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December 16, 2020

Ontario Securities Commission

Attention: Robert Day, Senior Specialist Business Planning

Dear Robert,

Re: OSC Notice 11-791 - Statement of Priorities – Request for Comment

I provide the following comments with respect to OSC Notice 11-791, and specifically relating to section 4.3 entitled “Foster Inclusion and Diversity” and the Black North Initiative:

1. The OSC should not be adopting “pledges”, principles or priorities of third party private and non-governmental entities. In doing so the OSC could be seen to be serving two masters, the people of Ontario and the private entity, Black North Initiative which gives rise to an appearance of bias and impartiality.
2. The OSC should ensure decisions about shifting priorities and engaging dialogue and influencing behaviours is based on evidence supported by reports and studies commissioned by the OSC. Are there any reports or studies or reviews commissioned by the OSC internally that highlight diversity or inclusion or bias issues that are problematic and that cannot be served through the court system or human rights tribunals. Has the problem been identified, defined, measured and is something that cannot be addressed currently with existing systems and structures? Unconscious Bias training has been abandoned by the United Kingdom as ineffective, yet it is promoted as necessary in the pledge.
3. In order to fulfill an obligation to the BNI pledge the OSC will be required to make hiring and related decisions based on race, and in this case will exclude non-black racialized groups. The practice of discriminating by race would be open to challenge under our Charter of Rights and Freedoms.

The statement of priorities should be amended to address the concerns raised above. In addition, the position that equality of outcomes is a priority, as set out by BNI, is an unsettled political viewpoint argued in academia and the adoption of which could give rise to marginalization of protected individual rights.

Yours truly,

**CHIUMMIENTO LAW
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