



REQUEST FOR BIOGRAPHICAL INFORMATION

Opportunity for arbitrators to be selected for the Canadian Transportation Agency rosters

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Contact Information

Please note that completion of this form is lengthy. You may be required to save and return to complete. If you have any questions or need help please contact Martina Faith at Martina.Faith@otc-cta.gc.ca



Date of this version	October 11, 2018
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Last name	Von Finckenstein
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Honorifics	Honourable
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Web site URL	
LinkedIn URL	
Facebook	
Other social media links	
Region of residence	



<p>Willingness to travel within and to other provinces? Please specify provinces.</p>	<input checked="" type="checkbox"/> All provinces <input type="checkbox"/> British Columbia <input type="checkbox"/> Alberta <input type="checkbox"/> Saskatchewan <input type="checkbox"/> Manitoba <input type="checkbox"/> Ontario <input type="checkbox"/> Quebec <input type="checkbox"/> New Brunswick <input type="checkbox"/> Nova Scotia <input type="checkbox"/> Newfoundland and Labrador <input type="checkbox"/> Prince Edward Island <input type="checkbox"/> Yukon <input type="checkbox"/> Northwest Territories <input type="checkbox"/> Nunavut
<p>Languages spoken</p>	<input checked="" type="checkbox"/> English <input type="checkbox"/> French

Education

Please list degree(s), institution(s) attended and year degree(s) conferred below.

Degree	Institution attended	Year degree conferred
Honours Bachelor of Arts	Carleton University	1968
Bachelor of Laws	Queen's University	1971

Please list courses or degrees in **Economics**, if any.

Courses	Institution attended	Year
Economics 100	Carleton University	

Please list courses or degrees in **Finance and Accounting**, if any.

Courses	Institution attended	Year
Accounting 100	Queen's Law School	
Accounting for lawyers, bar admissions course	Law Society of Upper Canada	1972-3



Please list courses relating to **logistics, transportation or transportation law**, if any.

Courses	Institution attended	Year

Arbitration Designation

Please list below the designation(s), certification(s) or accreditation(s) in arbitration received from any recognized institution(s) and the year(s) conferred.

Designation	Organization	Year conferred
Member	JAMS, The Resolution Experts, Arbitration	2012
Member	International Chamber of Commerce	2012
Member	Toronto Commercial Arbitration Society	2012
Member	London Court of International Arbitration	2012

Arbitration Training

Please list below the **arbitration training** or course(s), if any, along with the institution providing the training and the year that you received this training.

Course	Institutions	Year
Comprehensive Training in Commercial Arbitration	American Bar Association	2012
Mediation Workshop	JAMS, The Resolution Experts	2012
Arbitration Workshop	JAMS, The Resolution Experts	2012

Commercial Litigation Experience

Please specify approximate number of commercial cases in which you have acted as counsel.
none

Please list range of years over which these cases occurred.



Please list law firms with which you were associated, according to years.

Firm name	Duration

Did you typically represent plaintiff, respondent or both? Please provide your answer as a percentage.	Response
Plaintiff	
Respondent	

Please list by subject area, the three most complex commercial cases with which you have been involved as counsel in arbitrations or litigation, the kind of evidence presented, what experts were involved, quantum in issue and duration of case.

Area of commercial litigation (e.g. patent infringement)	Kind of evidence presented	What type of experts were involved	Quantum (value of claim)	Duration (time in court)

Experience as an Arbitrator, Adjudicator or Judge

Please specify approximate number of cases in which you have acted as an arbitrator, judge or tribunal adjudicator. Please note that there are cells, in the table below, in which you are asked to provide the court level and tribunal.

	Arbitrator	Judge	Tribunal Adjudicator
Number of cases		300	10
Over what period of years		4 years	5 years
Number of commercial cases		50	10
Over what period of years		5 years	5 years
Level of court		Trial Court	Federal tribunal



Please specify tribunal		Federal Court of Canada	Canadian Radio-Television and Telecommunication Commission
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Please list by subject area the three most complex commercial cases in which you acted as arbitrator, judge or adjudicator, the kind of evidence presented, experts involved, quantum in issue and duration of hearing.

Please specify your role	Area of commercial litigation	Evidence presented	Experts included	Quantum (value of claim)	Duration (time in court)
Arbitrator	NAFTA, trade law	None, oral argument only	No	\$2 Billion	3 days
Judge	Competition	Documentary and oral evidence as to price maintenance and injury to competition	Yes, both as to injury and quantum	\$2 Million	2 weeks
Adjudicator	Telecommunications	Documentary and oral evidence as to nature of contract, change order, unexpected restraints	In house experts for both sides on quantum and time	\$75 million	4 days

Work Samples

Please provide a written award (redacted) or decision that you have written. Files should be attached to this submission. Only .pdf or .doc files are accepted.

