



SASKATCHEWAN JOINT BOARD, RETAIL, WHOLESALE AND DEPARTMENT STORE UNION, LOCAL 544, Applicant v. BATTLEFORDS AND DISTRICT CO-OPERATIVE LIMITED, Respondent

LRB File No. 170-14 & 198-14; March 20, 2015

Chairperson, Kenneth G. Love, Q.C.; Members: Greg Trew and Duane Siemens

For the Applicant:

Gary Bainbridge

For the Respondent:

Leah Schatz

Employee – definition of Employee under the Saskatchewan Employment Act – Board determines that purpose and nature of exemptions from definition remain unchanged and are fact dependent.

Jurisdiction of Board – Board confirms that Board has jurisdiction to deal with determination of whether employee falls within the statutory definition.

Onus of Proof – Board confirms that onus of proof falls upon the party seeking to include or exclude a position from the bargaining unit.

Unfair Labour Practice – Board reviews jurisdiction and policy considerations with respect to “all employee” units – Board confirms previous policy regarding placement of new positions within the bargaining until excluded by agreement of the parties or by Board Order.

REASONS FOR DECISION

Background:

1) Kenneth G. Love, Q.C., Chairperson: Saskatchewan Joint Board, Retail, Wholesale and Department Store Union, Local 544 (the “Union”) is certified as the bargaining agent for a unit of employees of the Battlefords and District Co-operative Limited (the “Employer”) by an Order of the Board dated January 6, 2014.

2) On August 6, 2014, the Union filed an application with the Board that alleged the Employer had committed an unfair labour practice¹ by creating an out of scope position known as a “Human Resources Officer” without discussion with, nor agreement by, the Union.

3) On August 29, 2014, the Employer filed a Reply to this application, and also filed an application to amend² the certification Order dated January 6, 2014 to exclude six (6) positions from the bargaining unit. These positions were:

1. Operations Manager;
2. Human Resources Advisor;
3. Controller;
4. Office Manager;
5. Agro Division Manager; and
6. Executive Assistant.

4) The Board heard these two (2) applications together on December 8, 2014.

Facts:

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5) Prior to March 4, 2014, the Employer determined to create a position known as a “Human Resources Officer”. The Union first became aware of the Employer’s intentions when a job posting was put up in the workplace advertising the position. The job posting made no mention of this position being considered to be an out of scope position, although testimony from Mr. Trevor Miller, a staff representative for the Union, was that he thought that the position appeared to be out of scope

6) The Union met with the Employer on May 7, 2014 to discuss the job posting. Mr. Miller testified that the Union was told that the posting had been done in error and that there were a number of additional out of scope positions to be posted as well. Mr. Miller testified that there was no agreement regarding the creation of any of the proposed positions.

¹ LRB File No. 170-14

² LRB File No. 198-14

7) The Employer confirmed the discussions on May 7, 2014 in correspondence to the Union on May 8, 2014. In that letter, it identified the five (5) additional positions outlined above, and also suggested the deletion of the position “Assistant Agro Manager” from the unit certified by the Board on January 6, 2014.

8) The Union again met with its membership on May 11 or 12, 2014. As a result of the discussion, Mr. Miller met with the Human Resources Manager for the Employer, Glen Gantefer, to clarify some aspects of the proposed positions and to discuss the creation of some positions the Union thought were necessary. Following that meeting, Mr. Miller again met with his members in June, 2014. His members were not open to the changes proposed.

9) In an email dated July 14, 2014, Mr. Gantefer requested a status update on the matter. In that email, he noted that the Employer would be agreeable to adding “2 new classifications in-scope with higher pay rates to be agreed upon by both parties...one in Grocery Department and one in Home Centre”.

10) Mr. Miller responded to that email on July 14, 2014. In his mail, he advised the Employer that he had been instructed to file an unfair labour practice application with respect to the Human Resources Advisor position. He also noted that he would review the proposed additional positions with its members, but also cautioned that further unfair labour practice applications may result if the Employer continued to fill the positions under consideration.

11) Mr. Gantefer responded to Mr. Miller’s email by letter dated July 17, 2014. He expressed surprise at the direction taken by the Union since he had thought the Union had agreed that the two (2) in-scope positions which he offered in his email of July 14, 2014 could be traded off for the four (4) positions which he says “are clearly out of scope”. He also suggested that the parties continue to meet to discuss the matter further.

12) Mr. Miller responded by letter on July 23, 2014. He summarized the Union’s position in seven (7) points:

1. *What the committee and he had suggested was, that if the Co-op was willing to agree to the in-scope positions we mentioned, then **maybe** the members would be agreeable to the requested out-of-scope positions (One, two, all, none...?)*

2. *He repeated the members concerns regarding the various titles in the current scope of the bargaining unit vs the proposed new positions.*
3. *He noted that at the meeting following the meeting to obtain clarification, that alternative title issues were clarified and the Union's suggested positions (Head Cashier and Yard Supervisor) were discussed. He noted that the Employer's response at that time was to take the in-scope positions forward in collective bargaining.*
4. *He advised that following that meeting, the members met and rejected the Employer's request.*
5. *He noted that following the rejection, the Employer advised that it would be proceeding unilaterally to fill the Human Resources Officer position and it would be filled on July 7, 2014.*
6. *As a result of the unilateral action by the Employer, he was instructed to file the unfair labour practice.*
7. *The Union was then advised by the Employer that it would accede to their request for the 2 in-scope positions.*
8. *In closing, he noted in his letter that the Union intended to proceed with its unfair labour practice application.*

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13) The facts in this matter commence with the filing of the unfair labour practice by the Union on LRB File No. 170-14. In response, the Employer filed an application to amend the certification Order to create additional exceptions to the scope of the bargaining unit as noted above.

14) The Employer led evidence with respect to the out of scope positions which it intended to create. Job Descriptions for the various positions were provided, along with oral testimony from Mr. Mike Nord, General Manager for the Employer and Glen Gantefer.

Human Resources Officer

15) Mike Nord testified concerning the various positions which the Employer wished to create. He also provided an overview of the operations of the Employer. He testified that the Employer sought to create the position because training was taking too long. The HR manager was trying to do all the training as well as his other functions.

16) Mr. Nord also testified that the Human Resources Officer position would be responsible for employee safety compliance. A position description for the position was filed with the Board. It is attached to these reasons as Exhibit "A". Under cross-examination, Mr. Nord acknowledged that the Employer had not provided the position description to the Union prior to making their application.

17) Under cross examination, he testified that this position had been filled. He also testified that the position description made no reference to the incumbent being involved in the administration of grievances or involved in collective bargaining. He testified that the incumbent would sit in on hiring interviews, but had no role in discipline or grievances.

18) In redirect, Mr. Nord noted that if the position was to be determined to be within the scope of the bargaining unit, that any labour relations and other confidential aspects would have to be removed from the position duties.

Payroll/Credit Administrator

19) Mr. Nord testified that this position was broken out of the Controller position. A position description for this position was filed with the Board. It is attached to these reasons as Exhibit "B". Under cross-examination, Mr. Nord acknowledged that the Employer had not provided the position description to the Union prior to making their application.

20) In cross examination, Mr. Nord testified that this position had been filled insofar as the confidential secretary was doing part of the job. He noted as well that the duties of this position provided access to confidential information of employees regarding their terms of employment. He testified as well that the customer credit duties would consume 60% of the employee's time and payroll duties 40%.

Ag Division Manager

21) Mr. Nord testified that this was an upgrade to the position of Assistant Ag. Manager, which position was then vacant. He testified that the position would be involved in discipline of employees, performance evaluation of employees, hiring and firing, and employee reporting. A position description for the position was filed with the Board. It is attached to these

reasons as Exhibit "C". Under cross-examination, Mr. Nord acknowledged that the Employer had not provided the position description to the Union prior to making their application.

Operations Manager

22) Mr. Nord testified that this position was a new position. A position description for the position was filed with the Board. It is attached to these reasons as Exhibit "D". Under cross-examination, Mr. Nord acknowledged that the Employer had not provided the position description to the Union prior to making their application. In cross examination, he also noted that all division managers would report to this position.

Office Manager

23) Mr. Nord testified that this position was also split off from the Comptroller position. The position would have 4 staff reports and would be involved in hiring, discipline, performance and advancement. A position description for the position was filed with the Board. It is attached to these reasons as Exhibit "E". Under cross-examination, Mr. Nord acknowledged that the Employer had not provided the position description to the Union prior to making their application.

24) In cross examination, he noted that there had been a trainee in this position for 7 months. He noted that that person would be qualified to be the office manager, but did not have the qualifications to be the Comptroller. He further noted that the office manager would be involved in department based grievances.

Controller

25) Mr. Nord testified that this position was currently occupied, but would be losing some responsibilities as noted above. He testified that the Controller would be involved in hiring, discipline, performance evaluation and advancement. A position description for the position was filed with the Board. It is attached to these reasons as Exhibit "F". Under cross-examination, Mr. Nord acknowledged that the Employer had not provided the position description to the Union prior to making their application.

26) He testified that the Controller position was being split off of the Office Manager/Controller position. He noted that the incumbent had been in the position for 9 years.

Executive Assistant

27) This position was described by Mr. Nord as being a “confidential secretary” for management. He testified that the occupant of the position would have access to sensitive documents. A position description for the position was filed with the Board. It is attached to these reasons as Exhibit “G”. Under cross-examination, Mr. Nord acknowledged that the Employer had not provided the position description to the Union prior to making their application.

28) Mr. Gantefer testified with respect to his position as Human Resources Manager for the Employer. He testified that he began the process of posting the Human Resources Advisor position because he needed help in administering employee benefit programs, doing recruitment, making recommendations on hiring, engaging in collective bargaining and managing Workers Compensation claims as well as employee training.

29) Mr. Gantefer testified that he was on the bargaining committee for the employer. He testified that other members of the bargaining committee were the General Manager, the Food Division Manager, the Consumer Division Manager, the Controller and a negotiator from Federated Co-operative Limited.

30) He testified that there were 284 employees to be managed who were both in scope and out-of-scope. He testified that that was an increase of 40 employees in the past year. He also noted that the Union never requested position descriptions for the positions under review.

Relevant statutory provision:

31) **Relevant statutory provisions are as follows:**

The Saskatchewan Employment Act

6-1(1) *In this Part:*

(h) **“employee”** means:

(i) a person employed by an employer other than:

(A) a person whose primary responsibility is to exercise authority and perform functions that are of a managerial character; or

(B) a person whose primary duties include activities that are of a confidential nature in relation to any of the following and that have a direct impact on the bargaining unit the person would be included in as an employee but for this paragraph:

- (I) labour relations;
- (II) business strategic planning;
- (III) policy advice;
- (IV) budget implementation or planning;

...

6-62(1) *It is an unfair labour practice for an employer, or any person acting on behalf of the employer, to do any of the following:*

...

(d) to fail or refuse to engage in collective bargaining with representatives of a union representing the employees in a bargaining unit whether or not those representatives are the employees of the employer;

...

6-105(1) *On an application made for the purposes of clause 6-104(2)(i), the board may make a provisional determination before the person who is the subject of the application actually performs the duties of the position in question.*

(2) *A provisional determination made pursuant to subsection (1) becomes a final determination one year after the day on which the provisional determination is made unless, before that period expires, the employer or the union applies to the board for a variation of the determination.*

Union's arguments:

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32) Counsel for the Union filed a written brief and case authorities which we have reviewed and found helpful. In it, the Union argued, citing *Re: Wascana Rehabilitation Centre*³ that "by default", positions created by the employer were "in-scope" positions until there is an agreement to the contrary⁴. It argued that it was an unfair labour practice for the employer to

³ [1991] 3rd Quarter Sask. Labour Report 56, LRB File No. 234-90

⁴ In support it cited numerous other Board decisions.

create the position, and declare it to be out-of-scope without negotiating with the Union. In support it relied upon *Re: Wascana* and *Re: Saskatchewan Gaming Corp.*⁵ and other cases.

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33) The Union argued that there had been no material change demonstrated by the Employer to justify the amendments sought. It noted that the Board had amended the order on January 6, 2014 which was mere months prior to the commencement of this issue. It argued that the Board should not, in the circumstances, permit the Employer to again amend the order.

34) The Union also argued that the determination of whether or not a position fell within the scope of the collective bargaining unit is a separate issue from the unfair labour practice. In support it referenced the “open period” provisions of the former *Trade Union Act*⁶.

35) The Union argued that to be successful, the Employer needed to show a material change in circumstances to support the necessity for the creation of the new positions. It argued the Employer failed to meet this requirement. In support it cited *Re: Federated Co-operatives Ltd.*⁷ and *Re: Sobey’s Capital Inc.*⁸

36) The Union argued that the provisions for exclusions in the *SEA* were not materially different from the previous provisions in *The Trade Union Act*. It also argued that some of the positions were not sufficiently “managerial” to be outside the scope of the collective bargaining unit.

Employer’s arguments:

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37) Counsel for the Employer filed a written brief and case authorities which we have reviewed and found helpful. The Employer argued that the Union bore the onus of proof in this case. It argued that the Union failed to discharge this onus.

⁵ [2004] CanLII 65624 SKLRB, 109 C.L.R.B.R. (2d) 106, LRB File Nos. 250-03 and 252-03

⁶ R.S.S. 1978 c. T-17 (now repealed)

⁷ [1978] LRB File No. 502-77

⁸ [2006] S.L.R.B.D. No. 12, C.L.R.B.R. (2d) 42, LRB File No. 016-05

38) The Employer argued that it had not committed an unfair labour practice with respect to the creation of the positions. While acknowledging the Board's reasoning in *Re: Wascana Rehabilitation Centre*, it argued that this "bargaining approach" should no longer be followed by the Board.

39) The Employer argued that the Board had no jurisdiction over persons who were not, "employees" as defined by the *SEA*. The Employer also argued that the Human Resources Advisor did not fall within the definition of "employee" in the *SEA*. The Employer also argued that the reasoning in *Wascana* is incorrect. It cited *Affinity Credit Union (St. Mary's Branch) v. UFCW*,⁹ a recent decision of the Saskatchewan Court of Queen's Bench,¹⁰ in support.

