Court file No. 141-07

SUPERIOR COURT OF JUSTICE (Central East Region)

IN THE MATTER OF a Contempt Order issued against Donald Best on January 15, 2010, by the Honourable Justice Shaughnessy

Nelson Barbados Group Ltd

and

Richard Ivan Cox, et al

Affidavit of Donald Best

I, Donald Best, MAKE OATH AND SAY AS FOLLOWS:

- 1. I am submitting this affidavit to respectfully ask the court for consideration, the substance of which I expand upon through this affidavit:
- 2. I ask the court for more time to find an experienced civil lawyer to represent me. My efforts to find and retain an experienced civil lawyer are serious, vigorous and continue daily, but as detailed more extensively in another section of my affidavit, I have been unable to retain a new lawyer to date.
- 3. I ask the court for help in finding an experienced civil lawyer who is willing to take my case.
- 4. I ask the court to postpone my cross examination until I can retain and properly brief a lawyer.
- 5. Taking all the circumstances into consideration, I don't believe that Mr. Gerald Ranking, Mr. Lorne Silver or their respective law firms can continue to represent their clients in this case. The reasons for my belief are explained in another section of my affidavit, but I will leave this matter to my yet-to-be-retained new lawyer to properly place all the evidence and arguments before the court. I believe that this is a serious matter and worthy of serious consideration of all the evidence that my new

- lawyer would put before the court, some of which includes new evidence being prepared by recognized experts as detailed later in my affidavit.
- 6. Whether they knew it before or not, upon reading this affidavit and reviewing the attached exhibits, Fasken Martineau DuMoulin LLP and Gerald Ranking know now that their purported client 'PricewaterhouseCoopers East Caribbean Firm' is a false, fabricated non-entity and that their witnesses / clients might reasonably expect to be under investigation in Canada and in Barbados for perjury, swearing false affidavits, obstruction of justice, fabricating evidence, fraud upon the court and conspiracy. Fasken Martineau DuMoulin LLP and Gerald Ranking cannot continue to represent this non-entity they call 'PricewaterhouseCoopers East Caribbean Firm'.
- 7. Evidence and exhibits supporting the above statement is found in a later section of my affidavit.
- 8. Further, this affidavit contains evidence and exhibits about Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver and their respective clients that might reasonably cause the Honourable Court, the lawyers, their law firms, the law firms' insurers, the clients and the clients' insurers and the Law Society of Upper Canada to conclude that the lawyers and their law firms cannot continue to act for their clients under the circumstances.
- 9. Evidence and exhibits supporting the above statement is found in a later section of my affidavit.
- 10. I do not desire to, or intend to, represent myself. As detailed in another section of my affidavit, I am not an "experienced litigant". I am incapable of representing myself, and I lack the experience, knowledge and ability to represent myself. There is no harm in the court granting me more time to find a lawyer, and in postponing the cross-examinations until I have a lawyer.
- 11. I ask the court to order the RCMP's CPIC computer division to comply with the Court's order of October 12, 2012 that says "AND THIS COURT FURTHER ORDERS that the stay of the execution of the arrest warrant shall be extended to the date set for the hearing of this Application." Contrary to the Court's order, the RCMP CPIC computer division maintains the active arrest warrant on the national police computer system and I am subject to arrest at any time.
- 12. When I encounter a police officer, I am arrested until I produce a photocopy of the court's order which I carry with me all the time. This recently happened to me and I was arrested. I do not understand why the court's order has not been communicated to the RCMP's CPIC division as was the original order for the arrest warrant itself.

- 13. I fear that if a police officer does not accept that my photocopy of the court's order is genuine, that I may be placed in jail. The police officer who arrested me did express doubts about the legitimacy of my photocopy given the ease of which the document could be forged using commonly available computer programs. If I was arrested at night or on a weekend it could conceivably be several days until the police could confirm the October 12, 2012 order with the court. I beg the court to order that the RCMP and CPIC comply with the Court's Order of October 12, 2012 and remove the arrest warrant from the police computer system.
- 14. This risk of imminent arrest has caused me to curtail my normal movements and severely limits my ability to find employment and a lawyer.
- 15. Mr. Silver and Mr. Ranking's communications to me and to the court make it clear that they and their clients wish to push the court to rush to justice, and to confirm my conviction and place me in jail while I am unrepresented and incapable of effectively defending myself. Mr. Silver, Mr. Ranking and their clients want to rush and so limit the evidence that is placed before the court. This is unfair. Mr. Ranking and Mr. Silver are experienced, senior civil lawyers. In effect they are chess masters while I am someone who has never played chess and doesn't know rules of the game.
- 16. Even Mr. Brian Greenspan, one of the foremost criminal lawyers in Canada, admitted to me and to the court that he is unable to effectively represent me in this civil matter because of his lack of current knowledge and current experience in civil law. If Mr. Greenspan, who is a nationally-respected experienced and senior criminal lawyer, feels himself unable to provide proper representation to me in a complex civil matter, how can I possibly be capable of representing myself? I have no wish to represent myself, I do not intend to represent myself and I am not capable of representing myself. That's why to date I have paid tens of thousands of dollars to lawyers.

17. 'Notice of Intention to Act in Person' Form

- 18. I received a document via fax from Mr. Ranking on November 14, 2012, a 'Notice of intention to act in person.' along with Mr. Ranking's allegation that I "failed to comply with obligations under Rule 15.03(3) of the Rules of Civil Procedure to deliver a Notice of Intention to Act in Person."
- 19. I had never heard of this rule or this form until now. I don't know or understand the whole ramifications of filling it out or not filling it out. I don't know where or how it is filed, or if I have to pay to file it, but I have filled out the form and faxed it to

- Mr. Ranking, Mr. Silver, Mr. Greenspan, Mr. McKenzie and to the Trial Coordinator at the Oshawa Court.
- 20. A copy of the 'Notice of intention to act in person' is attached as EXHIBIT A, along with the cover letters to the lawyers and to the trial coordinator, with the fax receipts confirming that the Notice was sent and received.
- 21. As I write this I have not been provided with a copy of the court's order referenced on my November 16, 2012 court appearance. On November 28, 2012, Mr. Ranking faxed me a letter with an unsigned 'draft' copy of the 'November 16, 2012' order that is partially typewritten and partially handwritten with hand-done strikeouts and insertions.
- 22. The unsigned draft order with the handwritten changes appears to say "THIS COURT ORDERS that this Application is adjourned to December 11, 2012, at 9:30 a.m. to permit the Applicant to retain new counsel or alternatively to confirm that he has filed a Notice of Intention to Act in Person" There then follows what looks like a handwritten "X" and I have no idea what this "X" means. (ATTACHED AS EXHIBIT B)
- 23. I do not really understand if this section of the court order is actually ordering me to file a 'Notice of Intention to Act in Person', or if this section means something less than ordering me to file the form. Nonetheless I filled out the form as I wish to obey the court's order if that is what the court has mandated as I do not wish to be placed into committing contempt of court, or in any way anger the court again.
- 24. I will bring the original to court with me on December 11, 2012, so I can obey whatever the order of the court is in respect of this form.

25. I am not a flight risk

- 26. I am not a flight risk as I voluntarily arranged to return to Canada to seek justice before the court and to date have spent tens of thousands of dollars on lawyers.
- 27. Upon my return to Canada on September 10, 2012, I could have surrendered myself to the police and would already have 'done my time' of three months in jail. I did not surrender myself to go to jail because I returned to Canada after lengthy efforts and at great expense for the reason of placing myself before the court to clear my good name. It is my desire to seek justice before the court because I believe I am not guilty of Contempt of Court. I believe that the court has been misled with false evidence, and that I was wrongfully convicted.

- 28. If I am given a fair opportunity to be represented by an experienced civil lawyer, and given a fair opportunity to place all the evidence before the court, I believe that my conviction will be overturned.
- 29. I wish the full evidence to be placed before the court, which evidence includes proof that the court in convicting me acted upon provably false evidence placed before the court both in writing and orally by Gerald Ranking and Lorne Silver, and their law firms and also on behalf of, and by their clients.
- 30. Further, there is evidence that my new lawyer would put before the court showing that Mr. Ranking's and Mr. Silver's clients and/or the client's supporters engaged in activities that directly and negatively impacted my ability to appear before the court.
- 31. I intend to pursue justice for however long it takes and at whatever expense. My actions to date show this, and continue to show that I am not a flight risk.
- 32. During my November 16, 2012 court date when I was ordered by the court to provide Mr. Silver with the residential address where my family sleeps, and I believed that this would place my family at risk, I could not provide my family's address but I also could not disobey the order of the court. (I have tried to obtain a copy of this November 16, 2012 transcript but it is not yet available. I wish to place it before the court as an exhibit.)
- 33. I was offered an impossible choice between protecting my family and obeying the court, therefore I volunteered to go to jail because I could not comply with the court's order that would place my family at risk, but I had to show respect for the court and I was willing to go to jail to show respect for the court. The court placed me into custody, guarded by armed Durham Regional Police officers.
- 34. My voluntarily returning to Canada, volunteering for jail, and spending tens of thousands of dollars on lawyers and my overall actions and quest to clear my name are diametrically opposed to the actions of someone who is a flight risk. I am not a flight risk.

