which has taken a strong position against a proposed niobium mining project on Rang Ste-Sophie, in the Municipality of Oka. The suit filed for a compensation of \$35,000 plus interests for damages.

A total of nine witnesses testified before the bench. Judgement was rendered on the final day.

Charges Unsubstantiated

At the end of January, 2000, lawyers representing Niocan served André Chaput with a cease and desist order forcing him to correct numerous errors in fact related to the proposed mining project on Rang Ste-Sophie. These were posted on the Committee's web site. A second cease and desist order was again issued to Mr. Chaput in February to undertake the same corrections on the English version of that site.

The connection between Mr. Chaput and the contents of the site were well established at the trial as it was revealed that Mr. Chaput had personally instructed the site webmaster, Mr. Alain Tiercelin, to make the required corrections to the site.

In the witness box, Mr. Tiercelin admitted that the French and the English web sites contained information and data on the Niocan project that were incorrect. The witness went on to say that he later apologized to Niocan for contributing to the dissemination of misleading and erroneous information on the project. Since then, he added, he has looked into the specifics of the Niocan project's expert reports and has concluded that the project did not create the risks that were claimed on the web site. **He now states that he fully supports the mining project.**

The court also heard that since Mr. Chaput, as President of the Oka Citizens' Committee, failed to disassociate himself from the web site and its contents, Niocan was then forced to publish corrections to that web site in the local newspaper, L'Éveil, in an effort to correct unfounded negative public perceptions of its project.

Niocan counter measures reasonable

According to Judge Jean-Guy Dubois, it was a reasonable course of action for Niocan to actively seek redress from the President of the Oka Citizens' Committee for his damaging actions. Faced with erroneous claims and the refusal of the Committee to retract their position, the Judge stated that it was also reasonable for Niocan to publish its position in L'Éveil. Niocan's response was guided by its legal counsel, Mayer & Associés.

Having reviewed all of the evidence, the Bench concluded that Niocan's actions had committed no prejudice to Mr. Chaput and that his charges against the company for damage to his reputation and ensuing stress, were rejected. Mr. Chaput was ordered to pay court costs.

The first witness to take the stand was the Mayor of the Municipality of Oka, Yvan Patry. In his testimony, he stated that the Oka Citizens' Committee, which was presided by Mr. André Chaput, was created by the Municipal Council of the Parish of Oka in a resolution adopted on the 4th of May, 1998.

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Initially made up of six people, three citizens and three elected councillors, the Committee was to continue its activities without the participation of the councillors, who chose not to participate in Committee activities leading up to the April 2000 referendum on the mining project.

Mayor Patry testified that the Committee, of which he was a member, had tabled a negative report on the Niocan project before the Oka Municipal Council.

On October 5, 1998, the Council expressed its support for the Oka Citizens' Committee report, led by Mr. André Chaput.

Court testimony by Mayor Patry recorded his admission that the report opposing the Niocan mining development project, as well as the Council's resolution to support the report, **had no scientific validity and was not based on expert opinion**. He went on to testify that the Committee's opposition to the project and the ensuing report was founded on that Committee's work, which was qualified by the Mayor as, "done in a shoddy manner", or as he textually stated, "à la bonne franquette".

During the trial, Mayor Patry stated that his subsequent reading of the environmental impact assessment reports on the project had removed his concerns for its impact, particularly as it pertained to water quality issues associated with the project.

Recognizing that a large body of support for the project came from the Oka Village business community, Mayor Patry stated that he was not indifferent to a project of this quality, particularly since it would create 160 jobs for a period of 20 years.

René Dufour, Niocan's Chairman, engineer and Polytechnique professor, expressed the hope that this episode before the courts, which substantiated under oath a willful campaign of disinformation by the Citizens' Committee, will provide the residents of the Oka region with an opportunity to reassess the project in light of the economic stimulus it could have for the region.

Mr. Dufour adds, "We have learned a lesson here. Opponents of the project were against it even before it was explained to them. No amount of studies proving the quality and the environmental integrity of the project will make them change their minds. In good faith, we undertook a dialogue with people whose eyes and ears were closed. This was clearly admitted in the testimony of the President of the Citizens' Committee, Mr. André Chaput."

Irrespective of the entrenched position of a few, Niocan's pursuit of its objective continues as evidence shows a growing level of community support for the project— a project which the Niocan Chairman reaffirms is a highly environmentally sound undertaking in harmony with nature.

(Court proceedings and testimony are a matter of public record and are available to any citizen requesting these documents.)

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