40) The Employer argued that the finding of an unfair labour practice against it depended upon the position being occupied by an employee as defined in the *SEA*, since the alleged offence related to the union's representation rights regarding "employees". The Employer also argued that the Board lacked jurisdiction to interfere with private contractual rights of persons who were not "employees". In support the Employer cited *College of Dental Surgeons of Saskatchewan v. Thorvalson*¹¹ as referenced in *Duke v. Puts*.¹²

41) The Employer also noted that there were Board decisions which did not follow the bargaining approach promoted by the Union. In support it cited *Empire Oil Limited v. Oil, Chemical and Atomic Workers International*,¹³ *Westfair Foods Ltd. v. RWDSU, Local 454*¹⁴ and *Re: Pioneer Village*.¹⁵

42) The Employer also asserted that the provisions of the *SEA* regarding employees are different from the previous provisions in *The Trade Union Act* because of the inclusion of provisions dealing with "supervisory employees". It argued that this provision created an additional class of employees who might be excluded from a bargaining unit. The Employer also argued that the legislature made a deliberate choice not to provide a mechanism for determination of who was an employee similar to the provision for determination of who might be as "supervisory employee".

⁹ [2014 SKQB 241]

¹⁰ This decision has been overturned by the Court of Appeal. See [2015] SKCA 14 (CanLII)

¹¹ [1991] 5 W.W.R. 436 (SKCA)

¹² [2004] SKCA 12

¹³ LRB decision dated July 5, 1965 (King)

¹⁴ LRB File No. 055-83

¹⁵ LRB File Nos. 248-89 & 257-89

43) The Employer argued that the *SEA* makes no presumption that anyone is an employee. It argued that sections 6-104(2)(i) and 6-105(1) make it clear that the Board maintains the authority to determine if an individual is or may become an employee or supervisory employee. The Employer argued that the bargaining approach advocated by the Union was in conflict with those provisions.

44) The Employer also argued that the *SEA* provides no obligation to bargain over inclusion or exclusion of employees from the bargaining unit. It argued that it was up to the Board to determine whether or not an individual was an employee. Since the Human Resources Advisor was not an employee, it argued that there was no requirement to bargain its creation.

45) The Employer also argued that there had been a change in labour relations since the adoption of the bargaining approach. It argued that the bargaining approach may have made sense where organizations had basic and traditional management structures. The Employer argued that the procedural efficiency which was obtained through the bargaining approach is no longer the case. It noted that employers are constantly reorganizing, expanding, changing position titles and creating new positions for both in scope and out-of-scope employees. As a result, it argued that the bargaining approach was no longer suited to the reality of the modern workplace.

46) The Employer also argued that the bargaining approach should be abandoned for policy reasons. It argued that there should be no presumption that positions, when created, are within the bargaining unit unless excluded by the parties by agreement or by Board order. The Employer argued that the onus of defending exclusion of positions should fall to the Employer should an application be made to the Board regarding the creation of a position which the Employer felt did not meet the definition of "employee".

47) Finally, the Employer argued that the Union also did not bargain in good faith. Alternatively, it argued that, if the Employer had a duty to bargain in good faith with the Union, that duty had been discharged. The Employer argued that it made significant efforts to meet with the Union over the course of 4 months. In so doing, the Employer discharged its duty to bargain if one existed.

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48) The Employer argued that the “additional positions”¹⁶ were not “employees” within the definition of the *SEA*. The Employer also argued that the criteria for exclusion were met. In support it cited *Re: Saskatchewan Institute of Applied Science and Technology*,¹⁷ *Re: University of Saskatchewan*,¹⁸ and *Re: Prince Albert Parkland Regional Health Authority*.¹⁹

49) The Employer also cited decisions of the Board in support of its interpretation of some of the criteria put forward by the Board when considering the provisions of *The Trade Union Act*. These were *Re: Regina District Health Board*,²⁰ *Saskatchewan Health-Care Association and Saskatchewan Insurance Office and Professional Employees’ Union, Local 397*,²¹ *Re: Regina Region Inc.*²² and *Re: University of Regina*.²³

50) The Employer argued that certain criteria will assist the Board in determining the status of employees under the *SEA*. These include operational requirements and realities of the organization, salary for the position,²⁴ and the employees involvement in matters of safety.²⁵

51) The Employer argued that the law regarding the confidential capacity exclusion was changed under the *SEA*. While acknowledging that the provision was close to the same as under *The Trade Union Act*, the Employer argued that there are now enumerated categories of confidential information for which an employee should be excluded from the bargaining unit. The Employer argued that the changes and additions to the wording of the exclusions was not merely surplusage.²⁶

52) It argued that the provisions for exclusion were designed to prevent conflicts of interest which may arise for employees.²⁷ It also endorsed the three part test enumerated by

¹⁶ Those positions other than the Human Resources Advisor position

¹⁷ [2009] 17 L.R.B.R. (2d) 1

¹⁸ [2007] 137 C.L.R.B.R. (2d) 1,

¹⁹ [2009] 169 C.L.R.B.R. (2d) 293

²⁰ [1994] S.L.R.B.D. No. 7

²¹ [1993] 18 C.L.R.B.R. (2d) 224

²² [2013] 231 C.L.R.B.R. (2d) 169

²³ [2014] 240 C.L.R.B.R. (2d) 211

²⁴ See *Elmwood Residences Inc. v. Service Employees International Union, Local 333* [2005] 120 C.L.R.B.R. (2d) 246

²⁵ Citing the former *Occupational Health and Safety Act* (now repealed and replaced by the *SEA* and the opinion of Arbitrator Sims in *Finning (Canada) Ltd. v. International Assn. of Machinists and Aerospace Workers, Local 99* [2010] A.G.A.A. No. 65

²⁶ Citing *Re: Cypress Regional Health Authority* [2014] 242 C.L.R.B.R. (2d) 44 at para. 95

²⁷ Citing *Re: Prince Albert City* [1996] S.L.R.B.D. No. 60 at para. 15.

the Board in *Canadian Union of Bank Employees and Bank of Nova Scotia*²⁸ as adopted by the Board in *Re: University of Saskatchewan*.²⁹

53) Finally, it argued that the additional positions should, based on the evidence provided, be excluded from the bargaining unit.

Analysis and Decision:

The Jurisdictional Question:

54) The Employer argued strongly that the Board lacked jurisdiction to deal with these employees since they fell outside the definition of employee. We cannot agree. The case which it cited in support has now been overturned by the Court of Appeal and therefore does not support this interpretation.

55) The Board has always and continues to have specific authority to deal with determinations as to whether an employee falls within the scope of the bargaining unit either as a part of its initial scope determination, as a result of an amendment to the scope, or a provisional determination.

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56) The Union relied primarily upon the Board's decision in *Re: Wascana Rehabilitation Centre*³⁰ to support its allegation that the Employer had committed an unfair labour practice. That decision from 1991 reviewed previous jurisprudence of the Board and clearly determined that newly created positions in an "all-employee" bargaining unit remain within the bargaining unit unless excluded by order of the Board or by agreement of the parties.³¹

57) The Employer counters that this decision was wrongly decided and that position was one which fell outside the definition of "employee" in the *SEA* and hence the position could never have been within the bargaining unit. For the reasons which follow, we reject the

²⁸ [1977] 2 C.L.R.B.R. 126

²⁹ [2007] 137 C.L.R.B.R. (2d) 1,

³⁰ [1991] 3rd Quarter Sask. Labour Report 56, LRB File No. 234-90

³¹ See page 4 of the decision.

Employer's arguments regarding our lack of jurisdiction to deal with out-of-scope employees or that the "Bargaining Approach" previously adopted by the Board should be abandoned.

58) *Wascana* has not been overturned or otherwise distinguished by this Board. In *Wascana*, the Board described two methods whereby a position could be excluded from the bargaining unit. Those were:

1. *It may be excluded through the process of collective bargaining;*
2. *If attempts at bargaining have failed, it [the employer] can apply for an amendment to the certification order pursuant to section 5(j), (k), or (m) of The Trade Union Act.*

59) *Wascana* also relied upon the Board's decision in *SEIU v. St. Paul's Hospital*.³² This decision has also not been overturned or otherwise distinguished by the Board.

60) *Wascana* and *SEIU v. St. Paul's Hospital* were decisions made pursuant to the former *Trade Union Act* which was repealed and replaced by the *SEA*. The Board also followed the *Wascana* decision in *Donovel v. SJBRWDSU and Sysco Food Services*³³. In that decision, the Board set out the following steps to be followed when a new position is being created. At paragraphs [28] and [29], the Board said:

[28] *An employer must adhere to the following steps in determining the proper assignment of the work and the position:*

1. *notify the certified union of the proposed new position;*
2. *if there is agreement on the assignment of the position, then no further action is required unless the parties wish to update the certification order to include or exclude the position in question;*
3. *if agreement is not reached on the proper placement of the position, the employer must apply to the Board to have the matter determined under ss. 5(j), (k) or (m);*
4. *if the position must be filled on an urgent basis, the employer may seek an interim or provisional ruling from the Board or agreement from the union on the interim assignment of the position.*

[29] *An employer is not entitled to act unilaterally by assigning the position as out-of-scope of the bargaining unit without obtaining the agreement of the*

³² LRB File No. 004-91

³³ [2006] CanLII 62948 (SKLRB)

union or, failing such agreement, without obtaining an order from the Board, or the employer will be in violation of its obligation to bargain collectively under s.11(1)(c) of the Act: See, University of Saskatchewan, infra.

61) This process is well established and the Employer must be taken to have known of these requirements.

62) All of this jurisprudence arose under the provisions of *The Trade Union Act*, which has now been replaced by the *SEA*. Accordingly, it is necessary for the Board to review the provisions under the *SEA* to determine if the principles established under the former *Act* should carry forward under the new provisions.

63) The *SEA* has made several changes regarding the definition of “employee”, which will be dealt with further below. Under *The Trade Union Act*, the Board was authorized to rescind or amend a Board order by the provisions of section 5(j) and (k). Subsection (k) provided for what was generally referred to as the “open period” during which amendment applications could be made. That provision has not been repeated in the *SEA*. An open period is only provided by the *SEA* insofar as applications to displace a union and replace it with another union in Section 6-10(3) or (4).

64) These changes, however, do nothing more than remove the temporal limitation often faced by employers seeking to create new positions and who were unable to make an application to amend outside the “open period”. The Board’s general authority to amend certification orders remains the same in section 6-104(2)(g), which provides as follows:

6-104(2) In addition to any other powers given to the board pursuant to this Part, the board may make orders:

(g) amending a board order if:

- (i) The employer and the union agree to the amendment; or*
- (ii) In the opinion of the board, the amendment is necessary;*

65) This provision is identical to the former authority granted to the Board under section 5(j) of *The Trade Union Act*.

66) Changes have also been made in the *SEA* to the provisions dealing with unfair labour practices. Under section 11(1) (c) of *The Trade Union Act*, it was an unfair labour practice “to fail or refuse to bargain collectively with representatives elected or appointed, not

necessarily being employees of the employer, by a trade union representing the majority of employees in an appropriate unit”.

67) The *SEA* provisions³⁴ are somewhat different, insofar as the duty to bargain has been split between bargaining for a collective agreement³⁵ and bargaining with respect to settlement of disputes and grievances³⁶. Nothing in those provisions, however, modifies or negates the previous jurisprudence of the Board as set out in *Wascana* or *Donoval*. There remains a positive duty to bargain collectively with respect to newly created positions.

68) The legislature, when enacting new provisions must be taken to be aware of the state of the law as it existed when the new provisions are enacted. The legislature could have taken steps in the *SEA* to allow newly created positions to be created by employers without those positions being deemed to fall, initially at least, within the bargaining unit.

69) The rationale for placing new positions within an “all employee” bargaining unit was clearly stated in *Wascana* at page 3 of that decision. The Board said:

Assigning new positions into the bargaining unit until the Board orders otherwise is consistent with the Board's practice of placing the onus, in exclusion applications, on the employer. In addition, it coincides with the reasoning which prompted all boards to adopt the “all-employee” description of the bargaining unit over the enumerative or classification list method. One of the critical considerations why the “all-employee” method of unit description replaced the enumerative or classification method was to avoid the endless applications which arose every time the employer re-organized, changed position titles or created new positions. “All-employee” units accommodate these changes without the necessity of an application to the Board. The only time an application to the Board is required is when the employer wishes to have a new position excluded.

Finally, assigning new positions into the unit, pending the Board's order, is also consistent with both orderly collective bargaining and the objects and philosophy of The Trade Union Act. It serves the interests of all parties in that it avoids the necessity of an employer having to risk and unfair labour practice in order to have the exclusion issue of a position determined. To countenance an approach that would allow unilateral exclusions from an existing certification order would inevitably lead to industrial instability because if effectively encourages parties to ignore their contractual, as well as their statutory rights and obligations. Where the Board has a choice between to practices: on based upon unilateral action and one based upon respect for the Board's order, until changed in accordance with the provisions of The Trade Union Act, the Board will obviously prefer the latter.

³⁴ Section 6-62(1)(d) and (e)

³⁵ Section 6-62(1)(d)

³⁶ Section 6-62(1)(e)

70) There is nothing in new provisions in the *SEA* which would render this rationale invalid or inaccurate. These comments remain as appropriate under the *SEA* as they were under the *Trade Union Act*.

71) However, following our determination that the position of Human Resource Advisor must be taken as being within the bargaining unit until either agreement of the Union, or Board order, does not answer the question of whether or not the Employer has committed an unfair labour practice. Two subsidiary questions need to be considered. The first is, whether on the evidence provided, the Employer failed to bargain collectively with respect to the position being in or out of scope. Secondly, should the position be excluded from the bargaining unit. The answer to the first question will determine the validity of the application, while the answer to the second may impact on any remedy which may be ordered.

Did the Employer Fail or Refuse to engage in Collective Bargaining?

72) In support of its position that the Employer had engaged in an unfair labour practice, the Union cited *Re: Raider Industries Inc.*³⁷ That case considered several other Board decisions regarding the requirement of bargaining collectively with respect to newly created positions.

73) The Employer argued that it did not commit an unfair labour practice because the position was not an employee as defined by the *SEA* and that as a result, the Board had no jurisdiction over the creation of positions which are out-of-scope. In support the Employer also cited *Wascana* and *Raider*.

74) For ease of reference, I repeat below the provisions of the *SEA* which require an employer to bargain collectively with respect to creation of new positions.