35. No Lawyer Retained to date, Not Qualified To Act For Myself

- 36. As of the date of this affidavit, I have not yet been able to retain a lawyer to replace Mr. Brian Greenspan, who has represented me from May, 2011 to the present.
- 37. My efforts to find and retain an experienced civil lawyer who is willing to represent me are serious, vigorous and continue daily. Attached hereto as Exhibit 'C' is a list

- of some of the lawyers who have been offered my case since November 1, 2012 and who for various reasons have not taken my case.
- 38. Of the lawyers who refused my case, some of the reasons given include: conflicts of interest with the opposing law firms or lawyers, conflicts with one or some of the various companies using the 'PricewaterhouseCoopers' brand, or a lack of experience in civil contempt, lack of experience in civil cases, lack of experience in criminal cases where incarceration is a possibility, a reluctance to take legal steps that could damage the careers of other lawyers, and fears that taking the case would damage their business and/or social relationships. Some lawyers refused my case and did not provide their reasons, or did not return my numerous calls, emails and faxes.
- 39. As a further example, this type of response was common and illustrates my challenge to find a lawyer. "Mr Best: I am afraid that by reason of this firm's relationship with several of the lawyers and institutions on the list (including current client relationships) we are unable to represent you. We appreciate being advised of the full dimensions of the problem so that we could do a proper conflict search. All the best. Will McDowell, Lenczner Slaght"
- 40. I have attempted to retain a lawyer since I found myself without a lawyer in August 2009 when my then lawyer, William McKenzie, was ordered from representing me after the defendants sued him for costs. As I advised the court in my October 30, 2009 letter to the court, I believed and still believe that the defendants sued Mr. McKenzie for costs as a strategic move to separate me from my lawyer.
- 41. I have contacted the referral service of the Law Society of Upper Canada (LSUC) and have been told that there is a list of lawyers who have indicated that they will engage in malpractice lawsuits against other lawyers. This list is apparently not long and the LSUC advisor told me that only three lawyers are on the list in Markham/ North Toronto.
- 42. The LSUC advisor also told me that the rules of the LSUC's referral service preclude her from providing me with all these 'malpractice' lawyers' names on the list at one time. She stated that the LSUC computer is set up so it will only dispense three names per day to me, and then my name is blocked from receiving any more lawyers' names until the next day.
- 43. As an example, on Friday, November 30, 2012, I called the LSUC referral service and was given the same name of a lawyer as I had been provided with four days earlier, and who hadn't returned my daily calls for four days. After providing me with three names at about 9am on the morning of Friday, November 30, 2012, the

- LSUC advisor told me that I had to wait until Monday December 3, 2012 to be given further names.
- 44. I do not understand this refusal of the Law Society of Upper Canada to simply provide me with the list of experienced civil lawyers who are willing to engage in malpractice lawsuits against other lawyers. This LSUC policy slows and hinders my search for a lawyer, and does not benefit me or the public in any way that I can imagine.
- 45. Neither will the LSUC referral service provide me with the email addresses or fax numbers for the referred lawyers, so after receiving their names and phone numbers, I must call the lawyers or otherwise discover their fax and email contact information to send them a detailed account of my situation and needs. This step adds needless hours to my efforts to find a lawyer. Further, many of the names provided to me have been called to the bar recently and are not experienced enough for this complex case and the experienced counsel already involved. Some of the referred 'malpractice' lawyers are also criminal lawyers, and I specifically asked for civil lawyers.
- 46. Upon the advice of one of the young lawyers I talked with, I sent letters to Mr. Robert Lapper, Q.C., CEO, and Mr. Thomas Conway, Treasurer, of the Law Society of Upper Canada, detailed my difficulties in finding a lawyer and asked for their assistance. I also detailed my concerns about the limitations of the LSUC referral service. (Attached hereto as EXHIBIT D)
- 47. In response to my November 28 and 30, 2012 letters to both Mr. Lapper and Mr. Conway, on December 5, 2012 I received what appears to be a standard reply email advising me to call the LSUC referral service and providing the same telephone number that I had already been calling. (Attached hereto as EXHIBIT E)
- 48. In desperation on December 5, 2012 I faxed letters to Kathleen Waters President & CEO of LawPRO, as well as Executive VP Duncan Gosnell and VP Ray Leclair to ask them for assistance in finding a lawyer. (Attached hereto as EXHIBIT F)
- 49. I received a reply from LawPRO VP Mr. Duncan Gosnell, stating that LawPRO refuses to assist me in providing names of lawyers. Mr. Gosnell advised me to contact the Law Society of Upper Canada's referral service, and to speak with the LSUC regarding lodging a complaint against certain lawyers. I am unlikely to lodge a complaint at this time as all my time and energy is devoted to finding a new lawyer and my own situation. (Attached hereto as EXHIBIT G)

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- 50. I retained Mr. Greenspan in May of 2011 because I had been advised by a number of my previous civil lawyers that 'civil contempt' is a 'quasi-criminal' offense and that they were not comfortable as civil lawyers representing me in a case where I might be incarcerated. My civil lawyer immediately prior to my retaining Mr. Greenspan had represented me for about nine months. There were other lawyers prior to that, dating back to November of 2009. When I retained Mr. Greenspan, I believed, and I still believe, that Mr. Brian Greenspan is one of the finest criminal lawyers in Canada.
- 51. I worked with Mr. Greenspan steadily since May, 2011, communicating extensively with him and his junior Naomi Lutes via email and via teleconference during many hours of meetings. The case is complex and it took Mr. Greenspan's firm from May 2011 until July 30, 2012 to digest the information, file my application with the court, and to schedule the August 9, 2012 initial hearing before Justice Shaughnessy.
- 52. The extent of the work by Mr. Greenspan, Ms. Lutes and their staff, and our communications and tele-meetings, is indicated in the fact that between May 2011 and September 10, 2012 when I was able to return to Canada, Mr. Greenspan billed me a total of about \$37,000.00, which I paid.
- 53. From September 11, 2012 to October 31, 2012, Mr. Greenspan billed me a further \$16,000. To the date of this affidavit, I have paid Mr. Greenspan exactly \$60,000 in Canadian funds and I am awaiting his final invoice to me for the period from November 1, 2012.
- 54. In late September, 2012, Mr. Greenspan informed me that he had retained civil lawyer Milt Davis of Davis Moldaver LLP to advise him regarding civil procedures, as Mr. Greenspan explained that he was not feeling comfortable with his lack of knowledge and experience in current civil practice and procedures. This was a surprise to me.
- 55. Mr. Greenspan's original intent upon his retaining Mr. Milt Davis was that Mr. Davis would advise him procedurally when necessary, but this turned out to be unworkable in the practical world. I agree with Mr. Greenspan that I would be best served by a senior and experienced civil lawyer.
- 56. During my court appearance on October 12, 2012, Mr. Greenspan first told the court of his lack of comfort with the civil side of the law.

- 57. I did not realize until about my October 12, 2012 appearance how much different the rules and normal practice are between being a civil lawyer and being a criminal lawyer.
- 58. Further to Mr. Greenspan's statements to both me and the court about my case being out of his normal area of practice, it was disconcerting to me to see and hear my lawyer being advised in and out of court by other lawyers about which forms to file and that Mr. Greenspan should have done this. This happened on both the October 12, 2012 and November 16, 2012 court dates and at other times. It was disconcerting to see and hear Mr. Greenspan being criticized by opposing lawyer Mr. Silver in conversation in front of me about how the civil court documents were served. It was disconcerting to see and hear Mr. Silver advising Mr. Greenspan as to what Mr. Greenspan should have done procedurally with my case, and to hear Mr. Greenspan explaining his lack of expertise in civil law procedures and in effect apologizing to Mr. Silver.
- 59. As unfortunate as is the situation I find myself placed into, I want to make it very clear that I still consider Mr. Brian Greenspan to be one of the foremost criminal lawyers in Canada. I have professionally admired and respected his criminal law work since about 1980 and I still do. Mr. Greenspan's reputation as a top criminal lawyer figured prominently in my decision to hire him, as well as his initial assertions that he was able to act in civil matters, for instance as he had also been called upon to assist with a civil jury trial.
- 60. I also understand that the rarity of the civil contempt charge and associated incarceration sentence as well as the extremely unusual circumstances of my case have caused some confusion in the ranks of Ontario lawyers as to which type of lawyer would best serve my needs.
- 61. This confusion still exists as illustrated by a reply I received on December 4, 2012 from a senior civil lawyer with 20+ years of experience, who emailed me, "I am sorry I will not be able to accept this retainer. May I suggest that if the motion is to set aside the contempt decision, you need a criminal lawyer rather then a civil litigator."
- 62. Although I now realize that I need a civil lawyer, when I hired Mr. Greenspan I was not in a position to know that my needs would be best served by a civil lawyer and obviously Mr. Greenspan thought as well that an experienced criminal lawyer was what I needed to best represent my interests. In fact, prior to hiring Mr. Greenspan I had retained civil lawyers, and had been advised by numerous civil lawyers that I

- needed a criminal lawyer with experience in contempt cases. Mr. Greenspan obviously thought that too or he would not have taken my case.
- 63. The fact that I find myself without a lawyer after apparently wasting 18 months and over \$60,000 is no fault of mine. When Mr. Greenspan first told me in late September, 2012 that he needed to retain a civil lawyer to advise him and that he had already spoken with civil lawyer Milt Davis, it was a surprise to me.
- 64. Contrary to the very opportunistic and false position taken by Mr. Silver and Mr. Ranking that I somehow engineered to be without a lawyer, my current situation is no fault of mine. It is unfair and unjust that I am being penalized for something out of my knowledge and control. It is unfair and unjust that the opposing lawyers are pushing to make things happen as soon as possible to deny me proper counsel.
- 65. Mr. Greenspan's law office took over a year to digest and act upon the volumous information of the case. It is unfair and unjust that Mr. Ranking and Mr. Silver demand to the court that I be given only a few weeks to find an experienced civil lawyer, have him or her acquaint themselves with the great amount of materials, formulate and implement a proper legal strategy and then brief me, and represent me effectively during a cross-examination scheduled for January 11, 2012.
- 66. The unreasonableness of this abridged supersonic schedule would be true in the summer, but it is exponentially true during the Christmas / Hanukkah season. As Hanukkah and Christmas are upon us I can hardly get lawyers to answer my calls, faxes and emails let alone to commit to representing me, and to familiarize themselves with the case, read materials and to formulate and implement a legal strategy prior to the January 11, 2013 cross examination date.
- 67. The date of January 11, 2013 for cross examination is so unfair and unjust in all the circumstances. I believe that any new civil lawyer properly representing me will want to cross-examine Mr. Ranking and Mr. Silver and their clients as well, but with the complex nature of the case I don't see how any new lawyer could properly prepare themselves or me for my cross examination. I don't see how in the limited time that any new lawyer could properly prepare for the cross examination of Mr. Ranking and Mr. Silver who are witnesses that submitted evidence to the court upon which the judge convicted me of contempt and sentenced me to three months in jail. This does not seem fair to me. It seems as if my new lawyer and I are being set up for failure in this rush.
- 68. It is false, unfair and unjust for Mr. Ranking to state that I am "responsible for the position in which you now find yourself." as he did in his November 14, 2012 letter to Justice Shaughnessy. (Attached hereto as Exhibit 'H')

