

# TORONTO EXTERNAL CONTRACTS INQUIRY

The Honourable Madam Justice Denise Bellamy  
Commissioner

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Dear Counsel:

This package contains additional tabs and corresponding documents for the Toronto External Contracts Inquiry Exhibits. Details as follows:

Binder: DELL Affidavits

Tab Number(s): J - Susan Cross

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Date of submission to Inquiry: Nov. 25/04

Thank you for ensuring that these documents are added to your copies of the TECI Exhibits. Please feel free to contact me with any further questions.

Sincerely,

Heather Hogan  
Document Coordinator  
& Assistant to the Commissioner

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**IN THE MATTER OF THE TORONTO EXTERNAL CONTRACTS INQUIRY**

**AFFIDAVIT OF SUSAN CROSS**

I, Susan Cross, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

**BACKGROUND**

1. I am currently the Executive Assistant to Councillor Jane Pitfield, a position I have held since May 21, 2001. Prior to that I worked in marketing for Ketchum Canada Limited for about five months. Before that I was employed for about two and one-half years at Morrison Brown Sosnovitch, LLP as Executive Assistant to Jeffrey Lyons.

2. In 1997 I obtained a position as a General Assistant to Tom Froese, M.P.P. for St. Catherine's-Brock. Mr. Froese was a member of the government caucus and served as Parliamentary Assistant to the Minister of Education. I was involved with and remained active in the Ontario Progressive Conservative Youth Association, during which I met Stuart Lyons.

**WORKING FOR JEFFREY LYONS**

3. In the summer of 1998, Stuart mentioned that he had been working for his father, Jeffrey Lyons. Stuart said that his father was very busy and was looking for an Executive Assistant. Stuart was about to start articling, so he asked me if I would be interested in taking over for him and submitting my resume. I had never held an office position before this, although I had some brief experience from the co-op program at Seneca College. I thought working for Mr. Lyons in government relations and lobbying would be interesting, so I applied. I did not know Mr. Lyons personally, but I did know that he was an important fundraiser for the Progressive Conservatives, and was well established.

4. I started working for Mr. Lyons in August of 1998, and stayed until December 6, 2000. My salary was paid by Morrison Brown Sosnovitch, LLP, but my bonuses were paid by 603860 Ontario Inc., which was a company operated as H.M.S. Investments by Mr. Lyons for some of his business matters. Mr. Lyons was "Of Counsel" to the firm of Morrison Brown Sosnovitch, LLP. Mr. Lyons primarily worked for his own clients. I worked exclusively for Mr. Lyons, and did not receive any direction or work from anyone else at Morrison Brown Sosnovitch, LLP.

5. Although I occasionally scheduled meetings for Mr. Lyons, most of the meetings were scheduled by his Administrative Assistants, first Gail Miltonburg, then briefly Gail Smith, and then Fiona Kelly, neither of whom work with Mr. Lyons any longer. Mr. Lyons' correspondence was also usually prepared by his Administrative Assistant.

6. After I started working for Mr. Lyons, Navjeet Mangat joined Mr. Lyons' staff as a Special Assistant. I believe in December of 1998 or early 1999. Mr. Mangat was essentially a personal assistant to Mr. Lyons, performing various tasks including driving Mr. Lyons around, purchasing items, buying lunch and picking up Mr. Lyons' dry cleaning.

7. During my employment as Mr. Lyons' Executive Assistant, I relied upon him to direct and review my work and took instruction from him as required to complete my tasks. When I left Mr. Lyons' office on December 6, 2000, I remained on good terms with him, and in fact I found my current position after he advised me of an opening with another councillor in the spring of 2001.

#### **REPORTING FROM CITY HALL**

8. My duties as Mr. Lyons' Executive Assistant were varied, but included attending meetings to observe and take notes, as well as attending fund raising events. I would attend meetings of Toronto City Council, its committees, and meetings between Mr. Lyons and his clients, or his meetings with politicians and government personnel. I took notes so that Mr. Lyons would have a record of what was discussed. I prepared file memos from my notes to ensure that any action required from the meeting was performed.

9. When I attended Toronto City Council and Committee meetings, I would write down any issues that concerned Mr. Lyons' clients as per his direction, as well as any motions made and votes cast with respect to those issues. I would then report back to Mr. Lyons with that information. To the best of my knowledge, my observations at city hall were passed on to Mr. Lyons' clients.

10. I did not always understand the content of the reports and motions I was assigned to follow up on. I was there strictly to write down what I heard and to pass that information on to Mr. Lyons. My ability to record information for Mr. Lyons was not contingent on, nor was it limited by, my comprehension of the issues discussed at Committee and Council Meetings.

## **DELL COMPUTERS**

11. During my employment with Mr. Lyons, he worked as a lobbyist for Dell Computers ("Dell") and Dell Financial Services ("DFS"). Mr. Lyons kept separate files for Dell and DFS.

12. On September 16, 1998, Jeff Lyons met with Dave Kelly (TEC046591). I have no recollection of attending that meeting with Mr. Lyons. I do remember that at some point during my employment with MBS I attended a luncheon with Mr. Lyons and Mr. Kelly, but I am not able to say for certain whether or not I attended or knew anything about that particular meeting.