6-62(1) *It is an unfair labour practice for an employer, or any person acting on behalf of the employer, to do any of the following:*

(a) *subject to subsection (2), to interfere with, restrain, intimidate, threaten, or coerce an employee in the exercise of any right conferred by this Part;*

(b) *subject to subsection (3), to discriminate respecting or interfere with the formation or administration of any labour organization or to contribute financial or other support to it;*

³⁷ [1996] S.L.R.B.D. No. 25, LRB File No. 005-96

(c) to engage in collective bargaining with a labour organization that the employer or a person acting on behalf of an employer has formed or whose administration has been dominated by the employer or a person acting on behalf of an employer;

(d) to fail or refuse to engage in collective bargaining with representatives of a union representing the employees in a bargaining unit whether or not those representatives are the employees of the employer;

(e) to refuse to permit a duly authorized representative of a union with which the employer has entered into a collective agreement or that represents the employees in a bargaining unit of the employer to negotiate with the employer during working hours for the settlement of disputes and grievances of:

- (i) employees covered by the agreement; or*
- (ii) employees in the bargaining unit;*

75) The facts in this case are clear. The Employer posted the position of Human Resource Advisor on March 4, 2014. The Union noticed the posting, which had not previously been discussed with them, and brought this to the attention of the Employer. The Union and the Employer agreed to meet in May, 2014 to discuss the new position.

76) When the Union and the Employer met, the Employer apologized for its oversight in posting the position without prior consultation. On that date the Employer also wrote to the Union to inform it that the Employer was experiencing growth which required the Employer to create some additional out-of-scope positions in order for it to manage the current and future growth effectively. In its communication, the Employer asked that the Union “be open to discuss and consider...changes to Article 3- Scope of our Collective Agreement”.

77) The Union met with its membership on May 11 or 12, 2014. As a result of the discussion, Mr. Miller of the Union met with Glen Gantefer, to clarify some aspects of the proposed positions and to discuss the creation of some positions which the Union thought were necessary. .

78) By email on May 15, 2014 the Union requested additional time to consider the Employer’s request. The Union’s email said: “[I] am going to require more time re: the Co-op’s out of scope request. I may need another sit down with you guys but will let you know ASAP”.

79) On June 9, 2014, the Union further advised “[R]egarding the Co-op’s request for additional out of scope positions, I need some further info from you. Which positions listed in the agreement do the following fall under: Office Supervision (Confidential Secretary?), Payroll/Credit (Accountant or Office Clerk?), FCL Trainee (management trainee?), Accounts Payable (Office Clerk?), Project Sales? I would like to have this finalized at this week’s Local meeting as well.”

80) The Union held a meeting on June 11, 2014 at which time the request for additional out-of-scope positions was discussed by the Union. The Union declined to consent to the requested exemptions.

81) The Employer then proceeded to fill the position of Human Resource Advisor on July 7, 2014. On July 17, the Employer emailed the Union to advise that it was prepared to create two new in-scope positions, something that the Union had requested, if the Union agreed to exclude the four positions that the Employer wished to exclude, which positions included the Human Resource Advisor position. The Employer also requested a meeting with the Union to further discuss the matter.

82) On July 23, 2014, the Union advised that it would be filing the unfair labour practice which we are dealing with here.

83) From the above, we can conclude that after the position was initially posted by the Employer, that the Employer and the Union did engage in collective bargaining with respect to the positions at issue. The discussion grew from the position of Human Resources Advisor to include other positions which the Employer wished to create outside of the bargaining unit.

84) The Union contends that the Employer both failed to consult initially as well as then proceeding to unilaterally fill the position of Human Resources Advisor. The Employer maintains that the process was frustrated by the failure of the Union to properly engage in the bargaining process, particularly after the Employer offered to create additional in-scope positions as requested by the Union in their discussions.

85) The duty to bargain collectively requires that the parties meet and bargain in good faith, making a genuine attempt to find a resolve to their disagreement over the status of this position. However, the duty to bargain collectively does not, as a corollary, require that the parties reach an agreement. They must only try to achieve a resolve to their disagreement.

86) This was not a case where the Employer and the Union were engaged in surface bargaining. While, we think that more could have been done during the period in which the matter was under discussion, it is not the role of the Board to minutely assess the parties' engagement in the process.

87) Section 6-62(1)(d) makes it an unfair labour practice "to fail or refuse to engage in collective bargaining...". From the facts set out above, it is clear that the Employer and the Union did engage in collective bargaining regarding this position and the other positions which the Employer sought to create. The parties did not reach a resolve in respect of the disagreement and the Employer ultimately applied on August 29, 2014 to amend the certification order to exclude the positions which it felt should be excluded from the bargaining unit.

88) The fact situation in *Wascana* is distinguishable from the facts in this case. In *Wascana*, no collective bargaining occurred with respect to the positions created by the employer. In that case, the employer created the positions, treated them as out-of-scope and applied to the Board to amend the certification order.

89) In this case, the Employer, admittedly in error, posted the position as an out-of-scope position, but engaged in collective bargaining when called upon by the Union to do so. That collective bargaining was not successful, and the Employer then proceeded to fill the position and to treat it as being out of scope.

90) It is this later conduct by the Employer that causes concern in this case. As described by the Board in *Wascana*, unilateral action by an employer in treating a position as being out-of-scope, prior to a determination by the Board as to the status of the position, will constitute an unfair labour practice. As page 5 of that decision, the Board said:

*Applying the above principles to the facts of this application, the Board finds that the Employer erred in treating the Assistant Director of Nursing and the Nurse Managers as out-of-scope before receiving this order from the Board. However, insofar as this is the first opportunity the Board has had to directly address the issue and delineate its policy, it would be inappropriate to find the Employer guilty of an unfair labour practice. **In the future, the Board will consider it to be an unfair labour practice for an employer to unilaterally declare a newly created position out-of-scope prior to a determination being so made by the Board, or agreement being reached between the parties.** [Emphasis added]*

91) In *Wascana*, the positions created were found by the Board to be managerial in nature and therefore, subject to exclusion from the bargaining unit. That is not the case here. For the reasons outlined below, we also find that the position of Human Resources Advisor falls within the definition of “employee” and should therefore, not be excluded from the bargaining unit.

LRB File No. 198-14

Has the Employer demonstrated a “Material Change in Circumstances”?

92) As noted above, the *SEA* has removed the “open period” requirement for applications to amend certification orders (other than when a raid is underway). However, the removal of the necessity of filing within the open period should not be considered to be “green light” for constant and repetitious applications for amendment. Under the *Trade Union Act*, the Board established the requirement that an applicant must demonstrate a material change in circumstances before the Board will consider any application to amend a certificate.

93) This requirement was founded in the need for the Board to prevent applications for amendment year after year as a method of appeal from a previous decision of the Board regarding the scope of a bargaining unit. In *Re: Federated Co-operatives Ltd.*³⁸, then Chairperson Sherstobitoff noted:

It can be inferred that some persons might make applications for amendment in the hope that a new panel will view the matter in a different light. The Board wishes to make it clear that it will not sit in appeal on previous decisions of the Board and it therefore determines that in this application, as in all applications for amendment, the applicant must show a material change in circumstances before an amendment will be granted.

94) This requirement to demonstrate a material change in circumstances was also considered by the Board in *UFCW v. Sobeys Capital Inc.*³⁹. At para. 39, the Board said:

[39] *In further support of our conclusion, we note the similarities between the amendment application before us and those considered in the authorities referred to above. Both Raider Industries, supra, and Impact Products, supra, provide direct authority for the proposition that an amendment concerning a change in the geographic scope of a certification order first requires proof of*

³⁸ LRB File No. 502-77

³⁹ [2006] CanLII 62961 (SKLRB), LRB File No. 016-05

a material change in circumstances. Furthermore, in our view, this application, which seeks an amendment to the geographic scope of the bargaining unit description in the certification Order, is much the same as an application to amend the scope of exclusions in the bargaining unit description in a certification order, where, as noted above in the Casino Regina and Cuelenaere cases, both supra, a material change in circumstances is required to be shown. We are not prepared to deviate from these lines of authority to establish an exception to the material change rule in the circumstances of this case. [Emphasis Added]

95) The Board reached different conclusions in the *Casino Regina*⁴⁰ and the *Cuelenaere Library Board*⁴¹ decisions insofar as whether or not a material change had been demonstrated so as to justify an amendment to the scope of a bargaining order. This distinction was discussed in *Casino Regina* in the following terms at paras [25] & [26]:

[25] *In Casino Regina, supra, the Board summarized the applicability of s. 5(j) to applications for amendment where the Board is considering the status of newly created positions and went on to distinguish the situation in the Cuelenaere case, supra. In the Casino Regina case, supra, the Board stated at 194 and 195*

[26] In Canadian Union of Public Employees, Local 1788 v. John M. Cuelenaere Library Board, [1996] Sask. L.R.B.R. 732, LRB File No. 052-96, the Board determined that applications as to the scope of new positions that would require amendment of the certification order to exclude the position should be made during the open period specified pursuant to s. 5(k) of the Act, except in unusual circumstances.

[28] The position taken by the Employer in its application for scope determination of the afs manager position would, if it prevailed, require amendment of the certification Order to regularize the bargaining unit description. In our opinion, the Employer has not demonstrated the requisite urgency that would cause us to entertain its application outside the open period pursuant to s. 5(j) of the Act. By the admission of Mr. Sawicki, the Employer had been aware of the increased business during the holiday season because of many years experience and knew of the Grey Cup celebrations at least two years in advance. Unlike the situation in John M. Cuelenaere Library, supra, where the parties had failed to resolve their difference of opinion over the scope of two key positions for over a year, leading the Board in that case to make the s. 5(m) scope determination outside the open period pursuant to s. 5(j), the Employer in the present case filled the position before attempting any negotiation with the Union and made its application within a few days of a single short meeting. Accordingly, the Employer's application in LRB File No. 252-03 is dismissed.

⁴⁰ LRB File No. 068-96

⁴¹ [1996] Sask. L.R.B.R. 732, LRB File No. 052-96

[26] *In the Cuelenaere case, the Board exercised its discretion under s. 5(j) to amend the order outside the open period because the positions in question were “key positions in the administrative structure of the library, and were also of importance in the industrial relations and personnel management relating to the employees in the bargaining unit.”*

Is the Amendment Necessary?

96) Demonstration of a material change is one step along the road to an applicant demonstrating the necessity for an amendment. The requirement to demonstrate that an amendment is “necessary” was discussed by the Board the Cuelenaere case, at paragraph [32]:

[32] *The decisions in the Casino Regina case, supra, and the Cuelenaere case, supra, which both involved the consideration of an amendment in the nature of adding excluded positions, also support the proposition that a material change in circumstances must first be shown in order for the Board to entertain the argument of an amendment to the certification order, whether the application is brought under s. 5(j) or s. 5(k) of the Act. Although the Board came to different conclusions concerning the application of s. 5(j) in the Casino Regina case and the Cuelenaere case, it is implicit in the decisions that, before the Board would consider an amendment to the certification order under s. 5(k), it looked at the question of whether there had been a material change in circumstances concerning the introduction of a new position and the determination of whether that position was properly within the scope of the bargaining unit. If there had been such a change in circumstances established, the Board would have applied the general principles to determine whether the individual was an “employee” within the meaning of the Act and whether the position fell in the bargaining unit described in the certification order. In Cuelenaere, before granting the amendment pursuant to s. 5(j), the Board implicitly determined that there had been a change in circumstances since the certification order had issued: the Board determined that the employer created two new positions and examined whether the duties of those positions brought them outside the scope of the certification order. **Only after making those determinations did the Board consider whether it was “necessary” to amend the certification order pursuant to s. 5(j) of the Act, rather than making the parties wait for the open period mandated by s. 5(k) of the Act.** [Emphasis added]*

97) With the elimination of the “open period”, the determination by the Board that an application is necessary takes on renewed and higher significance. As noted above, the elimination of the “open period” does not, in our opinion, “green light” applications seeking a different result from that previously obtained. The Board has a procedure in place for

reconsideration of its decisions, which procedure must be utilized where a party feels that an order was improperly made⁴².

98) The Legislature's use of the word "necessary" in section 6-104(g)(ii) provides the Board with wide discretion to determine whether it is necessary that an order be amended. While some cases the necessity of an amendment will be obvious. In other cases that will not be the case.

99) Any test of when an order is "necessary" must be an objective test. It will be the responsibility of the applicant to demonstrate that necessity. Apart from the demonstration of a material change, such demonstration must provide a fact situation which requires the Board to act to make the requested amendment. Some examples, for merely demonstrative purposes, might include things such as a change in geographic location of an employer, an expansion of the employer's business which creates additional positions, or significant downsizing of the business operation.

100) In this case, the Board amended the certification order on January 6, 2014. The amendment was a result of a joint application for the amendment of the order made by the parties. That joint application arose out of an application by the Employer to amend the Certification Order as a result of the acquisition of a former business operated by Viterra Inc. (the "Agro business") in the City of North Battleford. Those employees were formerly represented by the Grain Services Union (ILWU-Canada). On the same date, the Board issued a certification order in favour of the Grain Services Union with respect to employees of the Agro Centre.

101) The Employer at the same time sought amendments to its then order which had not been updated since 1956 to reflect "the current names of the Employer and the Union and the current bargaining unit description, which it described in its application.

102) As noted, the Union concurred with respect to this request for a joint amendment and the Board proceeded to amend the orders to reflect the bargaining unit represented by the Union and by the Grain Services Union. The Board also issued an order rescinding the Board's 1956 order.

⁴² See *Construction and General Workers' Union, Local 180 et al. v. Aecon Construction Group Inc.* [2014] CanLII 42399 (SKLRB), LRB File No. 031-14

103) This is not a situation such as that which prevailed in *Casino Regina*. In this case, the earlier amendment was clearly necessitated by the purchase by the Employer of the Agro Centre and the desire of both the Employer and the Union to amend the old certificate to make it current to that date. To introduce these new positions into the mix at that time would not, in our opinion, have been helpful to the co-operation exhibited by all parties in that process. Accordingly, we do not think the Employer should be penalized as a result of its co-operation in the earlier process which resulted in the January 6, 2014 orders from the Board.

104) The acquisition of the Agro Centre was clearly one of the keys to the need for the Employer to begin planning for its current growth and its potential growth in the future. As noted above, it would likely have been damaging to the co-operative process involved in making the joint application which culminated in the January 6, 2014 order of the Board.

105) However, we must be somewhat critical of the methodology of the Employer in the commencement of this process. Both the *Trade Union Act* and the *SEA* make provision for the Board to make a provisional determination of whether or not a proposed position would fall within the scope of the bargaining unit⁴³. Similarly, Section 6-104(2)(i) empowers the Board to make the determination of whether any person is or may become an employee or supervisory employee.

106) The Employer started this process by its creation of the position of Human Resources Officer in March of 2014. After posting the position as an out-of-scope position, the Employer realized its error and began negotiations with the Union. Those negotiations were unsuccessful with the result that the Union filed its unfair labour practice application on August 6, 2014 after the Employer unilaterally filled the position. Co-incident with the filing of its reply to the unfair labour practice, the Employer then filed its application to amend on August 29, 2014. There was little consultation with the Union in respect of these positions.