Transportation Specific Legislation

FOR RAIL SPECIALIZATION – LEGISLATION, REGULATIONS, AND PROCEDURES

Please rate your current familiarity with the following using "Very familiar", "Fair" or "Not familiar".	Response
<i>Railway Costing Regulations – SOR/80-310</i>	Fair
<i>Railway Third Party Liability Insurance Coverage Regulations – SOR/96-337</i>	Fair



<i>Railway Traffic Liability Regulations – SOR/91-488</i>	Fair
<i>Carriers and Transportation and Grain Handling Undertakings Information Regulations – SOR/96-334</i>	Fair
<i>Railway Interswitching Regulations – SOR/88-41</i>	Fair

Please provide details explaining how you became familiar with this material.

FOR MARINE SPECIALIZATION – LEGISLATION, REGULATIONS, AND PROCEDURES

Please rate your current familiarity with the following using "Very familiar", "Fair" or "Not familiar":	Response
<i>Canada Marine Act – S.C. 1998, c. 10</i>	Fair
<i>Coasting Trade Act – S.C. 1992, c. 31</i>	Fair
<i>Pilotage Act – R.S.C. 1985, c. P-14</i>	Fair
<i>Shipping Conferences Exemption Act, 1987 – R.S.C., 1985, c. 17 (3rd Supp.)</i>	Fair

Please provide details explaining how you became familiar with this material.

As ADM Business Law I had to deal with some aspects of these Acts at one time or another

FOR AIR SPECIALIZATION – LEGISLATION, REGULATIONS, AND PROCEDURES

Please rate your current familiarity with the following using "Very familiar", "Fair" or "Not familiar":	Response
<i>Air Transportation Regulations – SOR/88-58</i>	Fair

Please provide details explaining how you became familiar with this material.

Given the Commissioner of Competitions numerous dealings with Air Canada it was necessary to consider some aspects of these regulations

Familiarity with Transportation and Transportation Law

Please describe your background involvement in the transportation industry or transportation law, if any.

1. As justice counsel I negotiated financial leases for grain hopper cars. I also was counsel on CN's bid to build a countrywide railway in Venezuela.



2. As ADM Business Law I supervised 16 legal services, including the Transport Canada DLSU. I thus became involved in most large transport issues.
3. As Commissioner of Competition from 1998-2004 during which time the agency had to approve the Air Canada/Canadian Airlines merger and sought various avenues to keep Canadian aerospace competitive. This involved court challenges with Air Canada as well as convincing the gov't to make legislative and regulatory changes regarding air traffic.
4. The Commissioner of competition, as statutory champion of competition, also made written several submissions to the CTA regarding rail carriage and freight contracts.
5. The Commissioner went to court to stop CP Marine from gaining a monopoly over trans shipping facilities in the port of Montreal. This involved in depth examination of the rail and shipping traffic out of Montreal.

Disclosure

If you have ever worked for, been associated with, or have a current or past interest in a transportation carrier or shipper in rail, marine or air, please provide details below:

Never worked for them, no association nor interest.

Conflict

If you OR YOUR FIRM currently represent, or have in the past represented, a carrier please advise.

Never represented any carrier.

If you OR YOUR FIRM currently represent, or have ever represented, a company in a matter relating to shipment of goods, please advise.

Not applicable, neither I nor JAMS represent anyone.

Fees

Please provide daily and hourly rates	Response
Daily	3000
Hourly	500

Availability

How many months in advance are you booked for?

Please contact for availability.



Signed Agreement

PLEASE NOTE THAT YOUR APPLICATION IS NOT COMPLETE WITHOUT PROOF OF INSURANCE AND THE SIGNED AGREEMENT THAT YOU WILL FIND BELOW.

The information I have provided describes accurately my qualifications and experience.

I understand that:

- Roster members will be selected based on the criteria set out in this request for biographical information.
- The biographical information provided by me in this request for biographical information will appear online ON the Agency's Web site.
- Rosters and roster members may be reviewed every two years.
- Being accepted as a roster member does not guarantee that I will receive work under the *Canada Transportation Act*.
- The Canada Transportation Agency is in no way responsible for any fees, expenses or outstanding payments, all of which shall be billed by the arbitrator to the parties to any proceeding under the *Canada Transportation Act*.

If my request is accepted, I will comply with all the conditions of the program, including but not limited to the following:

- Compliance with the Canadian Transportation Agency's Code of Values and Ethics.
- Maintenance of insurance at the required level.

Please provide proof of insurance	Response
Policy number #	N122361
Issuer	BFL Canada Risk Insurance Services Inc.

Signed on	
in the province of	
Signature (Please sign the form digitally by typing your first and last name.)	* Signed on original copy



Application Checklist

Please do not include a resume. If you have any questions or need help, please contact Martina Faith at Martina.Faith@otc-cta.gc.ca.

If you wish to be considered for the roster, please ensure that you completed the following:

Checklist

- Filled out the Application Form
- Provided your work sample
- Provided your digital signature above
- Faxed us (819-953-6613) or attached as a PDF, the proof of insurance