13. On November 10<sup>th</sup>, 1998, Mr. Lyons was retained by Dell for a period of 6 months (TEC031605). I do not remember anything in particular about Mr. Lyons being retained by Dell. I was often present at meetings with Mr. Lyons and his clients. If a client meeting discussed retainers and financial matters, I was generally asked to leave, and I did not receive any financial information concerning clients. Mr. Lyons' Administrative Assistant would have typed out the retainer agreements. I was not involved in that aspect of Mr. Lyons' business.

14. I first met Bruce Mortenson, in or around the fall of 1998. I can recall that Mr. Mortenson and Mr. Lyons had a morning meeting at Metro in or around the fall of 1998, but I can not recall who they were met with, or if I accompanied them. I know that meeting was my first introduction to Mr. Mortenson, because Mr. Lyons was running late, and I was not sure how to find Mr. Mortenson as I had not previously met him. I therefore surmise the meeting was in the fall of 1998, but I remember nothing more about it.

15. My general understanding of Mr. Lyons' project regarding the Dell file was that he was working on securing a computer hardware contract for Dell with the City of Toronto. Through my work with Mr. Lyons, I came to understand that Dell had difficulty getting business with governments at that point in time, because most governments wanted to purchase computer hardware through vendors of record, and Dell sold direct. So Mr. Lyons' job, as far as I knew, was to explain the Dell way of doing business to the City of Toronto.

16. My contacts at Dell were primarily Bruce Mortenson and David Kelly. On occasion I spoke with Dave Toms' Administrative Assistants over the phone.

## **CITY OF TORONTO RFP FOR MICROCOMPUTER HARDWARE, SOFTWARE AND SERVICES**

17. In all likelihood I would have attended the City of Toronto Corporate Services meeting in November of 1998, but I do not specifically remember doing so. I do not know if Mr. Lyons attended with me or not, and I can't recall what I would have been recording.

18. On November 25, 26 and 27, Council approved clause 20, Report 17 of the Corporate Services Committee (TEC019485). I most likely attended that Council meeting, but I am unable to recall anything in particular about it. I do not know if Mr. Lyons attended with me or not. The amendment to Clause 20 means nothing to me, and I do not know if it would have been significant to me at that time. I most likely would have recorded that amendment and reported to Mr. Lyons, as that was part of my job, but I would not have known what it was about.

19. My notes from Nov/Dec 1998 indicate that Mr. Lyons had a lunch arranged with Ms. Viinamäe, the Y2K Project Director for the City of Toronto, through Line Marks (COT061468 @ 61470). I do not recall any specifics about that meeting. Mr. Lyons would not have briefed me on the topics discussed during that meeting, either before he left or upon his return.

#### **DELL WINS MINI-RFQ**

20. I am not familiar with the Mini-RFQ arranged by Ms. Bulko. Prior to Commission Counsel sharing the documents with me and explaining the process, I had no knowledge of that process (COT040951).

21. My notes from Nov/Dec 1998 indicate that Mr. Lyons had a lunch arranged with Jim Andrew, Executive IT Director of IT for the City of Toronto, on December 8<sup>th</sup>, 1998 (COT061468). I do not recall any specifics about that meeting. Mr. Lyons would not have briefed me on the topics discussed during that meeting, either before he left or upon his return.

22. I do not recall how or when or by whom I was informed that Dell had won the contract with the City of Toronto. I was involved with so many other projects over the course of my three-year employment with Mr. Lyons, that I do not recall much of the activity surrounding the Dell file.

23. I attended a Christmas party hosted by Dell in 1998. I recall that there were City IT staff in attendance, but I do not remember exactly who they were, as I was unfamiliar with most of the IT staff at the City. Aside from recalling that the party was held at the Indian Motorcycle Club

downtown Toronto, and that it was around the holiday season, I remember nothing about the party and who attended.

**CITY OF TORONTO STAFF AND COUNCIL**


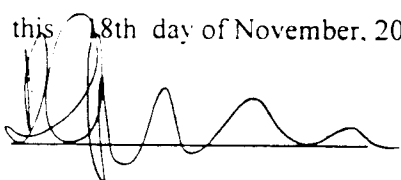
24. Based on what I saw while working for Mr. Lyons, I can say that Mr. Lyons had a cordial relationship with Ms. Viinamae, but I do not recall that they met very often. Mr. Lyons met more often with Mr. Andrew. Our office may have occasionally communicated with Mike Franey Acting Director, Computer Operations and Telecommunication Services for the City of Toronto, but Mr. Lyons would have been more likely to deal with Mr. Andrew due to Mr. Andrew's positions at the City of Toronto.

25. I assume that Mr. Lyons would have met with City of Toronto Councillors to explain the advantages of buying direct from Dell, but I was not present for any meetings with Councillors, nor do I recall any meetings with Councillors regarding Dell, so I can not be certain.

26. I was not present for all of the meetings and conversations Mr. Lyons had with his contacts at the City of Toronto. I don't know what Mr. Lyons may have said to various City of Toronto staff in private conversations and meetings. I understand his lobbying efforts for Dell were very successful.

27. My understanding of the Dell file was that there was one contract with the City of Toronto for computer hardware that was awarded to Dell in late 1998. Prior to my meeting with Commission Counsel, I was not at all aware of a Change Order process, or that further business was awarded to Dell in 1999.

**SWORN BEFORE ME** )  
at the City of Toronto )  
in the Province of Ontario )  
this 18th day of November, 2004 )

  
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**SUSAN CROSS**

A Commissioner for Taking Oaths, etc.