

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

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

1. Kathryn Bulko (“Bulko”) replies to the closing submissions of Lana Viinamäe (“Viinamäe”) and Dell Canada Inc. (“Dell”).

A. CLOSING SUBMISSIONS OF LANA VIINAMÄE

2. Bulko did not make any purchasing decisions without first being authorized by Viinamäe

3. Bulko disputes the allegation at paragraph 17. Viinamäe specifically instructed both Bulko and Franey to include Dell in the December RFQ¹ and it was Franey who instructed Bulko to get quotes on “separate line items².”

4. Contrary to the allegations made at paragraphs 26-28, Bulko’s testimony regarding Viinamäe’s instructions to include Dell has been consistent throughout. At all material times Dell was a Tier One manufacturer and a previous Metro-standard supplier. Bulko states that she was entitled to assume that this was the reason for Viinamäe’s instructions to include Dell.

¹ Testimony of Kathryn Bulko, November 22, 2004, p. 157, ll. 6-25; p. 158 ln. 1; and Testimony of Mike Franey, November 30, 2004, p. 78 ll. 7 – 13

² Exhibit 15, Volume 5 p. 16

5. The statement at paragraph 38 has been reproduced out of context. Bulko states that she did not keep her notebooks close at hand during the course of the inquiry. The conversation between Bulko and her counsel was to address a specific question raised by City counsel with respect to a particular page of notes that had previously been disclosed³.

6. Bulko did not intentionally withhold relevant information. She was asked to locate the notebook and find a particular page. It was within that context that the relevance of the additional notes were discovered and they were immediately disclosed.

7. Bulko disputes the allegation at paragraph 40. There was no report to the Economic Development Committee⁴.

B. CLOSING SUBMISSION OF DELL CANADA INC.

8. Bulko states that she and the other members of the evaluation committee fully understood Dell's business model.

9. Bulko disputes the allegation set out at paragraph 164. She has been consistent in her testimony that there was a debate at the November counsel meeting between Councilor Shiner, Jim Andrew and another party that took place off the council floor and out of the view of the cameras⁵.

10. Contrary to paragraph 183, Bulko states that the specifications in the December RFQ and the specifications suggested by Mortensen in his November 30,

³ Exhibit 15, volume 5, tab 1, page 3

⁴ Testimony of Kathryn Bulko, January 19, 2005, p. 71, ll. 9-25; and p. 72, ll. 1-4

⁵ Testimony of Kathryn Bulko, January 19, 2005, p. 142, ll.12-25; and p. 143, ll. 1-2

1998 e-mail were not the same. Mortensen's e-mail listed specific proprietary components⁶, the December RFQ listed generic non-proprietary components⁷.

11. Mortensen's e-mail had no impact on the December RFQ process and it did not influence anyone in coming to the conclusion that hardware and services should be quoted separately⁸. The decision was made in order to ensure a consistent price for hardware, and to avoid the differential pricing that resulted from preferential relationships between certain manufacturers and resellers⁹.

12. Bulko states that she did not inform Dell that it had won the December RFQ prior to the December 23, 1998 meeting, and there is no evidence to support the allegation made at paragraph 208.

Date: March 21, 2005.

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⁶ Begdoc # TEC057094

⁷ Begdoc # COT040951

⁸ Testimony of Kathryn Bulko, November 23, 2004, p. 7, ll. 20 – 25; page 8, ll. 1-14; and p. 10, ll. 2-17

⁹ Affidavit of Kathryn Bulko, sworn September 13, 2004, at paragraphs 23 and 25; and Testimony of Kathryn Bulko, January 19, 2005, p. 8 ll. 9-14

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