107) If these positions were so critical and necessary to the Employer's restructuring, one would have thought that they might discuss the overall direction of the business and the proposed restructuring in greater detail when discussing the Human Resources Officer position. We heard no evidence as to when the Employer determined that these new positions were necessary to the proper functioning of the business.

⁴³ Section 6-105 of the *SEA*

108) Several of the proposed positions arise out of positions which are already excluded from the bargaining unit, but in respect of which the Employer wishes to split the workload. That is the case with respect to the current Controller/Office Manager position which is proposed to be split between two positions, Controller and Office Manager. Similarly, the position of Confidential Secretary, which is excluded from the bargaining unit is being split between the Executive Assistant and the Payroll/Credit Administrator. Additionally, the position of Assistant Agro Manager, which is also excluded, is being upgraded to a Division Manager position.

109) In the *Cuelenaere* case, the Board exercised its discretion under s. 5(j) to amend the order outside the open period because the positions in question were “key positions in the administrative structure of the library, and were also of importance in the industrial relations and personnel management relating to the employees in the bargaining unit.” Notwithstanding our concerns regarding the process by which these positions came before us, we would agree with that sentiment in this case.

110) This determination should not be seen as a precedent for positions to be created in the fashion that was done here. This case was exceptional insofar as it was the first time the Board was called upon to review the revised definition of “employee”.

Do the positions fall within the definition of “employee”?

111) This is the first opportunity for the Board to review the revised definition of “employee” included within the *SEA*. For ease of reference, that definition, along with the definition from the former *Trade Union Act* are set out below.

The Saskatchewan Employment Act

6-1(1) *In this Part:*

(h) **“employee”** means:

(i) *a person employed by an employer other than:*

(A) *a person whose primary responsibility is to exercise authority and perform functions that are of a managerial character; or*

(B) *a person whose primary duties include activities that are of a confidential nature in relation to any of the following and that have a direct impact on the bargaining unit the person would be included in as an employee but for this paragraph:*

- (I) *labour relations;*
- (II) *business strategic planning;*
- (III) *policy advice;*
- (IV) *budget implementation or planning;*

. . .

The Trade Union Act

2 *In this Act:*

(f) *"employee" means:*

(i) *a person in the employ of an employer except:*

(A) a person whose primary responsibility is to actually exercise authority and actually perform functions that are of a managerial character; or

(B) a person who is regularly acting in a confidential capacity with respect to the industrial relations of his or her employer;

(i.1) a person engaged by another person to perform services if, in the opinion of the board, the relationship between those persons is such that the terms of the contract between them can be the subject of collective bargaining.

(ii) **Repealed.** 1983, c. 81, s.3.

(iii) *any person designated by the board as an employee for the purposes of this Act notwithstanding that for the purpose of determining whether or not the person to whom he provides his services is vicariously liable for his acts or omissions he may be held to be an independent contractor; and includes a person on strike or locked out in a current labour-management dispute who has not secured permanent employment elsewhere, and any person dismissed from his employment whose dismissal is the subject of any proceedings before the board;*

112) Under the provisions of the *Trade Union Act*, there were two primary exceptions from the definition of employee. These were generally referred to as the “managerial exclusion” and the “confidential capacity exclusion”. Those two primary exceptions continue under the *SEA* with some greater definition of the confidentiality exclusion.

113) The definition under the *SEA* no longer contains the requirement that the person “actually” exercise authority and “actually” perform functions that are of a managerial character. Also, the confidentiality capacity exclusion was modified to remove the requirement that the person be acting “regularly” and the legislature prescribed certain activities in respect of which the confidentiality exclusion was directed.

114) The revised definition must be read in accordance with the purpose behind the provision of exclusions from the bargaining unit and as determined by reading the provisions in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act and the intention of the legislature.⁴⁴

115) *The Trade Union Act* and the provisions of the *SEA* which replace that Act are based upon the *Wagner Act* model of collective bargaining. That collective bargaining scheme attempts to enable employees to have effective input into the choice of collective bargaining agent and also seeks to equalize the collective power of the employees and the economic power of management. One of the hallmarks of this model is that of a separation between the Union on one hand and Management on the other.

116) This model has always provided for certain positions to be excluded from the bargaining unit. This is done for two major purposes. Firstly, it excludes management domination of the union and its activities by precluding involvement of management within the bargaining unit. Secondly, it provides management with sufficient resources to meaningfully engage in collective bargaining.

117) In support of these goals, both the *Trade Union Act* and the *SEA* contain protections to ensure that a balance is struck between the parties. Management employees are not permitted within the bargaining unit to insure that the bargaining unit does not become “company dominated”. Secondly, management employees are excluded so that there can be meaningful collective bargaining between the parties.

118) The Board has, on many occasions, been required to balance the independence of a union from management influence with the right of those employees to be represented for the purposes of collective bargaining. This Board, like most boards across Canada has taken the view that the exclusion of persons on managerial or confidential grounds should not be

⁴⁴ See *Re: Rizzo v. Rizzo Shoes* [1998] 1 SCR 27, CanLII 837 (SCC)

granted so liberally as to frustrate the objective of extending access to collective bargaining as widely as possible.⁴⁵

119) The provisions of the *SEA* related to collective bargaining still rely upon the *Wagner Act* at its root. It envisions a balance of collective bargaining between an independent and strong collective union and a sufficient management cadre to conduct collective bargaining. The nature of the exclusions provided for in the *SEA* have not changed. The definition continues to allow the exclusion of “persons whose primary responsibility is to exercise authority and perform functions that are of a managerial character”, in keeping with the desire of the legislative scheme to avoid inclusion of management within the collective bargaining unit. Similarly, the “confidential capacity” exclusion insures that the process of collective bargaining can occur on as equal a footing as possible and that confidentiality is maintained.

120) As directed by *Rizzo*, we are required to interpret the provisions of the *SEA* in keeping with this legislative scheme in accordance with the *Wagner Act* model of collective bargaining. Persons excluded from the definition of “employee” will, accordingly, be excluded only in furtherance of this scheme of collective bargaining.

121) In *SIASST v. SGEU*⁴⁶, the Board outlined the purpose for which the exclusions were directed. At paragraph [55] – [59] the Board says:

[55] The Board has on many occasions articulated helpful criterion for the making of such determinations but has also concluded that there is no definitive test for determining which side of the line a position falls (i.e.: within or outside the scope of the bargaining unit). Simply put, the Board's practice has been to be sensitive to both the factual context in which the determination arises and the purpose for which the exclusion have been prescribed in the Act. The Board tends to look beyond titles and position descriptions in an effort to ascertain the true role which a position plays in the organization. See: Grain Service Union (ILWU Canadian Area) v. AgPro Grain Inc., [1995] 1st Quarter Sask. Labour Rep. 243, LRB File No. 257-94; Saskatchewan Joint Board, Retail, Wholesale and Department Store Union v. Remai Investments Corporation, [1997] Sask. L.R.B.R. 335, LRB File Nos. 014-97 & 019-97; and University of Saskatchewan vs. Administrative and Supervisory Personnel Association [2008] Sask. L.R.B.R. 154, LRB File No. 057-05.

[56] The purpose of the statutory exclusion from the bargaining unit for positions whose primary responsibilities are to exercise authority and perform functions that are of a managerial character is to promote labour relations in the workplace by preserving clear identities for the parties to collective bargaining (and to avoid muddying or blurring the lines between management and the

⁴⁵ See *P.I.P.S.C. v. Executive Branch of the Government of Saskatchewan* [1997] Sask. L.R.B.R. 530 at 547

⁴⁶ [2009] CanLII 72366, LRB File No. 077-06

bargaining unit). See: *Hillcrest Farms Ltd. v. Grain Services Union (ILWU – Canadian Area)*, [1997] Sask. L.R.B.R. 591, LRB File No. 145-97.

[57] The purpose of the statutory exclusion for positions that regularly act in a confidential capacity with respect to industrial relations is to assist the collective bargaining process by ensuring that the employer has sufficient internal resources (including administrative and clerical resources) to permit it to make informed and rational decisions regarding labour relations and, in particular, with respect to collective bargaining in the work place, and to permit it to do so in an atmosphere of candour and confidence. See: *Canadian Union of Public Employees, Local 21 v. City of Regina and Regina Civic Middle Management Association*, [2005] Sask. L.R.B.R. 274, LRB Files Nos. 103-04 & 222-04.

[58] The Board has noted that, unlike the managerial exclusion, the duties performed in a confidential capacity need not be the primary focus of the position, provided they are regularly performed and genuine. In either case, the question for the Board to decide is whether or not the authority attached to a position and the duties performed by the incumbent are of a kind (and extent) which would create an insoluble conflict between the responsibilities which that person owes to his/her employer and the interests of that person and his/her colleagues as members of the bargaining unit. However, in doing so, the Board must be alert to the concern that exclusion from the bargaining unit of persons who do not genuinely meet the criteria prescribed in the Act may deny them access to the benefits of collective bargaining and may potentially weaken the bargaining unit. As a consequence, exclusions are generally made on as narrow a basis as possible, particularly so for exclusions made because of managerial responsibilities. See: *City of Regina*, *supra*.

[59] Finally, the Board recognizes that employers and trade unions often negotiate scope issues and come to resolutions that may not be immediately apparent to the Board. In accepting these determinations, the Board acknowledges that the parties are in a better position to determine the nature of their relationship. The determinations that have been made by the parties can be of great assistance to the Board in understanding the maturity of the collective bargaining relationship and kinds of lines that the parties have drawn between management and its staff. However, in the Board's opinion, when it is called upon to make determinations as to scope, the benchmark for our determinations must be s. 2(f)(i) of the Act (the definition of an "employee") and our understanding of the purposes for which the statutory exemptions were included. While we are mindful of the agreements of the parties as to the scope, the genesis for our determinations must be *The Trade Union Act* and the jurisprudence of the Board in interpreting that statute.

122) The labour relations scheme established pursuant to the *SEA* has not changed from that articulated by the legislature under *The Trade Union Act*. The purpose for which exemptions from the bargaining unit were created remains as set out above. The analysis of such positions may, depending upon the facts of each case, differ under the current provisions, but nevertheless, the purpose for which the exemptions have been placed in the legislation remains the same. Similarly, the definition of "employee" when placed within the context of the *SEA* supports the analysis above.

123) Given the facts of this case, however, it is not necessary for the Board to minutely examine the subtle nuances between the old definition of “employee” and the new definition of “employee”. The evidence given at the hearing, coupled with a review of the position expectations in the job descriptions, which we have attached to these reasons, support the analysis of the positions as found below.

Onus of Proof:

124) The onus of proof with respect to the exclusion or inclusion of positions from the bargaining unit falls upon the party seeking the exclusion or inclusion of that position. In *CUPE, Local 47777 v. Prince Albert Parkland Regional Health Authority et al.*⁴⁷, the Board established the burden of proof in such cases. At paragraphs [11] – [14], the Board said:

[11] The Board usually mandates that it is the responsibility of the Employer to ensure that matters of scope of new positions are resolved within the parameters of the legislation and that the onus normally falls upon the Employer seeking to exclude positions to justify their exclusion. In Saskatchewan Joint Board, Retail, Wholesale and Department Store Union v. Raider Industries Inc., et al., [1996] Sask. L.R.B.R. 297, LRB File No. 005-96, the Board stated as follows, at 310-11:

Based on this view of the significance of the certification order in determining scope, the Board has been exceedingly clear about the process which must be followed if an employer wishes to create a position out of the scope of the bargaining unit. In Canadian Labour Congress, Local 481 v. Saskatchewan Government Employees' Association, LRB File No. 192-78, the Board outlined the alternatives:

It has been the policy of the Board, in cases of all employee units, where a new classification is created, to put the onus upon the employer to satisfy the Board that the occupant of the new classification is not an employee within the meaning of Section 2(f)(i) of The Trade Union Act and therefore should be excluded from the unit.

[12] Similarly, in *University of Saskatchewan v. Administrative and Supervisory Personnel Association*, 2007 CanLII 68769 (SK LRB), 2007 CanLII 68769 (SK L.R.B.), LRB File No. 057-05, the Board placed the onus of proof upon the Applicant to justify the exclusion of positions previously within the scope of the bargaining unit.

[13] This case is similar to the above noted cases, except that here, the Union is seeking to include positions not previously within the bargaining unit, and which positions

⁴⁷ [2009] CanLII 38609 SKLRB, LRB File No. 011-09

were previously excluded from the bargaining unit by Order of the Board. It would be illogical to require an onus in the case where an Employer sought to exclude positions from within the bargaining unit, but to have no onus where the Union is the applicant and wishes to have those positions included within the bargaining unit. Such an onus of proof is consistent with the usual onus which falls upon an applicant to prove its application. (See: Saskatoon Regional Health Authority v. Service Employees' International Union, Local 333, 2009 CanLII 2051 (SK LRB), 2009 CanLII 2051 (SK L.R.B.), LRB File No. 296-04.

[14] *It should be noted, however, that the position of Supervisor of Environmental Services is a newly created position which was not previously covered by the Orders of the Board in relation to this collective bargaining unit. As such, the onus of proof with respect to that position will fall upon the Employer in accordance with the Board's usual practice.*

125) With this background, let us now turn to an analysis of the positions themselves.

Human Resources Advisor

126) The job description for this position details 10 primary duties and responsibilities for this position. They are:

- 1.** To come to work with a positive attitude, professional approach and to be dependable for all scheduled shifts;
- 2.** To be responsible for the Training Plan of the Battlefords Co-op;
- 3.** To administer and co-ordinate all FCL training seminars;
- 4.** To administer and co-ordinate orientation, e-learning and compulsory in-house training for all employees of the Battlefords Co-op;
- 5.** To plan and co-ordinate annual Employee Appreciation Night and Employee BBQ;
- 6.** To be the Employer Co-chair of the Safety Committee;
- 7.** To monitor and report on the safety compliance of all departments;
- 8.** To be familiar with and adhere to all Battlefords Co-op policies and procedures;
- 9.** To plan for self-development and knowledge growth:
- 10.** To assist HR Manager as assigned.

127) Of these primary responsibilities, items 1, 8 & 9 would be expected from all employees. The question then is whether or not the remaining items justify this position's exclusion from the bargaining unit.

128) In the evidence of both Mr. Nord and Mr. Gantefer, this position was described primarily in terms of it being responsible for staff training. Mr. Nord testified that "training was taking too long" because the Human Resources Manager was trying to do all the training plus his other responsibilities. He also noted that this position would have responsibility for safety compliance.

