

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 COMPUTER LEASING INQUIRY BY COUNSEL FOR KATHRYN BULKO

1. Kathryn Bulko (“Bulko”) replies to the closing submissions of Paula Leggieri (“Leggieri”), Jim Andrew (“Andrew”) and Lana Viinamae (“Viinamae”).

A. LEGGIERI - UNSWORN STATEMENT

2. Leggieri submitted an unsworn statement (“Leggieri Statement”), seeking to put additional evidence before the Inquiry. It is submitted that evidence may not be led in this fashion and that it should not be considered. There is no opportunity to test this additional evidence. Accepting the Leggieri Statement would be a denial of procedural fairness and a violation of the rules of natural justice.

B. ANDREW - LEASE RE-WRITES

3. At paragraph 25 of his closing submissions, in the section entitled “With Respect to Rewrites”, Andrew implies that it was Bulko’s obligation to

report the decision to make the lease rewrites to him and that she failed to do so. Bulko did not report directly to Andrew. It was not within the regular scope of Bulko's reporting to report to Andrew on this matter. The fact that she did not do so should not be considered improper.

4. In his closing submissions, Andrew describes the "Top Down Management" principle in which "decisions made by individuals in less senior management positions are made only after consultation with and approval from one's superior manager." Bulko testified that she understood that the decision to re-write the leases was made either by Ms. Liczyk or Ms. Viinamae¹, both of whom were Bulko's superiors. Bulko was entitled to assume that Mr. Andrew had been consulted prior to those decisions being made. She had no reason to believe that Andrew was not already aware of them.

C. VIINAMAE - ORACLE REPORT

5. Viinamae submits that Bulko received the February 4, 2002 draft audit report from Stephen Wong ("Wong"), which referenced there being less than 1000 Oracle enterprise licenses in use by the City.² According to Viinamae, Bulko testified that she was aware of the error in the report "yet she did not do anything to correct the draft."³ This statement is incorrect and is not supported by the transcript reference cited.

6. In fact, Bulko testified that she had not reviewed the section of the draft report that dealt with the number of Oracle licenses and therefore she was unaware of what it said⁴.

¹ Testimony of Kathryn Bulko, August 11, 2003 p. 135, lines 3 to 9

² Viinamae Closing Submissions, paragraph 539

³ *ibid.*

⁴ Testimony of Kathryn Bulko, August 12, 2003 p. 79, line 21 to p. 80, line 3

7. Further, the draft report shown to Bulko during her testimony indicated that Wong had deleted the reference to there being less than 1,000 Oracle licenses in use. Bulko testified that even if she had reviewed that section of the draft report, the incorrect reference had been deleted and she would have had no basis to raise it as a concern⁵.

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⁵ Testimony of Kathryn Bulko, August 12, 2003 p. 78, line 17 to p. 80, line 9

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