

IN THE MATTER OF THE TORONTO COMPUTER LEASING INQUIRY

BEFORE: THE HONOURABLE MADAM JUSTICE DENISE BELLAMY
COMMISSIONER

HELD AT: East York Civic Centre
850 Coxwell Avenue
Toronto, Ontario
M4C 5R1

SUBMISSIONS TO THE COMMISSIONER OF THE TORONTO EXTERNAL CONTRACTS INQUIRY BY COUNSEL FOR KATHRYN BULKO

A. LATE PRODUCTION OF DOCUMENTS

1. Kathryn Bulko ("Bulko") has fully supported and cooperated with this inquiry from its inception. She repeatedly made herself available and assisted commission counsel whenever asked. Bulko conducted a thorough review of her documents and believed that she had produced all relevant document and documents helpful to the commission.

2. On December 8, 2004, in response to questions from counsel, Bulko discovered additional relevant documents in her possession that had not been disclosed. Within hours she attended at commission counsel's office with the documents and has offered continuing assistance with their review.

3. With the aid of counsel for the City of Toronto and her own counsel, Bulko conducted a further search of her documents. This search uncovered the documents contained in Volume 7 of Exhibit 15 (The Dell Documents).

4. Bulko was not intentionally withholding relevant or helpful information; it was a misunderstanding on her part that she regrets.

5. On January 19, 2005 Bulko was recalled to testify before the commission in regard to these additional documents. In response to inquiries from commission counsel as to why these documents had not be previously produced, Bulko testified:

Now, this is going to sound ridiculous to a room full of lawyers, but I didn't understand the importance of my handwritten notes. What I thought was important were the documents that were produced as a result of those handwritten notes. For instance, the e-mails, the -- my calendar entries, the Word and other electronic documents that were produced as a result which I did hand over¹.

6. When the Commissioner questioned her directly on the issue, the following exchange took place:

MADAM COMMISSIONER: All right. Well, I just wanted to let you know that we have had handwritten notes from a number of people here and some of them have been particularly important for the Inquiry.

THE WITNESS: I understand that now. And seeing all the evidence, I don't recall seeing a lot of handwritten notes and nothing jogged my -- my mind to -- to enter mine. I'm - - I'm totally embarrassed by not disclosing this. I had felt that I've cooperated right through from the KPMG investigation right through all phases of the Inquiry and I deeply apologize for the delay I've caused everybody in not producing them sooner².

C. CONCLUSION

¹ Testimony of Kathryn Bulko, January 19, 2005, p. 13 ln. 7 to 14

7. The information contained in these additional documents was helpful to Bulko's position and they were not intentionally withheld. Once she discovered the documents in her possession, she immediately produced them to the commission and assisted commission counsel with their review.

8. Bulko respectfully requests that the Commissioner not make adverse findings against her based on her late delivery of documents.

Date: February 28, 2005.

KRAMER HENDERSON
Barristers
120 Adelaide Street West
Suite 2000
Toronto, Ontario
M5H 1T1

Shane D. Coblin
TEL: (416)601-6820
FAX: (416)601-0712

Counsel for Kathryn Bulko

TO: THE HONOURABLE MADAM JUSTICE DENISE BELLAMY
COMMISSIONER
East York Civic Centre
850 Coxwell Avenue
Toronto, Ontario
M4C 5R1

AND TO: DAINA GROSKAUFMANIS, COUNSEL
Toronto Computer Leasing Inquiry
East York Civic Centre
850 Coxwell Avenue
Toronto, Ontario
M4C 5R1

² *ibid*, p. 15 ln. 7 to 19

AND TO: ANDREW LEWIS
Paliare Roland Rosenberg Rothstein LLP
Barristers and Solicitors
250 University Avenue
Suite 501
Toronto, Ontario
M5H 3E5