129) For this position to be excluded from the bargaining unit, the position must have "primary responsibility...to exercise authority and perform functions which are of a managerial character", or be engaged in respect of "activities that are of a confidential nature" and "which have a direct impact on the bargaining unit" insofar as the following activities are concerned:

- I labour relations;
- II business strategic planning;
- III policy advice;
- IV budget implementation or planning.

130) Examining the other aspects of the position as spelled out in the job description, we are of the opinion that the position should not be placed outside the scope of the bargaining unit.

131) Two of the additional aspects involve staff training. This, in and of itself does not produce a conflict with the bargaining unit such that exclusion is necessary for the proper function of labour relations and collective bargaining. Training, while important to a workplace, is often conducted by in-scope staff, or in the case of the building trades, by tradesmen within the scope of the unit with respect to their apprentices who are also within the scope of the unit.

132) Planning and co-ordination of the Employee Appreciation night is also not an activity which would render this position in conflict such that exclusion is necessary. Again, this function can readily be performed from within the bargaining unit.

133) Items 6 & 7 deal with this position's involvement in monitoring and reporting on safety compliance. The scope of this position is nowhere near the scope of the Manager of Health and Safety described by the Board in *SIAST v. SGEU*⁴⁸. In the *SIAST* case, the Manager of Health and Safety was mandated to shut down operations, if necessary, if a safety violation warranted such action. There was no evidence that that would be the case here.

134) The last aspect of this position is the rather "catch all" which is "to assist HR Manager as assigned". While this could entail activities which would place the incumbent in conflict with the bargaining unit, there was no concrete evidence of the assignment of any such activities to this position other than the incumbent sitting in on hiring interviews.

Payroll/Credit Administrator; Executive Assistant; Office Manager; and Controller

135) It is convenient to deal with these four (4) positions together since they have all devolved from the positions of Controller or Confidential Secretary and are in a support role or report to the Controller. The position occupied by the Controller was formerly entitled Controller/Office Manager. Testimony established that as the business has grown, the need for a full time Controller and the other ancillary positions became necessary.

136) The evidence established that the positions of Office Manager and Controller had been split. The person formerly occupying the position of Office Manager/Controller was, at the time of the hearing, in the position of Office Manager. The former position was excluded from the bargaining unit.

137) There appears to be no disagreement that the position of controller should be excluded from the bargaining unit. This position is a senior management position which would, play a large role in collective bargaining proposals (costing and implementation). However, it is not as clear as to the status of the other 3 positions.

138) The position of Office Manager has some responsibilities for hiring of employees and for performance evaluation of employees. Additionally, this position is responsible for the Employer's adherence to the collective agreement as well as having "the ability to influence employer's labor [sic] relations and involvement in the administration and preparation of confidential labor [sic] relations matters.

⁴⁸ [2012] CanLII 79022 (SKLRB), LRB File No. 188-11 & 190-11

139) These duties have potential to place the incumbent in conflict with the bargaining unit and therefore justify the exclusion of this position from the bargaining unit.

140) This position of Payroll/Credit Administrator was not included in the Employer's application to the Board. Evidence was heard concerning the position, presumably with the Union's consent. In the *S/AST* case, the Board dealt with a position called a Payroll/Benefits Officer. In that case, the evidence provided justified the Board excluding this position on the basis of confidentiality.

141) In this case, the evidence was that the incumbent would spend 60% of his/her time on maintenance of credit accounts and 40% of his/her time on payroll matters. There was no evidence, similar to that in the *S/AST* case, that sensitive employee information was involved, such as discipline records. Nor was there evidence that this position would be involved in costing of bargaining proposals or involved in collective bargaining. As such, there appears to be no justification for the position of Payroll/Credit Administrator to be excluded from the bargaining unit.

142) Insofar as the Executive Assistant position is concerned, that position is expected to work as a "Confidential Secretary for Senior Management, which position is already excluded from the bargaining unit. Such positions have long been determined⁴⁹ to be excluded by the Board under the confidentiality exclusion. In *Hillcrest*, the Board said at para. 29:

In the case of employees excluded because they act in a confidential capacity, on the other hand, the purpose of the exclusion is to reinforce the collective bargaining process by providing an employer with administrative and clerical resources which will permit decisions to be made about bargaining or about the terms and conditions of employment of employees in an atmosphere of candor and confidence.

143) The current Board Order makes provision for someone to assist management confidentially in respect of labour relations matters. The exclusion of this position is accordingly warranted in substitution for the Confidential Secretary position which is currently excluded.

AG Division Manager

⁴⁹ See *Grain Services Union(ILWU-Canadian Area) v. Hillcrest Farms Ltd.* [1997] Sask. L.R.B>R. 591, LRB File No. 145-97

144) This position was formerly an Assistant AG division manager position which has been upgraded to a manager position. Currently, there are numerous positions excepted from the bargaining unit in respect of the Agro operations of the Employer. These include “Manager AGRO CENTRE; Agro Manager, Assistant Agro Manager...Two (2) Agronomists”. It was unclear from the evidence how this new position (apart from being an upgrade) fits within the existing bargaining unit description and exemptions. If, indeed it was previously excluded, there was no evidence to suggest it should not be out-of-scope since the Union lead no evidence to establish its placement within the bargaining unit. However, if it is not the same position referenced in the Board Order, the duties and responsibilities of the position, when considered against the positions currently excluded, warrant its exclusion.

Operations Manager

145) This position is also a senior position within the management of the Employer. This position works directly with other out-of-scope managers and the General Manager to oversee operations of the Employer. One of the job requirements is that this person be “responsible for the adherence and enforcemnet [sic] of ... [the] Union Contract. The position also is required to “take corrective actions with employees if the established standards are no being met”.

146) These duties and responsibilities, as well as being part of the senior management team will undoubtedly place the incumbent of this position in conflict with the bargaining unit. As such, his/her exclusion is warranted.

Remedy and Order

LRB File No. 170-14

147) The Employer is guilty of an unfair labour practice with respect to its creation of the position of Human Resources Advisor and its unilateral action in filling that position without the consent of the Union or an Order from this Board. An order will issue accordingly.

148) The Employer shall pay to the Union the amount of union dues which should have been collected and remitted to the Union since the date of original hire up to the date that the incumbent commences paying union dues.

LRB File No. 198-14

149) The order of the Board dated January 6, 2014 shall be amended in accordance with the determinations set out above. The Employer and the Union shall, within 15 business days of the date of this decision meet for the purpose of creating a draft order reflecting the changes necessitated by this decision. That draft order shall be provided to the Registrar of the Board not less than 25 business days from the date of this decision.

150) In the event that the parties are unable to agree on amending language for the draft order, they shall jointly advise the Board within the said 25 business days of their inability to agree. The Board shall thereafter make the necessary order without further input from the parties.

151) This is a unanimous decision of the Board.

DATED at Regina, Saskatchewan, this **20th** day of **March, 2015**.

LABOUR RELATIONS BOARD

Kenneth G. Love, Q.C.
Chairperson

Exhibit "A"

POSITION: HUMAN RESOURCES ADVISOR
LOCATION: ADMINISTRATION
REPORTS TO: HUMAN RESOURCES MANAGER
DATE EFFECTIVE: JUNE 1, 2014

DUTIES AND RESPONSIBILITIES

1. To come to work with a positive attitude, professional approach and to be dependable for all scheduled shifts.
2. To be responsible for the Training Plan of the Battlefords Co-op.
3. To administer and co-ordinate all FCL training seminars.
4. To administer and co-ordinate orientation, e-learning and compulsory in-house training for all employees of the Battlefords Co-op.
5. To plan and co-ordinate Employee Appreciation Night and Employee BBQ.
6. To be the Employer Co-Chair of the Safety Committee.
7. To monitor and report on the safety compliance of all departments.
8. To be familiar with and adhere to all Battlefords Co-op policies and procedures.
9. To plan for self-development and knowledge growth.
10. To assist HR Manager as assigned.

KEY PERFORMANCE AREAS/DUTIES AND RESPONSIBILITIES

1. To come to work with a positive attitude, professional approach and to be dependable for all scheduled shifts.

Standard

- a. A friendly, co-operative attitude is brought to the workplace daily.
- b. To attend all scheduled training sessions with a positive, open mind.
- c. To be able to work effectively with other employees/supervisors/managers.
- d. The ability to eagerly accept duties assigned.
- e. To be on time for all scheduled shifts, follow break schedules and report to the Human Resources Manager or the Office Manager when there is going to be an absence from work.

2. To be responsible for the Training Plan of the Battlefords Co-op.

Standard

- a. Annually gather the training needs from each department manager and compile a Training Needs Analysis for the Battlefords Co-op.
- b. Training Needs Analysis is to be shared with FCL to assist in developing annual training calendar for the Saskatoon Region.

3. To administer and co-ordinate all FCL training seminars.

Standard

- a. Consult FCL on-line training events calendar and notify department managers of up-coming training seminars.
- b. Distribute registration forms to department managers to register employees to attend FCL training seminars.
- c. Register participants on-line.
- d. Monitor and track the attendance at FCL training seminars.
- e. Provide annual report of participation to HR Manager.

4. To administer and co-ordinate orientation, e-learning and compulsory in-house training for all employees of the Battlefords Co-op.

Standard

- a. Review and revise all in-house training materials.
- b. Develop a training schedule that provides the opportunity for all new employees to be exposed to New Employee Orientation, E-learning and all compulsory in-house sessions on a monthly basis.

- c.Ensure that all Battlefords Co-op employees attend New Employee Orientation, E-learning and all compulsory in-house training sessions.
- c.Maintain a listing of all those who have attended New Employee Orientation, E-learning and all compulsory in-house training sessions.
- d.Ensure that all training seminar materials, videos, etc. are kept current.
- e.Provide annual report of participation to HR Manager.

5. To plan and co-ordinate annual Employee Appreciation Night and Employee BBQ.

Standard

- a.Plan and co-ordinate a first class Employee Appreciation Supper where Years of Service Awards, Perfect Attendance Awards and other acknowledgements are presented.
- b.Determine the Years of Service recipients each year.
- c.Select and purchase the service award gifts.
- d.Determine the Perfect Attendance recipients each year.
- e.Select and purchase the perfect attendance gifts.
- f.Plan and co-ordinate the annual manager hosted Employee BBQ.

6. To be the Employer Co-Chair of the Safety Committee.

Standard

- a.Together with the Employee Co-Chair, schedule regular meetings to comply with OHS regulations.
- b.Conduct department safety inspection tours on a rotation basis... get to all departments not less than once per year.
- c.Ensure Safety Committee minutes are kept and submitted to OHS as required by law.
- d.Provide a report at managers meeting.

7. To monitor and report on the safety compliance of all departments.

Standard

- a.Safety Committee conducts a safety inspection tour of each department once per year. Department managers are required to conduct a safety inspection of their department on a monthly basis. Monitor compliance.
- b.Safety rules have been written for each department. These rules are to be posted in the department and are to be reviewed with new employees when hired. Monitor compliance.

8. To be familiar with and adhere to all Battlefords Co-op policies and procedures.

Standard

a. Become familiar with and adhere to Battlefords Co-op policies and procedures as the pertain to the following: Dress code

Safety

Attendance

Training

Leaves of absence

Vacation

Discipline

9. To plan for self-development and knowledge growth.

Standard

- a. Continual growth and improvement is an expectation at the Battlefords Co-op.
- b. Attendance at all the sessions and seminars that fall under your area responsibility.
- c. Attendance at personal/professional development opportunities.
- d. Attendance at Annual General Meeting, managerial meetings, special events and conferences.

10. To assist HR Manager as assigned.

Standard

- a.

Exhibit "B"

Battlefords & District Co-operative Ltd.

NAME:

JOB TITLE: PAYROLL/CREDIT ADMINISTRATOR

LOCATION: ADMINISTRATION

REPORT TO: CONTROLLER

DUTIES AND RESPONSIBILITIES

- To come to work with a positive, professional approach, and attitude
- To be dependable for all scheduled shifts
- To ensure outstanding courteous customer service is provided at all times
- To be familiar with and adhere to The Battlefords Co-op Policies and Procedures
- To be responsible for the processing of the bi-weekly payroll
- To assist the Controller with credit duties
- To perform duties related to Co-op Membership and Equity in accordance with policy
- Administration Duties
- Other duties as assigned

BRAND

Our brand *You're at home here* is a unique branding slogan which ensures that guests are treated with respect and openness in our home, the Co-op. As an employee of this organization, you will take leadership and project enthusiasm in living our brand every day. You are responsible for:

- Providing a warm and welcoming invitation to our guests and members
- Demonstrating a strong emotional connection with all guests
- Promising a friendly and personable attention to all guests
- Possessing the capability to identify guest needs by asking questions and displaying excellent listening skills
- Exhibiting the willingness to become knowledgeable about products and services
- Acquiring skills to exceed guest expectations by going the extra mile

The Battlefords and District Co-op employs and develops individuals with a capability to deliver exceptional guest services by portraying friendly, caring, trusted, and honest attributes.