69. It is false, unfair and unjust for Mr. Silver to state what he did to the court on November 16, 2012. I need the transcript for his words, but it is not yet available. In his letter of November 15, 2012 to the court, Mr. Silver supported the false, unfair and unjust position taken by Ranking that I am "responsible for the position in which you now find yourself." (Attached hereto as Exhibit I)

70. Submission of letters to court as unsworn, uncross-examinable, unserved 'quasi-evidence'

- 71. It is also unfair and unjust that Mr. Ranking and Mr. Silver continue to disobey Justice Shaughnessy's order to not submit evidence to advance their position before the court by writing letters to the judge. On November 5, 2009 Justice Shaughnessy wrote a letter to all the lawyers including Mr. Ranking and Mr. Silver and to me saying in part: "In recent days I have received correspondence from Mr. Donald Best, an e-mail from Mr. Andrew Roman and an inquiry from Mr. David Bristow, Q.C. I would remind all counsel and Mr. Best that it is not appropriate to communicate with a Judge for the purpose of arguing a position. These arguments or positions can be advanced in court."
- 72. Attached hereto as Exhibit 'J' is Justice Shaughnessy's letter of November 5, 2009.
- 73. Further, on the transcript of the December 2, 2009 court appearance, at about line 12 on page 46 of (Transcript already filed in Notice of Application returnable October 12, 2012), Justice Shaughnessy again voiced his annoyance with this practice, this time by Mr. Bristol. Justice Shaughnessy said, "One matter that arises, although I sent a letter dealing with my annoyance, I don't like counsel communicating with me during the course of hearing a motion, or about to hear a motion, I think that my reasons are obviously, but Mr. Bristol, I think in this court, last attendance as well as correspondence that I received, raised an issue has troubles me, and because it troubles me I'd sort of like an answer..."
- 74. I note that in this December 2, 2009 transcript, the court then goes on to deal with the issue raised in Mr. Bristol's improper communication to the court. I am confused as to the rules of the court and need my new lawyer to deal with this.
- 75. Further, I never received a copy of Mr. Bristol's improper communication to the court at any time.
- 76. Further, on October 30, 2012 the former Registrar of the Court, Jim Edwards, examined the court file at the Barrie Courthouse. Mr. Edwards found there was no trace of Mr. Bristol's improper communication in the court file. This is another of the many examples of lawyers communicating improperly with the court to put

- evidence before the judge where the improper communication 'evidence' never appeared in the official court file, but was only seen by the judge and a select group of litigants, but not by all.
- 77. My lawyer would certainly want to know where this and the other improper communications sent to the court are now. My lawyer would certainly also want to know how these improper communications to the judge were logged, stored and distributed throughout the Nelson Barbados trial. My new lawyer would certainly want to explore how these improper communications to the court impacted my personal situation in relation to my contempt conviction, just as improper communications to the court are still being used against me as referenced below.
- 78. I obey Justice Shaughnessy's order to not submit letters to the court, but Mr. Ranking and Mr. Silver do not obey the judge's order about letter writing. I am confused why they continue in 2012 to submit evidence and advance their position to the court through writing letters to the court while I am not allowed to. I am confused why when I mentioned this issue to Justice Shaughnessy on November 16, 2012 that Justice Shaughnessy made Mr. Ranking's and Mr. Silver's letters into exhibits, in effect legitimizing Silver's and Ranking's letters to the court as 'evidence' after prohibiting letters like this. I do not understand this. (See November 16, 2012 transcript not yet available from the court.)
- 79. As I explained to the court on November 16, 2012, I obeyed Justice Shaughnessy's order to not write letters to the court. I do not understand why Mr. Silver and Mr. Ranking continue to seek an advantage by writing letters to the court when the judge ordered them to cease, and why their letters are made into exhibits that I am not served with. I wonder if large law firms are allowed to write letters to the court, but individuals and smaller law firms are not allowed. I do not understand the rules of civil court and I need a lawyer.
- 80. I have not seen whatever papers Mr. Ranking and Mr. Silver submitted to the court on November 16, 2012, that were made into 'exhibits' by the judge. I was not served with this documentary evidence, and I do not believe that Mr. Greenspan was served with all of these documents either.
- 81. I do not understand why I as an accused who has been convicted and sentenced to 3 months in jail am not allowed to see the evidence against me being submitted to the court as exhibits, and to examine and vet the evidence and to cross-examine the persons placing the evidence before the court.

- 82. In Mr. Ranking's self-serving and false November 14, 2012 fax to me (EXHIBIT H) he states "I have also written to Mr. Greenspan (copying Mr. Davis). A copy of that letter is attached as well."
- 83. Contrary to Mr. Ranking's assertion, no copy of a letter to Mr. Greenspan was attached to Mr. Ranking's November 14, 2012 fax sent to me. I am telling the truth and this can be seen in the cover page of EXHIBIT H that shows only 8 pages were sent to me by Mr. Ranking. Mr. Ranking's letter contains falsehoods of which this is another. I do not know if that letter or the missing attachment or something else was made into an exhibit by Justice Shaughnessy on November 16, 2012.
- 84. I have no idea what was filed in court by Mr. Ranking or Mr. Silver, that was made an exhibit by Justice Shaughnesssy on November 16, 2012. I wasn't provided a copy of it in court and have not seen it and I don't believe that Mr. Greenspan saw it all either.
- 85. When Justice Shaughnessy addressed me in court and made his order of November 16, 2012, he seemed to rely upon Ranking's and Silver's letters to the court evidence that was kept secret from me and Mr. Greenspan. Justice Shaughnessy seemed to view the Silver and Ranking letters as important enough to make them exhibits. I do not understand this civil court process and I need a lawyer to deal with it. (See the full transcript of my November 16, 2012 appearance before Justice Shaughnessy which is not yet available.)
- 86. As can be seen in other sections of my affidavit, Mr. Ranking and Mr. Silver have already placed written false evidence before the court in their November 17, 2009 'Statement for the Record' and also orally as detailed. It is unfair and unjust that they recently submitted additional false 'evidence' to the court contained within improperly written letters to the court accusing me of being at fault for not having a lawyer.
- 87. After 18 months and \$60,000 my criminal lawyer determined that he was not equipped to properly represent me in a civil trial. This is not my fault and it is unfair that I am not allowed sufficient time to find a new lawyer to properly place counter-evidence before the court, that would counter this 'evidence submission by letter to the court' as frequently practiced by Mr. Ranking and Mr. Silver throughout the Nelson Barbados case.
- 88. I, Donald Best, am not an 'Experienced Litigator'
- 89. During the November 16, 2012 court appearance, Justice Shaughnessy said that I was an "experienced litigator". The transcript for November 16, 2012 is not yet

available, but I would place Justice Shaughnessy's quote here if the transcript was available.

- 90. I have no idea why Justice Shaughnessy would say that I am an experienced litigator as I am not an experienced litigator and there cannot be any evidence before the court to indicate this. I desire to see any evidence before the court that I am an 'experienced litigator'.
- 91. As a police officer from 1975 to 1990, I did what police officers normally do to prevent crime, preserve the peace, apprehend criminals and prepare evidence to be used by Crown Attorneys in prosecuting criminal offenders. During my time as a police officer, I never appeared in court except as a witness. I was never a 'prosecutor' or Crown Attorney.
- 92. I have never received any training in conducting civil litigation. To my recollection I have read no books about conducting civil litigation. With the exception of the Nelson Barbados case, I have never been a plaintiff in a civil case in my life, nor has any company owned by me. I have never been trained as, licensed as, or acted as, a paralegal or lawyer. I am unfamiliar with the rules and procedures of civil litigation. To my recollection I have never personally filed any papers with any court about civil litigation and neither have I appeared before a judge to deliver arguments during civil litigation.
- 93. I have no training, knowledge or experience in how to speak in civil court as a litigant. I am in no way equipped for this, and in fact my appearance on November 16, 2012 when I was ordered to speak to the court showed that I was tongue tied and paralyzed into saying little due to fear, and a lack of knowledge, experience and training. I don't even know where to stand, let alone know the civil rules, etiquette and normal practices of a civil court. I need and want a lawyer to represent me. I have no intent to represent myself.
- 94. To my recollection with the exception of my October 12, 2012 and November 16, 2012 court dates before Justice Shaughnessy, over the last 58 years I have only appeared in a civil court on two occasions and then only as a witness, and not as someone arguing a case. My witness appearances in civil court happened in about 1978 as a police officer in a traffic accident civil case, and over 20 years ago in a civil case as a witness for a couple who were denied employment on the basis of their Vietnamese ethnicity.
- 95. I have as a private investigator from about 1993 to 2005, conducted investigations and sworn affidavits that were used in civil cases primarily concerning intellectual property and fraud. These affidavits were always prepared with the assistance,

instructions and oversight of lawyers and sometimes multiple lawyers and multiple clients. I cannot recall ever filing these affidavits myself with the court, and at the time I am writing this affidavit I have no idea how or where this is done or paid for. I can only recall one instance from my private investigations where I was required to appear to be cross-examined on an affidavit I had submitted, and this was to do with satellite piracy.

