

## **IN THE MATTER OF THE TORONTO COMPUTER LEASING INQUIRY**

### **AFFIDAVIT OF DAVID WENDELL HOLMES**

I, David Wendell Holmes, of the City of Virginia Beach, in the Commonwealth of Virginia, in the United States of America **MAKE OATH AND SAY:**

#### **BACKGROUND**

1. I am the President and Founder of Holmes Enterprises International Inc., an investigative and security advisory firm.
2. In the 1960s, I served as a Captain and Commanding Officer in the United States Army, commanding the explosives disposal detachment at military bases in Southern Pennsylvania and Okinawa.
3. In 1969, I joined the Federal Bureau of Investigations (FBI). From 1975 until my retirement in 1992, I worked in the Bureau's Terrorist Research and Bomb Data Centers. There, I served as the FBI spokesperson on issues such as public safety and terrorism, and conducted seminars at conferences around the world. I also developed explosives training programs for American counter-terrorism organizations, as well as for Germany's elite Grenzschutzgruppe 9 (GSG 9) military unit. I produced numerous training videos on topics such as airport security and defusing bombs. Further, I administered FBI preparedness training programs for the 1984 Summer Olympics in Los Angeles, among other major events. I retired from the FBI in 1992.

4. I received my Masters degree in Criminal Justice from the University of Baltimore in 1976.
  
5. I started Holmes Enterprises in Virginia Beach in 1992. Since that time, I have consulted on security matters and provided investigative and intelligence work to countless clients, including multinational corporations and sovereign governments, providing them with advice on matters such as counter-terrorism and industrial espionage. I have also done extensive anti-privacy work with the Recording Industry Association of America.

#### **RETENTION BY TECI COMMISSION COUNSEL**

6. In 2004, I was retained to do investigative work on behalf of the Toronto External Contracts Inquiry. I worked under the guidance and direction of Commission Counsel to the Inquiry.
  
7. The Inquiry retained me to try and make contact with David Maxson, founder of Remarkable Software Inc., who, I was informed, lived at a specific address in Virginia Beach about ten kilometers from where I work. I was asked to make contact with Mr. Maxson, interview him, advise him that he could be adversely impacted as a result of issues related to the Toronto External Contracts Inquiry,

and that Commission Counsel wanted to meet with him – at Inquiry expense – either in Toronto or at the place of Mr. Maxson’s choosing.

8. I was asked to attempt communication with Mr. Maxson after my colleague Phillip A. Parker tried unsuccessfully to make contact with him throughout 2003.

Mr. Parker has subsequently retired.

9. Before trying to contact Mr. Maxson, I consulted with Mr. Parker.

#### **CONTACT WITH DAVID MAXSON**

10. On June 19, 2004, I spoke with Mr. Maxson outside of his home. I informed him that Commission Counsel wished to interview him at his convenience, wherever he wanted, and at Commission Counsel’s expense.

11. Mr. Maxson replied that he did not wish to respond to any questions, and walked away.

12. I believed that further contact with Mr. Maxson would be unhelpful.

#### **FURTHER CONTACT WITH MR. MAXSON**

13. On September 14, I was asked to serve a summons and an explanatory letter, prepared by the Inquiry, on Mr. Maxson.
14. Appreciating that this might not be the simplest of tasks, I carefully set about attempting to approach Mr. Maxson near his home.
15. The Maxson home is located in an exclusive neighbourhood, bordering on the roughly 50 acre Bayville Park, where home values start at around CAN\$650,000, though most homes are of a substantially greater value.
16. I spent the early evening of September 16<sup>th</sup> surreptitiously driving around the neighbourhood in my vehicle, in an attempt to ascertain whether or not someone was in the household. On two occasions, I noticed a sedan belonging to Mrs. Maxson in the open garage.
17. On September 18, I observed the sedan yet again, but I also spotted another vehicle that I recognized to be a sports utility vehicle. Based on the presence of this second vehicle, it appeared to me that Mr. Maxson might be in the house. Spotting a gentleman walking towards the garage strengthened my belief.
18. Satisfying myself that he might be home, I stepped out of my vehicle and approached the front door of the residence. A child of about ten years of age answered the door. I inquired of him whether Mr. Maxson was present.

19. Before the child had an opportunity to answer, Mr. Maxson identified himself and appeared.
20. I handed him an envelope containing the summons, and informed him that I was there to deliver that document.
21. Mr. Maxson did not respond well to the receipt of the envelope. He appeared confused and declared that he did not want it, wondering what exactly he was supposed to do with the documents.
22. I responded that Mr. Maxson should read over the documents carefully and do the right thing.
23. Mr. Maxson tried to hand the envelope back to me. "Take them back," he said sternly. I declined.
24. Mr. Maxson followed me outside, but only as far as the top step of his front porch, envelope in hand. He flung the document into the light rain, where it settled on to the damp front yard below. A look of disgust visible on his face, Mr. Maxson turned towards his door, and went back inside his house.
25. I did not retrieve the envelope from the Maxsons' yard, and left the premises.

26. A true copy of the Summons and the explanatory letter served on Mr. Maxson are attached hereto.

SWORN BEFORE ME at )

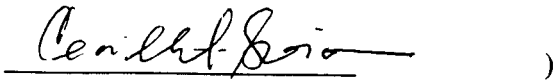
the City of Virginia Beach in )

the Commonwealth of Virginia on )

30<sup>th</sup> of September, 2004 )



) DAVID WENDELL HOLMES



My commission ends April 30, 2006  
A COMMISSIONER, ETC.