TO COME TO WORK WITH A POSITIVE, PROFESSIONAL APPROACH AND ATTITUDE

Standard

- A friendly, co-operative attitude is brought to the workplace daily
- To attend all training sessions with a positive, open mind
- To be able to work effectively with other employees, supervisors, and customers
- The ability to eagerly accept duties as assigned
- To maintain a positive attitude towards work and life
- To come to work daily, neat and clean, portraying an image of business professionalism
- To keep your workstations dusted and kept neat, again portraying an image of business professionalism

TO BE DEPENDABLE FOR ALL SCHEDULED SHIFTS

Standard

- To be ready to work before all scheduled shifts
- To respect the time limits set for breaks
- To always report to the Controller when there is going to be an absence from work
- Attendance: 3 out of the possible 5 points

TO ENSURE OUTSTANDING COURTEOUS CUSTOMER SERVICE IS PROVIDED AT ALL TIMES

Standard

- Approaching customers for the purpose of providing customer service is the first priority over other duties and a constant alertness to customers must be maintained. Customers must not be forced to wait for service while a clerk carries out duties such as keying or bookwork. It must be noted that other departments are customers of the administration department. They must be treated in the same manner as a customer of the Co-operative. Remember that the customer is the only reason that you have a job at the Co-op
- Attitude towards customers must be helpful and at a professional level at all times
- An image of caring for the customer's needs must be portrayed at all times
- To adhere to proper telephone etiquette. All calls must be answered before the third ring. All calls must be answered using the phrase "Good Morning/Afternoon/Evening, Battlefords Co-op, (name) speaking"
- When a customer required information beyond one's knowledge, a reasonable attempt must be made to obtain the required information for the customer
- Promises made to customers must be fulfilled as promised

- To adjust all customer complaints in accordance with the hassle free guarantee policy
 - ✓ Fully understand the hassle free guarantee policy and procedure
 - ✓ Handle any customer complaints enthusiastically and in a friendly manner
 - ✓ Direct all complaints to the appropriate person

TO BE FAMILIAR WITH AND ADHERE TO THE BATTLEFORD'S AND DISTRICT CO-OPERATIVE LIMITED POLICIES AND PROCEDURES

Standards

- To enhance the Co-operative's image through the proper use of clean and neat clothes
- Appropriate name tag to be worn at all times
- Adhere to the company's cheque/credit policy
- Adhere to the company's hassle free guarantee policy
- Adhere to the company's loss prevention policy
- Adhere to the company's employee parking policy
- Adhere to the company's employee parking policy
- Adhere to the company's Internet/E-mail policy
- Adhere to all other company policies and procedures

TO BE RESPONSIBLE FOR THE BI-WEEKLY PAYROLL PROCESSING

Standard

- On a weekly basis, key all hours of all employees from timecards received from Department Managers
- Maintain employee master files online in current state
- Remit monies and reports owing to Receiver General, Superannuation Society, RWDSU, Social Club, Co-operators etc. according to guidelines
- Maintain payroll records and filing
- Ensure payroll filing cabinet is locked following Privacy Policy
- Pay Board Members three times per year and add the yearly per diem totals to payroll system to generate T4's
- To prepare the payroll communications for incremental and yearly union wage increases
- To prepare the payroll communications for the bonus program (union and management)
- To monitor/administer and track vacation allotment

TO ASSIST THE CONTROLLER WITH CREDIT DUTIES

Standards

- Review the daily credit limit over/under report and make necessary adjustments to accounts
- Prepare and mail credit letters (approvals, denials etc.)
- Make credit decisions when Controller is unavailable
- Maintain proper credit rating as per Office Manager standards in TRC and Member Master File
- Process AIM and FCC requests
- Administer monthly and yearly charge out and collection of tenant rent/taxes
 - Bill and record monthly rentals and yearly taxes
 - Monitor and execute extra tenant billings for postage, linen etc.

TO PERFORM DUTIES RELATED TO CO-OP MEMBERSHIP AND EQUITY IN ACCORDANCE WITH POLICY

Standard

- Be familiar enough with Membership and Equity Policies to be able to answer customer inquiries
- To sell and process membership applications ensuring proper information is given to members and received on the application form
- Ensure correct membership information is keyed into FCL online and that the till systems are properly updated (maintain the accuracy of the RMMU system)
- Maintain/file all equity applications; prepare equity package for the monthly Board meetings and prepare and send out equity letters and cheques

ADMINISTRATION DUTIES

Standard

- You will have access to and control over confidential information such as credit, payroll, personnel files etc. which should be kept in confidentiality
- Maintain good paper flow practices ensuring papers are carried out and minimal losses occur
- Regularly read industry literature, attend training seminars, and converse with others in the business to maintain and expand level of knowledge
- Be involved in and have access to confidential financial and budget information
- Administer and monitor information on payroll, benefits etc.

OTHER DUTIES AS ASSIGNED

Exhibit "C"

TITLE: AG DIVISION MANAGER
LOCATION: FARM SUPPLY, AG CENTRE, RADISSON
REPORTS TO: GENERAL MANAGER

DUTIES AND RESPONSIBILITIES:

Points Possible:

1. To prepare, administer and be responsible for the sales, margin, expenses, inventory and SPMH of the Battlefords Co-op Ag Division.
2. To ensure all employees adhere to brand standards, merchandising standards, marketing efforts, employee appearance, housekeeping, safety, social responsibility and loss prevention.
3. To ensure acceptable level of service is provided, employee attitude is appropriate and Hassle-Free Guarantee Program is followed.
4. To ensure proper management of assets and adherence to a maintenance schedule.
5. To ensure adherence to the image checklist as per facilities and equipment.
6. To prepare the annual business plan, budget, and ensure plans are following the direction of the Corporate Strategic Plan.
7. To follow and maintain the customer contact program as per Co-op policy and procedure.
8. To ensure the proper recruitment procedures are followed.
9. To implement and enforce written performance expectations and standards.
10. To be responsible for developing a yearly employee training plan and ensuring that it is followed.
11. To hold regular staff meetings and to ensure all employees receive appraisals.
12. To be responsible for the adherence and enforcement of Battlefords Co-op policies, procedures and union contract.
13. To ensure self development is planned for and the initiative is taken to improve knowledge, skills or attitude.
14. Other duties as may be assigned.

KEY PERFORMANCE AREAS/DUTIES AND RESPONSIBILITIES

1. TO PREPARE, ADMINISTER AND BE RESPONSIBLE FOR THE SALES, MARGINS, EXPENSES, INVENTORY AND SPMH OF THE BATTLEFORDS CO-OP AG DIVISION.

STANDARD

- a. To follow guidelines as per business plan and approved budget.
- b. To ensure each period end statement is analyzed and corrective action is taken to correct any part of the operation that is not meeting budget. An action plan must be prepared and implemented to ensure corrective action will take place.
- c. To achieve budgeted goals as related to sales, margins, expenses, inventory and SPMH.

2. TO ENSURE ALL STAFF ADHERE TO BRAND STANDARDS, MERCHANDISING STANDARDS, MARKETING EFFORTS, EMPLOYEE APPEARANCE, HOUSEKEEPING, SAFETY, SOCIAL RESPONSIBILITY AND LOSS PREVENTION.

STANDARD

- a. To ensure all Brand Standards are followed according to the Brand Values and Characteristics.
 - i Brand Values; Locally invested, Community Minded, Lifetime Membership Benefits.
 - ii Brand Characteristics; Friendly, Trusted, Caring, Honest Proud, Successful, Authentic, Knowledgeable.
 - iii Follow the FCL Style Guide and consult Marketing Manager for all advertising.
- b. To ensure merchandise is displayed as per company policy and procedure ROM# 124.00.01, 165.00.01, 165.80.01 and 165.80.02.
 - i. To ensure merchandise is adequately stocked and rotated.
 - ii. To ensure displays and shelves are orderly displayed and fronted.
- c. To ensure proper preparation of promotions including having promotional merchandise and POP material during the promotion period and ensuring that all staff are familiar with the promotion details and are promoting the products in it.
- d. To participate in weekly inspection programs and implement recommended improvements.
- e. To ensure all employees come to the work place in the image of a professional, including adhering to all government regulations and association standards regarding dress code, and personal hygiene.
- f. To ensure competitive price checks are being carried out in all departments.
- g. To ensure all employees are alert for unauthorized removal of merchandise and to report all discrepancies to the manager.
- h. To ensure no unauthorized persons are left unattended in the warehouse area.
- i. To ensure warehouse doors are secure at all times.
- j. To confirm that all traffic aisles are free of boxes and obstruction as per Battlefords Co-op's slip and fall policy and the store merchandising standards.

- k. To ensure daily housekeeping duties such as cleaning washrooms, sweeping, mopping and dusting are done.
- l. To ensure shelves, bins and displays are cleaned and dusted as per store merchandising standards.
- m. Ensure parking area, yard and entrance areas are kept clean and free of debris every morning before store opening.

3. TO ENSURE ACCEPTABLE LEVEL OF SERVICE IS PROVIDED, EMPLOYEE ATTITUDE IS APPROPRIATE AND HASSEL-FREE GUARANTEE PROGRAM IS FOLLOWED.

STANDARD

- a. Approaching customers for the purpose of providing customer service is the first priority over other duties and all employees must maintain a constant alertness to customers. Customers must not be forced to wait for service while a clerk carries out duties such as stocking merchandise. Remember to instill in all employees to treat all customers as a guest and make them feel "at home". Ensure Co-op "Legendary" customer service, encourage employees and managers to deliver service that exceeds members expectations.
- b. To ensure employees greet all customers and fellow co-workers in pleasant, friendly and courteous manner and where possible by name.
- c. To ensure a friendly, co-operative attitude is brought to the work place daily by all staff.
- d. Ensure prompt, efficient and friendly customer service is provided at all times.
- e. To ensure that the department adheres to the association Hassle-Free Guarantee policy.
 - i. Fully understand the Hassle Free guarantee policies and procedures.
 - ii. Handle customer complaints enthusiastically and in a friendly manner regardless of how frustrated or vocal the customer may be.
 - iii. Solving customer complaints is a high priority and must be treated as such.
- f. To ensure that the department adheres to the association rain check policy.
- g. To assure all customers complaints, adjustments and returns, are handled in a quick, efficient and friendly manner as per the Company's Merchandise Return Policy.
- h. To ensure that the department handles special customer requests in an efficient and friendly way.
- i. To take corrective actions with staff members if the established standards are not being met in accordance with the Employee relations manual.

4. TO ENSURE PROPER MANAGEMENT OF ASSETS AND ADHERENCE TO A MAINTENANCE SCHEDULE.

STANDARD

- a. To assist in the maintaining of equipment for safety and efficient operation. To notify appropriate individuals when repair and maintenance is required.
- b. To ensure that all equipment is operated in a safe and responsible manner and all assets are cared for as per policy.

5. TO ENSURE ADHERENCE TO THE IMAGE CHECKLIST AS PER FACILITIES AND EQUIPMENT.

STANDARD

The following areas are to be toured three (3) times daily, at the beginning, middle and end of the shift to ensure adherence to the image and brand. Corrective action is to be taken for any area which the standards are not being met.

- | | |
|-----------------------------------|----------------------|
| i. Parking area | ii. All entrances |
| iii. Washrooms | iv. Sales floor |
| v. Promotional displays | vi. Shelving |
| vii. Customer service area | viii. Receiving area |
| ix. Spot and island merchandisers | x. Yard area |

6. TO PREPARE THE ANNUAL BUSINESS PLAN, BUDGET AND ENSURE PLANS ARE FOLLOWING THE DIRECTION OF THE CORPORATE STRATEGIC PLAN.

STANDARD

- a. To ensure budget is prepared by established deadline.
- b. To verify accuracy of invoices for location, item cost extensions and totals.
- c. To ensure all departments accurately process invoices as per policy #300.00.01.
- d. To ensure that all records related to markdowns, transfers, receiving, claims and invoicing are maintained.
- e. To ensure all departments prepare claims as required.
- f. To complete annual business plan for department.
- g. Work with managers and key employees to understand the Corporate Strategic Plan.
- h. Challenge employees to know the Vision, Mission and Inspirational Statements.

7. TO FOLLOW AND MAINTAIN THE CUSTOMER CONTACT PROGRAM AS PER CO-OP POLICY AND PROCEDURE.

STANDARD

- a. To plan for and carry out farm and commercial contacts on an ongoing basis.
- b. To ensure a monthly contact-planning sheet is filled out.
- c. Ensure a proper database of customer contact information is collected and used to grow the Battlefords Co-ops Ag business.

- d. Number of Calls
In the last 12

<u>Months</u>	<u>Rating</u>
171+	Exceptional
151-171	Very Well Done
131-150	Well Done
100-130	Needs Improvement
less than 100	Inadequate

8. TO ENSURE THE PROPER RECRUITMENT PROCEDURES ARE FOLLOWED.

STANDARD

- To interview and screen staff and make appropriate recommendations as per Battlefords Co-op's Recruitment procedure.
- To co-ordinate and supervise the orientation of all new employees to company policy and procedures on the first day of work as per the Orientation checklist.
- To develop training plan for all new employees.

9. TO IMPLEMENT AND ENFORCE WRITTEN PERFORMANCE EXPECTATIONS AND OPERATION STANDARDS.

STANDARD

- To ensure all staff understand their job descriptions and what is expected from them.
- To ensure all operation standards such as SPMH are met on a weekly, period and yearly basis.
- To ensure all customer service standards such as a Service Starts With You and a We Deliver level of service is met and maintained.
- To ensure all e-learning is done according to set timelines

10. TO BE RESPONSIBLE FOR DEVELOPING A YEARLY EMPLOYEE TRAINING PLAN AND ENSURING THAT IT IS FOLLOWED.

STANDARD

- To identify training courses for all staff and ensure each staff member takes a minimum of one course a year.

- b. To ensure all employees have completed all e-learning courses and in-house courses by the deadlines set out in Battlefords Co-ops policies and procedures.
- c. To ensure all staff that attend courses respond with feedback on how they will improve the way they do their job.

11. TO HOLD REGULAR STAFF MEETINGS AND TO ENSURE ALL EMPLOYEES RECEIVE REVIEWS.

STANDARD

- a. To conduct performance appraisals on full and part time staff members as per Battlefords Co-op's policy and prescribed deadlines.
- b. To recommend and take corrective action which may be required for staff members not meeting the established standards (review job duties, responsibilities and standards of performance).
- c. To review with all clerks their job descriptions and performance standards expected once per year.
- d. To train, monitor and review job expectations with all clerks on orientation period.

12. TO BE RESPONSIBLE FOR THE ADHERENCE AND ENFORCEMENT OF BATTLEFORDS CO-OP POLICIES, PROCEDURES AND UNION CONTRACT.

STANDARD

- a. To ensure that the Co-operative's image is enhanced by the proper use of clean and neat uniforms, as supplied by the association. Items such as blouses, shirts, hats, etc. must meet association expectations.
- b. To ensure that all employees are wearing an appropriate nametag at all times.
- c. To ensure the adherence to the Company's Loss Prevention and Internal Security Policies.
- d. To ensure the adherence to the Company's Consumption Policy.
- e. To be alert to pilferage and/or unauthorized removal of merchandise or association assets.
- f. To ensure the adherence to the Company's Employee Parking Policy.
- g. To ensure the adherence to all association rules, which regulate non-smoking areas, staff room usage and paid break periods.
- h. To ensure adherence to the Slip and Fall Policy.
- i. To ensure the adherence to all other Company Policies and Procedures.
- j. To take corrective actions with employees if the established standards are not being met.
- k. To ensure proper environment policies and procedures are being met.

13. TO ENSURE SELF-DEVELOPMENT IS PLANNED FOR AND THE INITIATIVE IS TAKEN TO IMPROVE KNOWLEDGE, SKILLS OR ATTITUDE.

STANDARD

- a. To attend all scheduled training sessions with a positive, open mind.

Agro Division Manager

- b. To plan for and schedule yourself for a minimum of two courses a year

Exhibit "D"

Battlefords & District Co-operative Ltd.