- 96. It is unreasonable, unfair and unjust to posit that the mere swearing of witness affidavits created with the assistance, instructions and oversight of lawyers makes me an "experienced litigator", no matter how many times I have been a witness in civil litigation. I have not counted but I doubt that the number of affidavits sworn by me in civil cases in the last 37 years exceeds fifteen or twenty.
- 97. I am not an "experienced litigator". There cannot be any evidence before the court to prove this, and I challenge Mr. Silver and Mr. Ranking to produce real, verifiable and cross-examinable evidence that I am an "experienced litigator".
- 98. In all the circumstances, it is unreasonable, unfair and unjust that I be required to submit a 'Notice of intention to act in person' form to represent myself. To my recollection, I have never seen this type of form, or known that it exists, prior to Mr. Ranking sending it to me. I have no idea what to do with the form, or where to submit it, or if I have to make payment to submit it, or of the legal ramifications of submitting the form or of not submitting the form.
- 99. The nature of the case is such that even many lawyers hesitate to take it on because they doubt their own experience, knowledge and abilities enable them to properly represent me.
- 100. In all the circumstances, it is unreasonable, unfair and unjust that I be required to represent myself. I do not wish to represent myself. I do not intend to represent myself. I fear representing myself. I would be the proverbial "idiot for a lawyer, fool for a client" to represent myself. I am unqualified to represent myself. I am in no way qualified to defend myself in any legal situation, let alone one where I have been sentenced to three months in jail. That is why I have spent tens of thousands of dollars to hire lawyers to defend me in this case.
- 101. It is not my fault or design that I am currently without a lawyer and there is no evidence before the court to indicate this. There is only Mr. Silver's and Mr. Ranking's false and improperly submitted innuendo that was made into an exhibit along with other papers I was not shown or able to cross-examine about.
- 102. Audio recordings submitted for forensic verification. Time Needed

- 103. Attached as exhibits to this affidavit are two digital voice recordings made by me of my November 17, 2009 call with Mr. Gerald Ranking, Mr. Lorne Silver and others then at Victory Verbatim in Toronto, Canada.
- 104. These recordings are crucial evidence in my case as they, in conjunction with other exhibits, prove that Mr. Ranking and Mr. Silver presented false evidence to the court, both in writing and orally, which the court used to convict me. (Digital EXHIBITS K and L on disk)
- 105. The recordings also show that Mr. Ranking and Mr. Silver deceived me during the November 17, 2009 call, and also made statements to me that increased my fears for my family, my witnesses and myself. The circumstances of Mr. Ranking's and Mr. Silver's false evidence provided to the court and their deceit to me during the call make me question and doubt the veracity of everything else they submitted to the court both in writing and orally during my case.
- 106. I have recently retained two independent and internationally recognized forensic specialists to provide forensic reports on the recordings so that the court can be assured that the recordings are accurate, true and unmodified. I have already been advised that the recordings are of high quality and that the fact I made two separate recordings using different equipment to record the same conversation is outstanding because both recordings further corroborate each other.
- 107. The forensic specialists were retained by me starting on November 29, 2012 after one of the lawyers I approached to represent me (but who declined to take my case) expressed surprise that this had not already been done, and informed me that doing so would place the best evidence before the court. That lawyer also suggested that a 'verified' transcript of the call should also be created, again to place the best evidence before the court, instead of the 'draft' transcript now appearing in my April 18, 2012 affidavit sworn in Singapore.
- 108. I do not know why none of my former lawyers recommended these steps to me, or did not retain experts to make forensic examinations of the critical voice recordings and 'verified' transcripts, but it is now being done. Similarly I do not know why none of my former lawyers recommended that I submit the actual voice recordings to the court, but I am doing so in this affidavit.
- 109. The forensic specialists will need time to complete their examinations, reports and affidavits and I am asking the court to provide this time so that the court will have the best, most accurate and complete evidence as the court considers whether or not I my conviction should be overturned, and whether or not I should go to jail for three months. That seems only fair to me.

- 110. As to how much time the forensic specialists will need to complete their work, and how much time my new lawyer will take to review and make use of the work, I do not know, but my new lawyer would be in a position to speak on that to the court.
- 111. Court file 'a mess' and missing important documents. Need more time and my lawyer to examine the court file.
- 112. On October 30, 2012, I had the former Registrar of the Court, Jim Edwards, examine the Nelson Barbados official court file at the Barrie Courthouse. This was done on my initiative and I do not understand why none of my previous lawyers examined the court file themselves or sent a junior to do it for them as it is obvious even to me as a layman that there is relevant evidence in the court file, and also missing from the court file.
- 113. Mr. Edwards said the court file was a "mess", not all there, and not all on the computer system as it should be. Mr. Edwards found documents in the court file with no record of how they got there and that the required fees were not paid. Many documents had no stamp or any indication that they had been properly placed into the official court file.
- 114. Mr. Edwards also found that documents that should be in the court file are missing, including important documents that he expected to be there. Mr. Edwards found a "Notice of motion with no endorsement". Mr. Edwards found that with many documents there was no indication and no evidence that my lawyer or I had been served with with the documents, even going back to the early years of the Nelson Barbados case.
- 115. I do not understand the implications of these and other irregularities found by Mr. Edwards but my new lawyer would, which is another reason I need more time to find a lawyer and allow my new lawyer to fully examine and understand the available evidence.
- 116. Mr. Edwards found there was a note in the file that said that Mr. Gerald Ranking was allowed free access to the 17 boxes of the official court file to 'extract the relevant materials'. I am concerned that Gerald Ranking, a lawyer who I can prove placed false evidence before the court in writing and orally, and who also acts for a purported client that is a false, fabricated non-entity; accessed the official court file and removed unknown documents from the file. Mr. Edwards could find no indication in the court file about what documents Mr. Ranking removed, or if they were ever returned to the official court file.

- 117. Similarly Mr. Edwards could find no indication in the court file about what documents Mr. Ranking might have inserted into the official court file when he accessed the 17 boxes containing the official court file. (EXHIBIT M: Note re Ranking access to court file)
- 118. The issues concerning the official court file are confusing to me because I do not know about civil court procedures. I need my new lawyer to examine the official court file and to determine what evidence is relevant to my case and how it may aid in my defense. My new lawyer will need time to do this properly. That is only fair.
- 119. I do not understand why none of my previous lawyers examined the official court file because even as a lay person I can see that Mr. Edwards' examination of the court file found some relevant and important evidence. Mr. Edwards is not a lawyer so undoubtedly my new lawyer will find evidence that Mr. Edwards and I would not be aware of or recognize the importance of.
- 120. I need more time to find a lawyer, and my new lawyer will need time to properly get up to date on my case, and to examine all the evidence necessary to my fair and proper defense.
- 121. Fears for safety and security of family, witnesses and self are justified and relevant
- 122. My fears for the safety and security of my family, witnesses and friends, and the reasons for my fears, including actions by the defendants and their supporters, are an integral part of my arguments and evidence supporting my application to overturn my conviction for contempt of court.
- 123. As a result of my court appearance on November 16, 2012 and of speaking with some lawyers as I attempted to retain a new experienced civil lawyer, I am certain that my new lawyer will want to place as evidence before the court a comprehensive account of all the incidents and circumstances associated with the Nelson Barbados and Kingsland litigations that have caused me to fear for the safety, security and well-being of my family, witnesses and self.
- 124. This account will take some time to put together because the number of incidents associated with the Nelson Barbados and Kingsland matters are, I believe, over a hundred including very serious incidents of arson of a business, arson of a home with sleeping children inside, forcible confinement, violence, job loss, home invasions at gunpoint (2), dog killings, anonymous emails berating witnesses and lawyers, anonymous death threats, stalking, malicious public distribution and publishing of identity information, vandalism of vehicles by loosening wheel nuts

and shooting, mail tampering, bank account tampering and other crimes against persons associated with my side of the Kingsland matters. These incidents occurred in Canada, the United States, Barbados and in some Pacific rim countries including New Zealand.

- 125. Incidents that cause me to fear for the safety, security and well-being of my family, witnesses and myself are still happening recently. My new lawyer will present these incidents to the court.
- 126. Further there is relevant similar fact evidence and other evidence that the country of Barbados has a problem and perhaps a cultural problem with intimidation and attacks upon witnesses in court matters. My new lawyer will certainly present evidence from Canadian, American and Barbados witnesses including a University professor and a Barbados High Court Judge that attacks upon court witnesses are a common and troubling occurrence in this Caribbean country.
- 127. My lawyer will need time to put this comprehensive account together.
- 128. In all of the circumstances and with the evidence that has been placed before the court to date, I was startled and upset at my court appearance on November 16, 2012 when the Court stated words to the effect that there is no risk to me or my family and the court said words to the effect that it would 'settle this right now'.
- 129. The transcript of the court date is not yet available, so I am going from memory in a period of stress, but as soon as the transcript becomes available I will enhance this account.
- 130. Further, on November 16, 2012, I believe that Justice Shaughnessy stated that there was an FBI report that showed there was no risk (in context) to my family and me. I have no knowledge of an FBI report filed in the Nelson Barbados case, let alone one that said there was no risk to my family and me. I do recall some report from I believe 2008 by an ex-FBI linguist who provided an opinion on a very narrow circumstance of a telephone call where the phrase 'watch your back' was used against my lawyer, William McKenzie.
- 131. I believe that the court is perhaps incorrect in recalling an FBI report in the Nelson Barbados case that had anything to do with a general statement that there was no risk to me or my family or witnesses. Once again, I don't have a transcript as it is not yet available at the time I am writing this affidavit.

- 132. Further I also told the court on November 16, 2012 about one of my witnesses, John Knox, who was recently abducted / forcibly confined at gunpoint at the family home in Barbados a few months ago, tied up and beaten with a piece of wood until he sustained serious head injuries.
- 133. I told the court that one of the involved men was arrested by the Barbados Police, but that my understanding is that a second man who plotted the attack was not yet arrested, and that according to the Barbados Police this second man was in fact associated with 'Cox'.
- 134. At this point, as I recall, Justice Shaughnessy interrupted me and said words to the effect that there were lots of Coxes in Barbados. The Court dismissed my telling that one of my witnesses had been abducted at gunpoint, tied up, and beaten until cranial fluid came from his nose. It appeared to be a non-issue and unimportant to the court.
- 135. I then continued and told Justice Shaughnessy that in fact the involved Cox was a defendant from Kingsland, and that by coincidence or otherwise, the man who plotted the attack was, according to the Barbados Police, a tenant of Kingsland and Cox and that the suspect was associated to the defendants in this way. As Mr. Silver scribbled furiously on his notepad, Justice Shaughnessy said nothing more about this. The Court seemed to ignore my true statements about my witness being severely beaten. The court appeared to not care or be concerned, at least that was my thought at the time.
- 136. I did not understand why the court would not at least acknowledge that one of my witnesses had again been attacked, and that this concerned me and increased my fear for the safety of my family and myself. I think I expected the Court to say something, to indicate concern, to make inquiries with Mr. Silver or to ask me more questions about this attack on my witness, but the Court did not address this issue further as I recall.
- 137. The judge said words to the effect that Mr. Silver was from a "large" or "big" law firm and ordered me to tell Mr. Lorne Silver my residential address: the address where my family and I sleep each night. I was horrified, and I also recall wondering right there as I stood before the court what Mr. Silver being from a large or big law firm had to do with anything. I wondered does that mean that my lawyers who were from small law firms were not as good, not as trusted or not as respected by the court? As I stood there I thought of other comments made by the Court in this case about lawyers from large law firms and comments the court made about my small town, small law firm lawyer. I felt beaten down, and that there was nothing I could

- say or do would make any difference. I needed a lawyer but had been ordered to speak myself.
- 138. I was appalled that the court would order me to provide my family's residence to Lorne Silver when the court knew that Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver told me in a recorded telephone conversation on November 17, 2009 words to the effect that in relation to criminal offenses against my family and me, they and their clients don't care about the criminal offenses against my family and me, that this was a non-issue and that they wouldn't help me to find the perpetrators of the criminal offenses against my family and me even if they could. With their comments to me during the telephone call, Silver and Ranking stoked the fires of my family's and my fears, and I believe it was done deliberately and maliciously.
- 139. The court knew of my fears as far back as December 1, 2009 when I wrote the court a letter explaining what Mr. Ranking and Mr. Silver said to me in the November 17, 2009 phone call, and accusing them of lying to the court and maliciously releasing my private information to the public. Even if the judge did not believe my letters then, in my April 18, 2012 affidavit I submitted a draft transcript and told the court that I had a recording of the telephone conversation, so I thought the Court would know that Mr. Silver and Mr. Ranking did say those horrible things about not caring about criminal acts committed against my family and me, that they wouldn't help me even if they could. My December 1, 2009 letters are attached. (EXHIBIT W)
- 140. Further, as described elsewhere in my affidavit, I knew that Mr. Lorne Silver on November 17, 2009 had directly lied to me about his knowledge of who hired the Private Investigator, saying "I have no idea." I also knew that Gerald Ranking and Mr. Kwidzinski knew Silver directly lied to me, and then all of the three lawyers together deceived the judge about it in writing and orally.
- 141. Further, in court on November 16, 2012 in all the circumstances when Lorne Silver demanded that I provide my home address to the court and to him, Mr. Silver knew the turmoil he would cause to my family and me. Mr. Silver knew what was said between us on November 17, 2012, and the impact upon my family and me as I told him in the phone call and then in writing on December 1, 2009. In all the circumstances I believed and still believe that when Lorne Silver demanded my home address from me on November 16, 2012, and caused Justice Shaughnessy to order me to provide it to him, Lorne Silver did so maliciously.

- 142. As I described in another section of my affidavit, on November 16, 2012 the court gave me an impossible choice: place my family at risk by revealing their home address to Ranking and Silver: or disobey the order of the court.
- 143. All in all, my appearance on November 16, 2012 reinforced and convinced me that as Mr. Ranking and Mr. Silver said: no one cares about criminal offenses committed against my family, my witnesses and me, or about our safety, security and wellbeing and that no one would help me even if they could.
- 144. Gerald Ranking's and Fasken Martineau DuMoulin LLP's purported client is false and a non-entity
- 145. As a person who is facing a conviction for contempt of court, which conviction if it stands will be the effective end of my ability to earn a living in private law enforcement and investigations, and who is facing a sentence of three months in jail and a fine based upon that conviction, plus costs, I have a natural right to know the exact and detailed legal identity of any entity or person demanding I be convicted or jailed, fined or assessed.
- 146. I also have the natural right to know the exact and detailed legal identity of any entity or person submitting evidence or information to the court.
- 147. If I am to be convicted, jailed, fined and my 30 year employment taken from me for the rest of my life, it is only fair and just that I know the exact and detailed legal identity of any entity or person participating in the court process against me.
- 148. It is also only fair and just that I know who are the controlling minds directing any entity and its counsel to seek my conviction and incarceration.
- 149. As a result of my investigations and observations as detailed in this section of my affidavit, I verily believe that Gerald Ranking's and Fasken Martineau Du Moulin LLP's purported Barbados-registered client "Pricewaterhouse Coopers East Caribbean Firm" does not exist as a genuine legal registered entity, and never has.
- 150. This provable fact is contrary to sworn evidence submitted to the court by Gerald Ranking, Fasken Martineau DuMoulin LLP and Marcus Hatch.
- 151. Further, I believe that "PricewaterhouseCoopers East Caribbean Firm" is a false entity, the use of which in business confers potential benefits to its users such as obfuscating liabilities and confusing evidence production in actual or potential lawsuits.

- 152. I believe that persons using the phony entity "PricewaterhouseCoopers East Caribbean Firm" in Barbados have used other false entities as well, and exhibit a pattern of using false entities in different lawsuits as detailed herein. They have pulled this deception before and the evidence is here in my affidavit.
- 153. Whether I am correct in my beliefs or not, it is the simplest thing in the world for Mr. Ranking, Fasken Martineau DuMoulin LLP and their purported client "PricewaterhouseCoopers East Caribbean Firm" to produce a government-certified copy of the legal corporate or other entity registration originally filed with the Barbados government.
- 154. Gerald Ranking, Fasken Martineau DuMoulin LLP and their purported client "PricewaterhouseCoopers East Caribbean Firm" have never produced the official government registration papers for the entity in this lawsuit, despite the legitimacy of "PricewaterhouseCoopers East Caribbean Firm" having been an issue and questioned since 2007 as shown in this section of my affidavit.
- 155. Fasken Martineau DuMoulin LLP, Gerald Ranking, Marcus Hatch and others purportedly associated with "PricewaterhouseCoopers East Caribbean Firm" have submitted documents, testified, spoken in court and been cross-examined on this issue, but have never produced official Barbados government registration papers for "PricewaterhouseCoopers East Caribbean Firm".
- 156. For six years of litigation Fasken Martineau DuMoulin LLP, Mr. Ranking and their purported client and witness Marcus Hatch and others have refused, dodged, fudged, ignored and blustered, but have never produced the official registration papers showing "PricewaterhouseCoopers East Caribbean Firm" to be a legitimate legal entity.
- 157. Further, I believe that over the six years up to today when the legitimacy of Fasken Martineau DuMoulin LLP's and Mr. Ranking's purported client "PricewaterhouseCoopers East Caribbean Firm" remains an issue, that Fasken Martineau DuMoulin LLP and Mr. Ranking must have made inquiries and had communications with their client(s) about this and knew years ago in 2007 that "PricewaterhouseCoopers East Caribbean Firm" is not and never was a genuine legal entity in Barbados.
- 158. Why should such a simple issue as producing official registration papers showing "PricewaterhouseCoopers East Caribbean Firm" to be a legitimate Barbados legal entity be a problem for Fasken Martineau DuMoulin LLP, Mr. Ranking and their purported client?

- 159. Is "PricewaterhouseCoopers East Caribbean Firm" a corporation? Is it a partnership? Is it a limited liability entity of some type? When was the entity first registered and by whom? Who are the partners or officers and directors? What is the official address? I don't know the answer to these questions, nor do any of my previous lawyers. Neither does the Court know this information.
- 160. During my October 12, 2012 court appearance, my lawyer Brian Greenspan indicated to the court that Mr. Ranking had "not yet indicated precisely the name of his client". Justice Shaughnessy then indicated that the Court knew who Mr. Ranking's client was, saying:
- 161. "The Court: No, I got pretty good knowledge of the history and there may be some changes in name, but I'm aware of who Mr. Ranking's client was. Was, yes." (Transcript EXHIBIT N, page 3 starting at line 20)
- 162. I submit to the Court that under all the circumstances, the Court cannot possibly know any more than the evidence submitted to the court by Fasken Martineau DuMoulin LLP, Mr. Ranking and Mr. Marcus Hatch that Mr. Ranking's purported client was, and still is, "PricewaterhouseCoopers East Caribbean Firm".
- 163. Further, I am curious as to how the Court knew on October 12, 2012 that "there may be some changes in name, but I'm aware of who Mr. Ranking's client was." because a month later that is exactly what happened. I don't understand how the court could know this a month in advance, but perhaps my new lawyer would be able to explain it to me.
- 164. On October 16, 2012 neither I, nor to my knowledge, my lawyer Mr. Brian Greenspan, knew that Mr. Ranking would be identifying the name of his client differently in the future, but the court knew.
- when Fasken Martineau DuMoulin LLP and Gerald Ranking in a letter changed the identified name of their purported client from "PricewaterhouseCoopers East Caribbean Firm" and informed me that their client was 'PricewaterhouseCoopers LLP'. Then on November 26, 2012 Fasken Martineau DuMoulin LLP and Gerald Ranking switched back to "PricewaterhouseCoopers East Caribbean Firm" when filing a Notice of Appearance. This mysterious client name switch and switch-back is documented in more detail later in my affidavit, but no explanation was ever provided by Fasken Martineau DuMoulin LLP and Gerald Ranking for their inability to settle upon the name of their client. (November 14, 2012 letter EXHIBIT H)

- 166. My new lawyer would certainly demand that Mr. Ranking, Fasken Martineau DuMoulin LLP, Mr. Marcus Hatch, 'PricewaterhouseCoopers LLP' and 'PricewaterhouseCoopers East Caribbean Firm' explain this mysterious change in clients that lasted only twelve days.
- 167. My new lawyer would certainly demand that Mr. Ranking, Fasken Martineau DuMoulin LLP, Mr. Marcus Hatch and "PricewaterhouseCoopers East Caribbean Firm" properly file with the court, as cross-examinable evidence, certified government copies of the originally-filed registration and other evidence, proving that "PricewaterhouseCoopers East Caribbean Firm" exists as a genuine legal entity in Barbados as claimed by Mr. Ranking and Mr. Marcus Hatch in various attached transcripts and affidavits.
- 168. It would do no harm for the court to order Fasken Martineau DuMoulin LLP, Mr. Ranking personally, and Mr. Marcus Hatch personally, and "PricewaterhouseCoopers East Caribbean Firm", to properly file with the court as cross-examinable evidence, certified government copies of the original registration proving that "PricewaterhouseCoopers East Caribbean Firm" exists as a genuine legal entity in Barbados as claimed by Mr. Ranking and Mr. Marcus Hatch.
- 169. Nelson Barbados Group Ltd. and others paid costs to "PricewaterhouseCoopers East Caribbean Firm". It would do no harm for the court to order Fasken Martineau DuMoulin LLP, Mr. Ranking personally, and Mr. Marcus Hatch personally, and "PricewaterhouseCoopers East Caribbean Firm" show that those costs were actually paid to "PricewaterhouseCoopers East Caribbean Firm".
- 170. It would do no harm for the court to order Fasken Martineau DuMoulin LLP, Mr. Ranking personally, and "PricewaterhouseCoopers East Caribbean Firm" to show the payments in the banking records of "PricewaterhouseCoopers East Caribbean Firm".
- 171. I make the observation that Nelson Barbados Group Ltd. paid costs to "PricewaterhouseCoopers East Caribbean Firm", but that costs could have, and may in the future just as easily be ordered against "PricewaterhouseCoopers East Caribbean Firm" in favour of Nelson Barbados Group Ltd.
- 172. In the event that Nelson Barbados Group Ltd. had to pursue "PricewaterhouseCoopers East Caribbean Firm" to recover unpaid costs, and "PricewaterhouseCoopers East Caribbean Firm" was not a genuine legal entity, any costs award by the court would be virtually useless.