JOB TITLE: **OPERATIONS MANAGER**

REPORT TO: **GENERAL MANAGER**

VISION:

To be a leader in the services we provide.

MISSION:

Progressively grow business and community through Co-operative Values

VALUES:

Service, Excellence, Teamwork

PURPOSE OF THE POSITION:

To coordinate the day-to-day delivery of all operations following retail and system programs to meet member needs; to effectively communicate Battleford's brand, values, information and image to members, employees and community. To provide support for the General Manager. Under general supervision, co-ordinates the delivery and evaluation of the overall Corporate Strategy. Leads in business development areas of the Co-operative.

KEY PERFORMANCE AREAS:

#1 - Merchandising

- Encourage managers and employees to be passionate about the way they present their location, themselves, products, and services
- Ensure acceptable merchandising standards at primary locations
- Evaluate individual inventory items at primary locations to determine fair value. Use yearly action to reduce undesirable inventory
- Work with Division Managers to improve buying as a division
- Work with Division Managers to improve margins through effective merchandising

#2 - Marketing

- Co-ordinate the Team Book for primary locations
- Co-ordinate and make sure the complete use of B-04 advertising money for your primary locations
- Co-ordinate advertising for your primary locations. Ensure optimal use of radio, newspaper, and newsletter
- Co-ordinate, with the management team, the design, development, implementation and evaluation of annual and long-term co-operative marketing strategy and plans
- Identify opportunities to promote sales and growth in key target areas. To assist in the promotion/sales of co-op products
- Develop proposals for marketing strategies, cost impacts of implementing, and recommending acceptance to management
- Review and evaluate impact of effectiveness of member, sales, and brand campaigns by monitoring member and employee feedback and revising approach where necessary. Some of the tools used to gather feedback could include mystery shopper, on-line surveys, social media, engagement surveys, and focus groups
- Participate with management to integrate the marketing plan with the overall strategic plan for the co-operative by providing technical advice and consultative support in all areas relating to the sales, promotion, and long-term viability of products and services and competitor's strategies and plans
- Participate in the development of sales targets and marketing plans and support departments in achieving plans
- Complete a 52 week annual Marketing Calendar. The calendar will include all local marketing done for departments and mall activities. The calendar will include a schedule of marketing tours for departments for the year
- Work with the Farm Supply, Petroleum and Home Centre departments on their customer contact program

- Ensure the website is well set up and locations have an effective email/texting marketing program in place
- Work with Marketing Manager to capitalize on the corporation's digital presence

#3 – Customer Relations

- Work with the Marketing Manager to improve the website to provide an easier to use and more interactive site with Co-op current events in conjunction with a strong social media presence
- Ensure customer complaints and suggestions are handled within 5 working days
- Ensure Co-op “legendary” customer service at all locations, encourage employees and managers to deliver service that exceeds members expectations
- Use the corporate strategy, brand strategy, and the “guide to retailing excellence” to encourage managers to take Co-op service to the next level of Legendary service
- Support sales and foster business development through training and support for employees to build product knowledge

#4 – Image/Fixed Assets

- Work with Facilities Manager to coordinate maintenance schedule for all locations
- Ensure budgeted purchases and budgeted repairs & maintenance is completed in a timely manner
- Encourage employees and managers to have the highest standards of facility presentation
- Work with managers and FCL to produce a plan, feasibility, and recommendation for the corporate's future

#5 – Administrative

- Introduce corporate strategy to all levels of managers and employees. Challenge employees to know the Vision, Mission, and Values
- Work with the leadership team to develop yearly corporate strategy

- Work with managers to implement the corporate strategy
- Improve operations through expenses, margins, and growth
- Work to improve Balanced Scorecard by using KPI measurements to make informed decisions
- Assist the General Manager and Controller in the preparation of the 2015 Business Plan
- Work with Division Managers and Controller to complete budget within specified time lines
- Attend monthly statement reviews with Managers, Controller, and Office Manager and deal directly with managers to challenge and correct negative budget variances
- Ensure the integrity of petroleum literage controls. Ensure reconciliation reports (weekly, monthly) are completed in a timely manner; that variances are within established standards and variances outside of established standards are investigated and corrected
- The safe storage and monitoring of petroleum and fertilizer products and potential environmental issues is critical
- Primary locations will need to meet established TRC guidelines for reports, audits, checks, and inventory counts
- Work with all managers to ensure the best and most efficient co-ordination of bulk fuel delivery for the association
- Assist the Controller in bringing the Delivery unit efficiency reporting to system standards
- Ensure chemical perpetual inventory records are accurate and current
- Work with all managers to expand sales and make the best use of assets and people
- Ensure emergency plans and safety training is up-to-date
- Attend and actively participate in division managers meetings. Ensure key issues and changes are communicated to managers
- Work with the General Manager in developing the monthly Board report and meeting with the Board of Directors

- Develop presentations for annual managers meetings, annual staff service awards, and annual staff meetings

#6 –Safety

- Work co-operatively with the Safety Manager and the Occupational Health & Safety Committee to ensure the health and safety of our employees and members
- Carry out health and safety responsibilities to produce adequate health and safety environment
- Communicate commitment to all managers and employees that health and safety is a top priority
- Assist in setting goals for the health and safety program by setting objectives to help evaluate the program, establishing clear standards of performance, holding subordinates accountable for their performance, and setting appropriate rewards for effective performance
- Follow company policies regarding health and safety and ensure all managers follow them
- Ensure all managers are adequately trained in their responsibilities
- Setting an example by working and acting safely
- Know and comply with the Saskatchewan Employment Act and The Occupational Health and Safety Regulations
- Schedule shifts and work processes with safety in mind
- Respond promptly to all concerns regarding safety and create a culture that encourages employees to bring concerns forward

#7 – Loss Prevention

- Teach loss prevention course to employees as per schedule
- Will aid the Controller in the development of company policies and procedures relative to loss prevention
- Each Department Manager is responsible for ensuring the prescribed policies and procedures relative to loss prevention are followed in their department or area of

responsibility. Such responsibility encompasses the safeguarding of company assets, whether such assets are physical, human or intangible such as company information

- Work with Division Managers to ensure the prescribed policies and procedures relative to loss prevention are followed in their department or area of responsibility. Such responsibility encompasses the safeguarding of company assets, whether such assets are physical, human or intangible such as company information.

#8 – Strategic Planning

- Be a major driving force of our Co-op Corporate Strategy
- Assist with the planning, implementation, and challenging of employees and managers
- Keep looking for and suggesting new ways to keep employees and managers focused on key principals and supporting the program

#9 – Employee Recruitment

- Selection of competencies must be prepared and reviewed with the HR Department prior to recruitment activity
- Help develop and keep up-to-date all job descriptions

#10 – Performance Management

- Identify managers and employees with potential. Help develop a succession plan and training plan for these individuals
- Work with Division Managers to do quarterly work plan reviews
- Manager goals and work plans to be in place for January 31
- Each manager to have a completed appraisal within established deadlines
- Each employee to have a completed appraisal at least annually
- Be a leader in the co-ordination and planning for events related to the managers club and social events with the Board of Directors and Region gold and curling events
- Encourage people to participate in the Annual Staff meeting and the Service Award Program

- Encourage employees to complete the employee survey

#11 – Training

- Review monthly training reports and work with Division Managers to improve on areas of concern
- Quality of departmental training plan developed and how well it has been followed including staff attendance at scheduled events
- Be involved in all retail grievances, unfair labor practices, negotiations, and labor management meetings

#12 - Brand

Our brand tagline “You’re at home here” is a unique branding slogan which ensures that guests are treated with respect and openness in our home, the Co-op. As an employee of this organization, you will take leadership and project enthusiasm in living our brand every day. You are responsible for:

- Providing a warm and welcoming invitation to our guests and members
- Demonstrating a strong emotional connection with all guests
- Promising a friendly and personable attention to all guests
- Possessing the capability to identify guest needs by asking questions and displaying excellent listening skills
- Exhibiting the willingness to become knowledgeable about products and services
- Acquiring skills to exceed guest expectations by going the extra mile

The Battlefords and District Co-op employs and develops individuals with a capability to deliver exceptional guest services by portraying friendly, caring, trusted, and honest attributes.

#13 – Self-Development

- Attend all training, clinics, and conferences that are appropriate to compliment your experience
- Prepare a personal training and development plan and review with GM.
- Act as the Battlefords Co-op representative on the Downtown Association and the Chamber of Commerce

DECISION MAKING AND FREEDOM TO ACT:

Under general supervision, guided by established standards and procedures. Work is routine but varied; makes normal decisions with the use of some judgment.

CONTACTS:

- Members/ Clients
- Board of Directors
- General Manager
- Management
- Other Staff
- Federated Co-op
- Other Co-operatives.
- Suppliers/Vendors
- Community Groups

EDUCATION AND EXPERIENCE:

- Minimum Grade 12
- Post-secondary degree is preferred
- Minimum 5-7 years of experience as a General Manager, Operations Manager, and/or Retail Advisor
- Experience within a complex rapidly changing environment is required

Exhibit "E"

Battlefords & District Co-operative Ltd.

NAME:

JOB TITLE: OFFICE MANAGER

LOCATION: ADMINISTRATION

REPORT TO: CONTROLLER

KEY PERFORMANCE AREA

To manage the department in a manner that all auditing, financial reports, money management, and accounting procedures are done in an efficient, timely manner. To minimize possible department errors and losses, and reduce chance of loss through missed deadlines or accuracy

Standards

- To ensure preparation of all accounting records and maintenance of the General Ledger and supportive subsidiary ledgers, including the reconciliation of all accounts required by the Co-operative
- To ensure accurate and timely distribution of all reports generated by the Administration Dept.
 - a) Weekly sales report – two working days
 - b) Gross Margins – second Wednesday after cut off
 - c) Operating Statements which includes directing inventory cut off including the setting up of payables and making the necessary journal entries to close out the accounting period – fourteen calendar days after period end
- To ensure general accounting information required by authorized personnel is provided
- To ensure bank deposits and the office change fund is 100% accurate and accounted for
- To ensure a timely submission of L520, Visa, and Master Card occurs
- A/R Statements to be mailed out by 3rd working day after month end
- A/R posting to occur next working day
- To ensure to continuously conduct audits and follow up irregularities regarding cash registers, employee purchases, inventories, reconciliations, departmental expenses, merchandise transfers, coupons and shortages regarding literage control
- To ensure department maintains log for presentation to external audit

- To ensure an annual review of the Co-operative's insurance requirements is done in conjunction with Controller and insurance company. Once complete, implement agreed upon changes
- To annually ensure you prepare and implement a schedule of surprise audits and cash counts covering all departments
- To ensure all line employees are trained in carrying through on proper inventory taking procedures
- To ensure inventory schedule is in place and being followed

LOSS PREVENTION

Key Performance Area

To be constantly diligent, implementing actions that detect, prevent and detour theft of product and information.

Standards

- Ensure internal audits are conducted on a regular basis in each department. All discrepancies must be reviewed and corrective action taken
- Employees must be constantly aware of possible theft and take appropriate action when theft occurs

CUSTOMER RELATIONS

Key Performance Area

Good customer service must be provided on a consistent basis. It must always be remembered that the customer is the only reason you have a job at the Co-op

Standards

- Phone must be answered on or before the 3rd ring in a polite manner stating Co-op name, department, personal first name, and an offer to help
- Promises made to customers must be fulfilled as promised

Key Performance Area

Maintain attitude of department at high levels as it pertains to customer service

Standards

- Employee attitudes toward customers must be helpful and at a professional level at all times
- Employees must always portray an image of caring for the customers' needs
- Everyone must remember and understand their main job function is "professional customer service"

FIXED ASSETS

Key Performance Area

All fixed assets to be maintained in good working order

Standards

- All equipment including shelving, tills, computers, and other assets used must be maintained as if you owned them personally
- Needed repairs to be corrected as needed
- Regular cleanings and paintings to be done

IMAGE

Key Performance Area

Employee appearance must be maintained at high levels at all times

Standards

- Employees must come to work daily, neat and clean, portraying an image of business professionalism
- Employee appearance must be maintained at high levels at all times

Key Performance Area

The image of the Department must be maintained at high levels pleasing to the customer

Standards

- Work area(s) to be organized at all times
- Offices and work stations to be dusted weekly
- Written standards for cleanliness and organization to be created and implemented

ADMINISTRATIVE RESPONSIBILITIES

Key Performance Area

Maintain good paper flow practices to ensure plans are carried out and no losses occur because of bad paper work

Standards

- Ensure all departments adhere to deadlines set up as per Admin standards
- Reports must be completed as requested
- Internal audits to occur on a scheduled, recorded basis

HUMAN RESOURCES MANAGEMENT – Employee Recruitment

Key Performance Area

Follow Co-op guidelines and process for new employee hiring

Standards

- Review all applications and interview a minimum of 2 for each position
- Ensure person that most fits qualification standards is hired
- Check all personal references. Check all past employers for references
- Have General Manager or Controller perform last interview once you have selected whom you want to hire
- Ensure proper employee orientation is adhered to
- To ensure recruitment, development, scheduling and discipline of office employee will include performance appraisals done with each increment and at a minimum annually and training plans for the development of employees
- Ensure effective supervision of employees
- Progressive discipline policy should be utilized to discipline employees, when necessary
- Responsible for scheduling and assigning work to employees
- Accountable for Approval of leaves
- Maintain confidentiality of information which you have access to such as personnel files, financial and budget information, payroll and benefits etc.

PERFORMANCE PLANS

Key Performance Area

Ensure written performance expectations and operating standards are administered.