- 173. Some people might say that because "PricewaterhouseCoopers East Caribbean Firm" is not a genuine legal entity in Barbados as claimed and sworn to by Fasken Martineau DuMoulin LLP, Gerald Ranking, Marcus Hatch and others, and because motions were filed and court orders were granted in the name of a false entity: that is a fraud upon the court.
- 174. Further, because "PricewaterhouseCoopers East Caribbean Firm" is not a genuine legal entity in Barbados as claimed and sworn to by Fasken Martineau DuMoulin LLP, Gerald Ranking, Marcus Hatch and others, and because motions were filed and court orders were granted in the name of a false entity, my new lawyer will certainly explore if accordingly the court order of January 15, 2010 is void.
- 175. For the same reasons, my new lawyer will certainly explore that it may be that the costs that were paid in this matter as of June 8, 2010 should be void.
- 176. A reasonable person might say that Fasken Martineau DuMoulin LLP's, Mr. Ranking's and his purported client PricewaterhouseCoopers East Caribbean Firm's case, evidence and submissions were based upon falsehoods, non-existent parties and provably false evidence, including perjury.
- 177. Further, my new lawyer will certainly explore whether or not all the evidence merits contemplating criminal charges of perjury, obstructing justice, fabricating evidence or fraud against Mr. Marcus Hatch or any other person or entity that assisted Mr. Hatch to create and place false evidence before the court.
- 178. Fasken Martineau DuMoulin LLP and Gerald Ranking recently identified the name of their purported client as "PricewaterhouseCoopers East Caribbean Firm", then changed to 'PricewaterhouseCoopers LLP', then switched back to "PricewaterhouseCoopers East Caribbean Firm"
- 179. I note that throughout the Nelson Barbados civil case from 2007 Fasken Martineau DuMoulin LLP, Gerald Ranking, Marcus Hatch and others stated the name of the client was "PricewaterhouseCoopers East Caribbean Firm".
- 180. Then in a November 14, 2012 letter to me, Donald Best Fasken Martineau DuMoulin LLP and Gerald Ranking indicate that their client is 'PricewaterhouseCoopers LLP'. The letter (EXHIBIT H) says in part:
- 181. "PricewaterhouseCoopers LLP ("PwC") is understandably concerned. PwC objects, in the strongest of terms, to an adjourment, without the strictest of terms. It expects you to be present in court on November 16th to fully explain your conduct. At that time, and depending upon your submissions, PwC may be prepared to extend an

- indulgence to permit you to engage counsel and to agree to a schedule to present yourself for cross-examination, as previously discussed with Mr. Greenspan."
- 182. This November 14, 2012 letter very definitely states that it is "PricewaterhouseCoopers LLP" that Fasken Martineau DuMoulin LLP and Gerald Ranking represent, and in context is objecting to my application to the court and would "extend an indulgence" to me, etc.. To the best of my knowledge and belief, "PricewaterhouseCoopers LLP" is not a legitimate registered entity in Barbados, although it is registered in Delaware, USA.
- 183. Then on November 26, 2012, Fasken Martineau DuMoulin LLP and Gerald Ranking sent a Notice of Appearance to my lawyer Brian Greenspan indicating that their client "PricewaterhouseCoopers East Caribbean Firm intends to defend this action." (EXHIBIT O)
- 184. I also note that on October 4, 2012, Cassels Brock & Blackwell LLP and Mr. Lorne Silver notified Brian Greenspan that Mr. Silver and his firm "have been retained on behalf of Cox and Kingsland and have been instructed to opposed the request to set aside the contempt order issued against Donald Best on January 15, 2010." (EXHIBIT P)
- 185. Then on October 11, 2012, Cassels Brock & Blackwell LLP and Mr. Lorne Silver sent a Notice of Appearance to Mr. Greenspan but only in the name of Kingsland Estates Limited and not Mr. Cox. (EXHIBIT Q)
- 186. I do not understand how law firms and lawyers can switch back and forth in identifying their clients that they act for. I do not know if this is part of the civil court rules. My new lawyer will undoubtedly know about this, which is why I need a lawyer and time to find a lawyer.
- 187. Hundreds of independent legal entities are licensed to use the PricewaterhouseCoopers brand.
- 188. Many different legal entities in Barbados use the brand.
- 189. I have researched and present herein evidence that there is a common misconception that "PWC" or "PricewaterhouseCoopers" is a multinational corporation or otherwise structured as a unified entity. One of my own lawyers recently made this mistaken assumption and wrongly informed me that "PricewaterhouseCoopers is one big multinational company".

- 190. In fact, "PricewaterhouseCoopers" or "PWC" is only a brand that is licensed to hundreds of independent legal entities around the world. This is explained at the PWC.com website. Here is an excerpt from the PWC.com website, which is shown in full context as EXHIBIT R:
- 191. "PwC is the brand under which the member firms of PricewaterhouseCoopers International Limited (PwCIL) operate and provide professional services. Together, these firms form the PwC network. 'PwC' is often used to refer either to individual firms within the PwC network or to several or all of them collectively."
- 192. "In many parts of the world, accounting firms are required by law to be locally owned and independent. Although regulatory attitudes on this issue are changing, PwC member firms do not and cannot currently operate as a corporate multinational. The PwC network is not a global partnership, a single firm, or a multinational corporation."
- 193. "For these reasons, the PwC network consists of firms which are separate legal entities. The firms that make up the network are committed to working together to provide quality service offerings for clients throughout the world. Firms in the PwC network are members in, or have other connections to, PricewaterhouseCoopers International Limited (PwCIL), an English private company limited by guarantee. PwCIL does not practise accountancy or provide services to clients. Rather its purpose is to act as a coordinating entity for member firms in the PwC network."
- 194. Further, the PWC.com website continues:
- 195. "The PwC network is not one international partnership and PwC member firms are not otherwise legal partners with each other. Many of the member firms have legally registered names which contain "PricewaterhouseCoopers", however there is no ownership by PwCIL. A member firm cannot act as agent of PwCIL or any other member firm, cannot obligate PwCIL or any other member firm, and is liable only for its own acts or omissions and not those of PwCIL or any other member firm. Similarly, PwCIL cannot act as an agent of any member firm, cannot obligate any member firm, and is liable only for its own acts or omissions."
- 196. Further, at the bottom of each webpage, the PWC.com website states "© 2009-2012 PwC. All rights reserved. PwC refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see www.pwc.com/structure for further details."

- 197. Further, on October 30, 2008 during the cross-examination of Marcus Andrew Hatch (Transcript already filed with the court.) with Gerald Ranking acting as the lawyer, on page 45 at about line 22, Mr. Hatch explained:
- 198. "In order for any firm around the world to be a member of PricewaterhouseCoopers International Limited it is really an effort to ensure that our work around the world is coordinated."
- 199. "We work to common standards. We have access to the brand. And that is all ruled through membership of PricewaterhouseCoopers International Limited, but each member firm around the world is a completely separate legal entity."
- 200. Further, as detailed in my affidavit, there are at least five entities legally constituted and registered with the Barbados Government that use the "PricewaterhouseCoopers" and "PwC" brand. As of the date of this affidavit, these entities are:
- 201. PWC SERVICES CORP.
- 202. PRICEWATERHOUSECOOPERS EAST CARIBBEAN
- 203. PRICEWATERHOUSECOOPERS EC INC.
- 204. PRICEWATERHOUSECOOPERS SRL
- 205. PRICEWATERHOUSECOOPERS SERVICES INC.
- 206. I note that none of these five legally constituted entities is named "PricewaterhouseCoopers East Caribbean Firm". Further the closest name "PricewaterhouseCoopers East Caribbean" was only registered in 2011 as detailed later.
- 207. Statements by Gerald Ranking, Marcus Hatch and others about "PricewaterhouseCoopers East Caribbean Firm"
- 208. Fasken Martineau DuMoulin LLP and Gerald Ranking filed a motion in the Nelson Barbados case returnable August 10, 2007. (Already filed with the court) This motion included an affidavit of Marcus A. Hatch sworn May 18, 2007 "on behalf of PricewaterhouseCoopers East Caribbean Firm".
- 209. The Hatch affidavit included as "Exhibit A", an October 1, 2005 'engagement letter' to "The Board of Directors, Kingsland Estates Limited" signed by hand from "PricewaterhouseCoopers". I observe that nowhere on this letter does any indication

- exist as to which independent corporation, partnership or other legal entity is using the "PricewaterhouseCoopers" logo and brand to write this letter.
- 210. Mr. Ranking's Notice of Motion (Motion Returnable August 10, 2007) starts out:
- 211. "The defendant, PricewaterhouseCoopers East Caribbean Firm, incorrectly named in the title of proceeding as Price Waterhouse Coopers (Barbados) (hereinafter "PwC East Caribbean"), will make a motion to the court, on Friday, August 10, 2007 at 10:00a.m. or as soon after that time as the motion can be heard, at 114 Worsley Street, Barrie, Ontario, L4M 1M1"
- 212. On page 2 his May 18, 2007 affidavit, Marcus A. Hatch says:
- 213. "The correct firm name for the entity named in the title of proceeding as "PricewaterhouseCoopers (Barbados)" is "PricewaterhouseCoopers East Caribbean Firm" (hereinafter "PwC East Caribbean"). PwC East Caribbean is a partnership duly constituted and subsisting under the laws of Barbados."
- 214. I, Donald Best, want to repeat that my searches and investigations show that "PricewaterhouseCoopers East Caribbean Firm" was not, and is not, "a partnership duly constituted and subsisting under the laws of Barbados." Mr. Hatch swore a falsehood. Then Fasken Martineau DuMoulin LLP and Mr. Ranking placed that false evidence before the court.
- 215. Further, although Mr. Hatch in his affidavit abridges "PricewaterhouseCoopers East Caribbean Firm" to "PwC East Caribbean" for convenience in his affidavit and does not claim that "PwC East Caribbean" is a legal entity, I searched this name anyway. My searches and investigations confirm that "PwC East Caribbean" is also not a legal entity "duly constituted and subsisting under the laws of Barbados." There is no doubt that Mr. Hatch swore a falsehood in his May 18, 2007 affidavit.
- 216. Further, my lawyer at the time, Mr. McKenzie, had used "PricewaterhouseCoopers (Barbados)" in the legal papers filed for Nelson Barbados Group Ltd. because in an affidavit sworn December 11, 2006 in a lawsuit in Barbados involving Marjorie Ilma Knox and Kingsland, Mr. Hatch's partner, Mr. Philip St. Eval Atkinson, swore that the name of the involved legal entity is "PricewaterhouseCoopers (Barbados)":
- 217. "I, Philip St. Eval Atkinson, Chartered Accountant of Auburn, in the parish of Saint Joseph in this Island Make Oath and Say as follows: 1. That I am a Partner of PricewaterhouseCoopers (Barbados), the above-named Seventh Respondent and have been duly authorized to swear to this Affidavit on behalf of the said Seventh Respondent. The firm PricewaterhouseCoopers (Barbados) is a member in

- PricewaterhouseCoopers International Limited (PricewaterhouseCoopers International), a membership-based company organized in the United Kingdom."
- 218. Mr. Philip St. Eval Atkinson's affidavit is attached as (EXHIBIT S Without exhibits)
- 219. My research and investigations confirm that contrary to Mr. Atkinson's sworn testimony, "PricewaterhouseCoopers (Barbados)" is not a genuine entity. It is another phony false non-entity.
- 220. At the times that Philip St. Eval Atkinson and Mr. Marcus A. Hatch swore their respective affidavits, and underwent cross-examination, they were actually both partners in a Barbados registered entity called "PricewaterhouseCoopers" created June 30, 1998 and which changed its name on June 23, 2011 to "PricewaterhouseCoopers East Caribbean". (EXHIBIT T) I am unaware if Mr. Atkinson and Mr. Hatch are also involved with any of the four other legally constituted entities on the island of Barbados using the PricewaterhouseCoopers and PwC brand as listed elsewhere in my affidavit.
- 221. Thus it can be seen that in 2006, partner Philip St. Eval Atkinson falsely swore an affidavit naming the involved entity as "PricewaterhouseCoopers (Barbados)", and then in 2007 the other partner Marcus A. Hatch falsely swore an affidavit naming the involved entity as "PricewaterhouseCoopers East Caribbean Firm". Both names were at the time and remain: false, phony, fabricated non-entities.
- 222. The August 10, 2007 motion filed by Fasken Martineau DuMoulin LLP and Gerald Ranking for their purported client "PricewaterhouseCoopers East Caribbean Firm", actually replaced one phony, false, fabricated non-entity "PricewaterhouseCoopers (Barbados)" with another phony, false, fabricated non-entity "PricewaterhouseCoopers East Caribbean Firm".
- 223. In the Nelson Barbados case on October 30, 2008 during the Cross-examination of Marcus Andrew Hatch, starting on page 4, Mr. Hatch explained that "PricewaterhouseCoopers" is the marketing name or brand, but "PricewaterhouseCoopers East Caribbean Firm" is the "full legal name of the firm".
- 224. Mr. Gerald Ranking was in attendance representing Hatch and further put forth Mr. Hatch's position that "PricewaterhouseCoopers East Caribbean Firm" is the full legal name of the entity in Barbados that uses the brand "PricewaterhouseCoopers" and "PWC" brand.

- 225. As noted on page 6, line 20, Mr. Hatch identified himself in a May 18, 2007 affidavit as "the managing partner of Barbados office of PricewaterhouseCoopers East Caribbean Firm..."
- 226. During the same October 30, 2008, cross-examination as found starting on page 13 at line 23, Mr. Hatch explained that "PricewaterhouseCoopers East Caribbean Firm, you know, is a separate legal entity"
- 227. In the same transcript on page 32 at about line 18, Mr. Ranking indicates that the name of the entity is "PricewaterhouseCoopers East Caribbean Firm"
- 228. Further, on page 59, Mr. Ranking indicates that Mr. Hatch has provided testimony that "PricewaterhouseCoopers East Caribbean Firm is the distinct legal entity that carries on business of auditing and accounting in Barbados..."
- 229. Fasken Martineau DuMoulin LLP and Gerald Ranking submitted motions, documents and evidence in the name of their purported client "PricewaterhouseCoopers East Caribbean Firm"
- 230. On January 15, 2010, I, Donald Best, was found guilty of contempt of court and sentenced to three months in jail and a fine and costs as a result of a motion and evidence submitted to the court for and by the defendant "PricewaterhouseCoopers East Caribbean Firm", through and by Fasken Martineau DuMoulin LLP and Gerald Ranking.
- 231. Fasken Martineau DuMoulin LLP's and Gerald Ranking's purported client "PricewaterhouseCoopers East Caribbean Firm" is also contesting my current application to the court, in effect indicating that "PricewaterhouseCoopers East Caribbean Firm" wants my conviction and jail sentence to stand. "PricewaterhouseCoopers East Caribbean Firm" wants to send me to jail for three months, to pay a fine, pay costs and ruin my ability to find employment for the rest of my life in a profession I made my living at for over 30 years.
- 232. On November 26, 2012, Fasken Martineau DuMoulin LLP and Gerald Ranking sent a letter and Notice of Appearance to Brian Greenspan and Lorne Silver indicating that their purported client "PricewaterhouseCoopers East Caribbean Firm intends to defend this action" (Exhibit O)
- 233. Justice Shaughnessy confirmed that I was charged, convicted and sentenced not at the instance of the Court, but instead at the behest of Fasken Martineau DuMoulin LLP and Gerald Ranking and their purported client

"PricewaterhouseCoopers East Caribbean Firm" and Lorne Silver, his law firm and their client(s).

- 234. On August 9, 2012, Justice Shaughnessy as quoted in the transcript of the hearing on page 7, line 29 (EXHIBIT U) confirmed to my lawyer Brian Greenspan that I was convicted on the initiative of Gerald Ranking and his purported client "PricewaterhouseCoopers East Caribbean Firm":
- 235. "The Court: Well, my first comment, Mr. Greenspan, is that this contempt hearing was not on my initiative. So it was not one made at the instance of the court. It was brought primarily, I'm going to say, by Mr. Silver and Mr. Ranking..."
- 236. "PricewaterhouseCoopers East Caribbean Firm" is not a genuine legal entity in Barbados
- 237. During various dates in 2011 and 2012 I personally searched the Barbados Government internet resource of the Corporate Affairs and Intellectual Property Office (http://www.caipo.gov.bb) and do not see any entity named "PricewaterhouseCoopers East Caribbean Firm"
- 238. I located five entities using the "PWC" or "PRICEWATERHOUSECOOPERS" brand. These are three companies, one society with restricted liability and one business name:

Name

PWC SERVICES CORP.

Number

3473

Category

Company

Date registered /

1979-04-18

Incorporated

corporated

Name

PRICEWATERHOUSECOOPERS EAST CARIBBEAN

Number

18309

Category

Business Name

Date registered /

1998-06-30

Incorporated

Name

PRICEWATERHOUSECOOPERS EC INC.

Number

16679

Category

Company

Date registered / Incorporated

1999-03-12

239.

Name

PRICEWATERHOUSECOOPERS SRL

Number

1020

Category

Society with Restricted Liability

Date registered / Incorporated

2011-06-23

Name

PRICEWATERHOUSECOOPERS SERVICES INC.

Number

22663

Category '

Company

Date registered /

2003-07-30

Incorporated

240. Attached as EXHIBIT V to my affidavit are screen captures of my CAIPO searches.

- 241. Further, I am in possession of the results of hand searches performed at the Corporate Affairs and Intellectual Property Office that show that the business name #18309 was originally listed as 'PricewaterhouseCoopers' on June 30, 1998. (EXHIBIT T) I note that the same Marcus Hatch who falsely said that "PricewaterhouseCoopers East Caribbean Firm, you know, is a separate legal entity" is listed as a partner on the genuine legal entity 'PricewaterhouseCoopers' from 1998.
- 242.I also note that Philip St. Eval Atkinson who falsely swore an affidavit naming the involved entity as "PricewaterhouseCoopers (Barbados)" is also listed as a partner with Mr. Hatch on the genuine legal entity 'PricewaterhouseCoopers' from 1998.
- 243. Further I note that the name 'Pricewaterhouse Coopers East Caribbean' was first filed in the Barbados Government records on June 23, 2011 as a change of name from 'Pricewaterhouse Coopers' to 'Pricewaterhouse Coopers East Caribbean' by Mr. Marcus Hatch. (EXHIBIT T)
- 244. It is noteworthy that the first time the similar name 'Pricewaterhouse Coopers East Caribbean' was legally filed with the Barbados Government was on June 23, 2011 by Marcus Hatch, over four years after Mr. Hatch falsely swore his May 18, 2007 affidavit and falsely testified in person that 'PricewaterhouseCoopers East Caribbean Firm' was the legal entity involved in the Nelson Barbados lawsuit.

245. This further confirms that 'Pricewaterhouse Coopers East Caribbean Firm' is not a legitimate business entity now, and never was, including whenever Fasken Martineau DuMoulin LLP, Mr. Ranking and others filed motions in the Nelson Barbados action, including the motion to have me found in contempt, and in Fasken Martineau DuMoulin LLP's, Mr. Ranking's and their purported client's current objection to my application.