Standards

- Written performance expectations and operating standards must be developed for each employee
- Conducting employee performance and/or probation reviews
- Performance job standards must be written, presented yearly in writing and verbally with each employee
- Ensure expectations and standards are met on a daily basis

TRAINING

Key Performance Area

To ensure that all employees receive proper initial and continual training so they can perform their job to the best of their ability

Standards

- Yearly Training Plan must be developed for each employee. Training Plan should allow for: 2 central courses each and attendance at all in-house courses available
- Every employee must be trained to perform the duties of a second person in that person's absence
- All employees must be trained in all areas of workplace safety as it pertains to their department

COMMUNICATION

Key Performance Area

To provide consistent, clear, positive two-way communication with all employees in the department

Standards

- Written performance appraisals based on job expectations to be completed on all employees bi-yearly
- Monthly employee meetings must be held so all employees know how the department is doing, what is planned for in the future, to address employee concerns and keep the lines of communication open
- A system is to be maintained so that employees know when the manager is out of the building and when he is expected back
- Strong positive, verbal communications must be maintained with employees daily
- Good listening skills must be used on a regular basis as a means of keeping communications two-way
- Be involved in inputting into promotions and demotions
- Actively participate in all managerial meetings and communicate important and relevant information

EMPLOYEE RELATIONS

Key Performance Area

To maintain employee relations at a consistently high standard

Standards

- Relationships with employees must be maintained on a professional basis while at the same time remembering they are co-workers
- Union Contract and Personnel Policies to be followed and administered fairly
- Undertake effective decision-making in relation to matters which affect the terms, conditions, or tenure of employment of other employees
- Ability to influence employer's labor relations and involvement in the administration and preparation of confidential labor relations matters
- All employee dealings must be fair, honest, and consistent

SELF DEVELOPMENT

Key Performance Area

To maintain a positive attitude towards work and life

Standards

- Verbal, written, and body language must at all times portray a positive attitude

Key Performance Area

To continually improve personal knowledge and skill levels as to keep abreast of changes in industry

Standards

- Continually read industry literature, attend shows and clinics, plus converse with other people in the same business to maintain a high level of knowledge

SAFETY PROGRAM

Key Performance Area

To ensure all employees know about, are trained, and adhere to all safety items as it relates to the Admin department

Standards

- Develop, train, and follow-up to ensure all needed employees are trained in the proper safe operation of all vehicles and equipment used as a part of their daily job expectations
- Ensure all employees attend in-house safety training programs in the first year of employment
- Ensure all employees know about and follow all the safety rules of the department
- Ensure all near misses or workplace accidents are properly reported
- Ensure department safety issues are on the agenda at all monthly employee meetings
- Use monthly safety inspections and daily walk around to ensure department is always kept in a manner that provides for a safe work environment

BRAND

Our brand **You're at home here** is a unique branding slogan which ensures that guests are treated with respect and openness in our home, the Co-op. As an employee of this organization, you will take leadership and project enthusiasm in living our brand every day. You are responsible for:

- Providing a warm and welcoming invitation to our guests and members
- Demonstrating a strong emotional connection with all guests
- Promising a friendly and personable attention to all guests
- Possessing the capability to identify guest needs by asking questions and displaying excellent listening skills
- Exhibiting the willingness to become knowledgeable about products and services
- Acquiring skills to exceed guest expectations by going the extra mile

The Battlefords and District Co-op employs and develops individuals with a capability to deliver exceptional guest services by portraying friendly, caring, trusted, and honest attributes.

Exhibit "F"

Battlefords & District Co-operative Ltd.

NAME: JANA BLAIS
JOB TITLE: CONTROLLER
LOCATION: ADMINISTRATION
REPORT TO: GENERAL MANAGER

SECTION A – PRINCIPAL RESPONSIBILITIES

#1 – Business Plan

- Know and participate in the determination of the Retail's direction
- Prepare a three or five year financial projection
- Prepare a least cost analysis on loss departments

#2 - Operations

- Prepare and present a budget for the following year
- Guide Department Managers on the preparation of their budgets
- Review budget with Department Managers and General Manager
- Measure budget against past actual results and General statistics manual
- Prepare accurate financial statements on a timely basis which includes:
 - Weekly sales reports
 - Period end margins
 - Reconciliations
- Monitor actual results against budget throughout the year identifying trends, reviewing with Department Managers and discussing with General Manager. This review should include areas such as :
 - Margins
 - Expenses
 - Sales per employee hour
 - Accounts receivable aging
 - Inventory turns
 - Administration
 - Ratio's
- Take responsibility for the action necessary to improve the financial results
- Prepare and present the Management Report on operations

#3 – Balance Sheet Management

- Ensure money management practices maximize the use of cash resources
- Ensure adequate financing is in place considering the budget and the business plan
- Regularly review the cost of banking arrangements
- Ensure all general ledger reconciliations are current
- Maintain an up-to-date member master file
- Ensure that the Request for Expenditure policy is reviewed regularly, and that the policy is followed. This policy should include both capital expenditures and extraordinary repairs and maintenance
- Prepare and review feasibilities for any significant capital expenditures
- Yearly rotation review of Asset Inventory
- Maintain clean current Asset Ledger
- Perform an annual insurance review to ensure adequate insurance coverage is in place and review with General Manager
- Maintain a current vendor master file and be sure that credit terms are managed effectively. Maximize use of EFT
- Ensure recommendations for the distribution of earnings to members, allocations to retained savings and cash repurchase of member shares fit the financial goals of the Retail as set out in the three or five year plan

#4 – Credit

- Ensure that the written credit policy is administered within the guidelines established in the policy
- Utilize the approved CRS forms in setting up accounts, performing credit checks, and taking of security where applicable
- Ensure that credit follow-up is done on a timely basis and that actions are fully documented
- Regularly review status of accounts receivable with General Manager

#5 – Payroll

- Ensure Time and Attendance program is up-to-date and functioning properly
- Confirm department pay hours agree to time sheets
- Ensure statutory remittances are made within the required deadlines
- Randomly verify employee pay rates

#6 –Information Technology

- Co-ordinate all hardware and software requirements
- Ensure adequate back-up procedures are in place for all data
- Ensure confidential information is protected from unauthorized users
- Ensure there is a computer utilization policy is developed and in place
- Act as a liaison with Point of Sale system support providers
- Act as a liaison between FCL and the service provider on all electronic banking equipment
- Coordinate all office equipment purchases, leases, and maintenance contracts

#7 – Internal Audit

Receiving Procedures

- Implementing and checking that the online receiving systems – Petroleum and Non-Petroleum – are working as designed
- Monitor department usage of the systems and ensure that records are up-to-date

Cash Control

- Ensure cash handling procedures are in accordance with the controls designed into all of the point-of-sale systems that are currently in place
- Audits of cash handling procedures need to be done on a regular basis, results documented and discussed with the General Manager

Inventories

- Preparation of physical inventory count procedures and control
- Participate in inventory counts and ensure results are reviewed with Department Managers and General Manager for any areas of concern that may arise either with counting procedures, count results (comparison to perpetual records, if applicable. For ex: Retail Controller, Pharmacy Systems etc.)

Other

- Loss prevention policies need to be up-to-date and followed up with Department Managers on a regular basis
 - Access to restricted areas by both Retail and Non-Retail personnel
 - Petroleum literage controls for both pumps and bulk storage
 - Ensure environmental procedures are performed at all petroleum storage locations daily/weekly/monthly
 - Fuel spill contingency plans are in place and reviewed annually
 - Physical security of facilities

- Be aware of all recommended CRS systems and procedures and ensure they are implemented and followed
- Ensure the policies of the Retail are in writing, reviewed regularly, and conduct tests to be sure the policies are being followed
- Ensure policies regarding sick leaves are in place and that reports are prepared on a regular basis with appropriate follow-up with Department Managers. Regular reports also need to be reviewed with the General Manager
- Review vendor listing for non-system vendors. Review list of such vendors with the General Manager
- Investigate Occupational Health and Safety programs and opportunities for cost savings
- Ensure that Department Managers are following up on Occupation Health and Safety reports and progress reports are being reviewed with the General Manager
- Ensure compliance with privacy and other regulatory legislation such as sale of tobacco products
- Ensure weights and measures requirement are being adhered to by the Department Managers
- Ensure accurate and timely environmental reporting and fuel inventory reconciliation
- Regularly conduct desktop admin reviews, share results with General Manager, and implement a plan of action to be reported on to General Manager

SECTION B: HUMAN RESOURCES (ADMINISTRATION)

#1 – Recruitment

- Selection standards for all vacancies must be prepared and reviewed with the General Manager prior to any recruitment activity
- Screening, interviewing, and reference checks must be in accordance with established procedures to ensure only good quality candidates are hired
- All final candidates must be interviewed by General Manager prior to offer of employment
- Ensure adequate training of employees

Other:

- Ensure effective supervision of employees
- Progressive discipline policy should be utilized to discipline employees
- Responsible for scheduling and assigning work to employees
- Accountable for Approval of leaves
- Provide input into promotions and demotions
- Involve in determining salary increase of employees
- Participate in all managerial meetings
- Authority of decision-making in relation to matters which affect the terms, conditions, or tenure of employment of other employees
- Ability to influence the employer's labor relations and involvement in the administration and preparation of confidential labor relations matters
- Maintain confidentiality of information which you have access to such as personnel files, financial and budget information, payroll and benefits etc.

#2 – Performance Plan

- Ensure all employees have the skills in sufficient depth to take responsibility for the results from their duties
- All department employees should have a written work-plan shortly after starting on the job
- Work-plan is to be reviewed and updated annually
- Conduct employee performance and/or probation reviews
- Ensure the performance plan contains meaningful measurable performance objectives that focus on results rather than process
- Encourage administration employees to look upon members and fellow employees as guests who deserve the highest standard of service
- Prepare and maintain a training plan for all office employees
- Appraisals to be done within time lines established. Review with General Manager prior to delivery

#4 – Self-Development

- Prepare a personal training and development plan and review with the General Manager
- After each development activity, prepare a brief report for the General Manager outlining changes that will be implemented
- Provide General Manager with a regular update report outlining results/progress on work-plan

#13 - Brand

Our brand You're at home here is a unique branding slogan which ensures that guests are treated with respect and openness in our home, the Co-op. As an employee of this organization, you will take leadership and project enthusiasm in living our brand every day. You are responsible for:

- Providing a warm and welcoming invitation to our guests and members
- Demonstrating a strong emotional connection with all guests
- Promising a friendly and personable attention to all guests
- Possessing the capability to identify guest needs by asking questions and displaying excellent listening skills
- Exhibiting the willingness to become knowledgeable about products and services
- Acquiring skills to exceed guest expectations by going the extra mile

The Battlefords and District Co-op employs and develops individuals with a capability to deliver exceptional guest services by portraying friendly, caring, trusted, and honest attributes.

Exhibit "G"

Battlefords & District Co-operative Ltd.

NAME:

JOB TITLE: EXECUTIVE ASSISTANT

LOCATION: ADMINISTRATION

REPORT TO: CONTROLLER

DUTIES AND RESPONSIBILITIES

- To come to work with a positive, professional approach, and attitude
- To be dependable for all scheduled shifts
- To ensure outstanding courteous customer service is provided at all times
- To perform reception duties in a timely, efficient, and organized manner
- To work as a Confidential Secretary for Senior Management
- To be familiar with and adhere to The Battlefords Co-op Policies and Procedures
- Other duties as assigned

BRAND

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- Acquiring skills to exceed guest expectations by going the extra mile

The Battlefords and District Co-op employs and develops individuals with a capability to deliver exceptional guest services by portraying friendly, caring, trusted, and honest attributes.

TO COME TO WORK WITH A POSITIVE, PROFESSIONAL APPROACH AND ATTITUDE

Standard

- A friendly, co-operative attitude is brought to the workplace daily
- To attend all training sessions with a positive, open mind
- To be able to work effectively with other employees, supervisors, and customers
- The ability to eagerly accept duties as assigned
- To maintain a positive attitude towards work and life
- To come to work daily, neat and clean, portraying an image of business professionalism
- To keep your workstations dusted and kept neat, again portraying an image of business professionalism

TO BE DEPENDABLE FOR ALL SCHEDULED SHIFTS

Standard

- To be ready to work before all scheduled shifts
- To respect the time limits set for breaks
- To always report to the Office Manager when there is going to be an absence from work
- Attendance: 3 out of the possible 5 points

TO ENSURE OUTSTANDING COURTEOUS CUSTOMER SERVICE IS PROVIDED AT ALL TIMES

Standard

- Approaching customers for the purpose of providing customer service is the first priority over other duties and a constant alertness to customers must be maintained. Customers must not be forced to wait for service while a clerk carries out duties such as keying or bookwork. It must be noted that other departments are customers of the administration department. They must be treated in the same manner as a customer of the Co-operative. Remember that the customer is the only reason that you have a job at the Co-op
- Attitude towards customers must be helpful and at a professional level at all times
- An image of caring for the customer's needs must be portrayed at all times
- To adhere to proper telephone etiquette. All calls must be answered before the third ring. All calls must be answered using the phrase "Good Morning/Afternoon/Evening, Battlefords Co-op, *(name)* speaking"
- When a customer required information beyond one's knowledge, a reasonable attempt must be made to obtain the required information for the customer
- Promises made to customers must be fulfilled as promised

- To adjust all customer complaints in accordance with the hassle free guarantee policy
 - ✓ Fully understand the hassle free guarantee policy and procedure
 - ✓ Handle any customer complaints enthusiastically and in a friendly manner
 - ✓ Direct all complaints to the appropriate person

TO PERFORM RECEPTION DUTIES IN A TIMELY, EFFICIENT, AND ORGANIZED MANNER

Standard

- To take R.O.A.'s (Payments on Account) in a friendly, professional manner
- To answer and redirect all incoming calls
- All information must be handled with the utmost confidentiality
- All correspondence must be forwarded immediately to the appropriate person as it is received
- To keep all files at your workstation well organized
- To sell Co-op memberships and answer customer questions regarding the Co-op (equity, patronage, billing)
- To manage the bookings for: mall tables, board room, BBQ hut

TO WORK AS A CONFIDENTIAL SECRETARY TO THE GENERAL MANAGER, CONTROLLER, HR MANAGER, AND MARKETING MANAGER

Standard

- Involvement in the administration and preparation of confidential matters for Board Meetings (preparation of minutes, agenda, mailings, reminders etc.)
- On-going typing of letters, memos etc. required by Senior Management
- To ensure all information gained on the job is held in strictest confidence. If at any time in doubt, ask Controller for guidance on issue of confidentiality
 - You will have access to confidential financial and budget information which should be held in confidentiality

**TO BE FAMILIAR WITH AND ADHERE TO THE BATTLEFORD'S AND DISTRICT
CO-OPERATIVE LIMITED POLICIES AND PROCEDURES**

Standards

- To enhance the Co-operative's image through the proper use of clean and neat clothes
- Appropriate name tag to be worn at all times
- Adhere to the company's cheque/credit policy
- Adhere to the company's hassle free guarantee policy
- Adhere to the company's loss prevention policy
- Adhere to the company's employee parking policy
- Adhere to the company's employee parking policy
- Adhere to the company's Internet/E-mail policy
- Adhere to all other company policies and procedures

**TO PERFORM OTHER DUTIES AS ASSIGNED BY THE OFFICE MANAGER OR
GENERAL MANAGER**

Standard

- Data entry
- To assist other employees with their duties as may be required
- Any other task that may be required