246.Additional 'PWC' false entities used in civil litigation

- 247.My investigations also showed that as well as the false 'PricewaterhouseCoopers East Caribbean Firm', other false non-entities have been used at various times by persons associated with the use of the 'PricewaterhouseCoopers' and 'PwC' brand in Barbados.
- 248.Attached to my affidavit as EXHIBIT S is the affidavit of Philip St. Eval Atkinson, sworn and filed December 11, 2006 in the Barbados High Court of Justice, Civil Division, in the case Marjorie Ilma Knox and Eric Ashby Bentham Deane. The Seventh listed respondent is "PRICEWATERHOUSECOOPERS".
- 249.In his affidavit, Mr. Atkinson states that the name of the entity he represents is "PricewaterhouseCoopers (Barbados)":
- 250. "That I am a Partner of PricewaterhouseCoopers (Barbados), the above-named on behalf of the Seventh Respondent. The firm **PricewaterhouseCoopers (Barbados)** is a member in PricewaterhouseCoopers International Limited (PricewaterhouseCoopers International), a membership-based company organized in the United Kingdom."
- 251.Attached to my affidavit in EXHIBIT V is a December 2, 2005 letter from PricewaterhouseCoopers International Limited to Ms. Kathleen I. Davis wherein a Lawrence W. Keeshan informs Ms. Davis:
- 252. "PwCIL is a membership-based UK company that acts to coordinate in certain respects the practices of PwC member firms around the world. PwCIL does not provide professional services to clients. The firm in Barbados performing the audit of Kingsland Estates Ltd. ("PwC Barbados") is a member firm of PwCIL. The member firms of PwCIL are separate and independent partnerships or companies, and are part of the PricewaterhouseCoopers global network of firms. As PwC Barbados is responsible for performing the audit of Kingsland Estates Ltd., I have referred your letter to that firm for its consideration."
- 253.I note that I could find no legal entities registered in Barbados named either 'PricewaterhouseCoopers (Barbados)' or 'PwC Barbados', therefore I believe that

- these too are phony, false, fabricated entities used in the respective Kingsland lawsuits as is 'PricewaterhouseCoopers East Caribbean Firm' used in the Nelson Barbados lawsuit.
- 254.Further, as I said earlier I note that in a November 14, 2012 letter from Fasken Martineau DuMoulin LLP and Gerald Ranking to me, Donald Best, Gerald Ranking indicates that his client is 'PricewaterhouseCoopers LLP'. The letter (EXHIBIT H) says in part:
- 255. "PricewaterhouseCoopers LLP ("PwC") is understandably concerned. PwC objects, in the strongest of terms, to an adjournment, without the strictest of terms. It expects you to be present in court on November 16th to fully explain your conduct. At that time, and depending upon your submissions, PwC may be prepared to extend an indulgence to permit you to engage counsel and to agree to a schedule to present yourself for cross-examination, as previously discussed with Mr. Greenspan."
- 256.I am confused because I cannot find any legal entity registered in Barbados named "PricewaterhouseCoopers LLP".
- 257. Using the Internet, I have located a "PricewaterhouseCoopers LLP" at 1177 6th Avenue, New York, NY 10036, United States, that is apparently a Delaware Registered entity operating in New York City, New York, USA.
- 258.If Mr. Ranking means that his client is "PricewaterhouseCoopers LLP" in Barbados, then that is a phony false, fabricated entity. If however, he means that he is representing the New York City located Delaware Entity, I would be even more confused. I need my new lawyer to advise me on this specific issue.
- 259.It would do no harm for the court to order Fasken Martineau DuMoulin LLP and Gerald Ranking to declare in very specific and detailed manner exactly which entities and persons they purport to represent and for the law firm, Mr. Ranking and those entities to present the legal proof as evidence that they actually exist.

260. Confusing Court order, January 15, 2010

- 261.Attached to my affidavit as EXHIBIT X is a copy of the hand-written Order of the Court issued January 15, 2010. This order further confuses me as to which entities and persons were involved in the Nelson Barbados Group Ltd. v. Cox litigation.
- 262.I note that the order indicates that costs are awarded "To Mr. Ranking's clients costs of \$50,632.90 (comprised of \$45,000 in fees and \$5,632.90 in taxable disbursements)"

- 263.I verily believe that Fasken Martineau DuMoulin LLP and Gerald Ranking had only declared a one purported client in the Nelson Barbados Group Ltd. action to this date, which was the false, fabricated non-entity called 'PricewaterhouseCoopers East Caribbean Firm'. I do not understand why the court ordered that costs were payable to "Mr. Ranking's clients" (plural) when there was only a single purported client.
- 264. There are many more facts about the Fasken Martineau DuMoulin LLP and Gerald Ranking purported client(s) that give me concern, but I need an experienced civil lawyer to examine them, advise and place the full and proper evidence before the court.
- 265.Lawyers and Law firms cannot continue to act for defendants
- 266. Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver cannot act for defendants / clients because these lawyers and law firms are witnesses against me, continue to hold relevant evidence in their business and case records and can reasonably expect to be cross-examined on the evidence they placed before the court that was used to convict and sentence me, and on other evidence that they hold.
- 267. Further, it is provable through November 17, 2009 voice recordings, a 'Statement for the Record' and other evidence that Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver provided specific and provably false evidence to the court that the court specifically referred to and used to convict me. They cannot continue to act for their clients under the circumstances.
- 268. Further, it is provable that Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver provided general and provably false and / or deceitful evidence to the court that the court generally used to convict me. They cannot continue to act for their clients under the circumstances.
- 269. Further, it is provable that during a November 17, 2009 recorded telephone conversation with me, Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver deliberately deceived and lied to me about 'Van Allen', and then deceived the court about the call. The lawyers and their law firms cannot continue to act for their clients under the circumstances.
- 270. Further, it is provable that during a November 17, 2009 recorded telephone conversation with me, Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver made statements to me that

were intended to shock, induce fear and intimidate my family and me, and did shock, induce fear and intimidate my family and me. Such statements were totally beyond any standards or boundaries of professional conduct for lawyers in Ontario. The lawyers and their law firms cannot continue to act for their clients under the circumstances.

- 271.Lawyers Gerald Ranking, Lorne Silver and their law firms cannot act for defendants / clients because there is strong evidence that some of the defendants / clients placed provably false sworn evidence before the court under circumstances where charges of perjury, obstruction of justice, fabricating evidence and conspiracy could reasonably be contemplated. In which case Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver will, at the very least, be witnesses and sources of evidence against their clients.
- 272. Whether they knew it before or not, (and I believe solid evidence exists to show they did know before) upon reading this affidavit Fasken Martineau DuMoulin LLP and Gerald Ranking certainly know that their purported client 'PricewaterhouseCoopers East Caribbean Firm' is a false, fabricated non-entity. They cannot continue to represent this non-entity.
- 273.My new lawyer will certainly petition the court that Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver should be removed from representing their clients in the current case because:
 - 273.1.Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver are witnesses in my conviction for contempt of court, as, generally, both lawyers and their law firms provided evidence and submissions to the court that the court considered in determining whether I was guilty or not, and in determining the jail sentence, fine and costs. This is true whether or not the evidence and submissions Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver provided to the court were accurate or not. They are witnesses and should no longer be acting as lawyers for their clients.
 - 273.2.Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver continue to hold relevant evidence in their business and case records and can reasonably expect to be cross-examined on the evidence they and their clients still hold, and the evidence that they and their clients placed before the court that was used to convict me.

- 273.3. Credible, strong evidence exists that both Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver placed false evidence before the court, both in writing and orally, and on more than one occasion, generally concerning multiple facts at issue, and that the court generally used their evidence to convict me of contempt and sentence me to three months in jail, a fine and costs.
- 273.4.Credible, strong evidence exists that Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver placed false evidence before the court, both in writing and orally, specifically concerning the telephone conversation held with me on November 17, 2009. The court specifically referred to this provably false evidence in convicting me of contempt of court on January 15, 2010. In summary, Ranking and Silver submitted false evidence to the court concerning the November 17, 2009 telephone conversation with me, that the court used to convict me.
- 273.5. There are reasonable questions, inquiries and cross-examinations that should be made of Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver. My new lawyer will certainly wish to cross-examine them and also gain exhibits and evidence from them. The evidence might or could have a negative impact upon the clients, witnesses or upon the lawyers and the law firms.
- 273.6.Further, there are reasonable questions, inquiries and cross-examinations that should be made of Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver and of their clients to determine what part the clients played in the placing of false evidence before the court, and/or what the clients knew before and after the evidence submission. Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver, and their clients hold communications and other relevant evidence in their business or case files that might interest the court. Under these circumstances there are serious conflicts of interest that cannot be mitigated if the lawyers and law firms continue to act for the clients.
- 273.7.In all these circumstances there are conflicts of interests and potential conflicts of interests between Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver and their clients, where the lawyers and law firms cannot continue to fairly represent their clients.
- 273.8.Fasken Martineau DuMoulin LLP's, Gerald Ranking's, Cassels Brock & Blackwell LLP's and Lorne Silver's clients may, or may not, know of these

- conflicts of interests or potential conflicts of interest, or of the credible and strong evidence that exists that shows Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver placed false evidence before the court.
- 273.9. The law firms of Fasken Martineau DuMoulin LLP and Cassels Brock & Blackwell LLP may, or may not, know of these conflicts of interests or potential conflicts of interest, or of the credible and strong evidence that exists against Mr. Ranking and Mr. Silver that shows they placed false evidence before the court.
- 273.10.Fasken Martineau DuMoulin LLP's, Gerald Ranking's, Cassels Brock & Blackwell LLP's and Lorne Silver's insurers may, or may not, know of these conflicts of interests or potential conflicts of interest, or of the credible and strong evidence that exists against Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver that shows they placed false evidence before the court.
- 273.11.Credible, strong evidence exists that Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver deceived both me and court about their knowledge of the activities of Mr. Ranking's private investigator, Bill Van Allen. There is credible, strong evidence that Cassels Brock & Blackwell LLP and Lorne Silver deliberately and directly lied to me about his knowledge that Mr. Van Allen was in the employ of Mr. Ranking.
- 273.12.Fasken Martineau DuMoulin LLP's and Mr. Ranking's private investigator, Mr. Bill Van Allen, engaged in wrongdoing including the breaking of various Municipal, Provincial and Federal laws. Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver knew of this, and engaged in a cover-up as detailed in this section of my affidavit.
- 273.13.In submitting Mr. Van Allen's invoices to the court for costs determination, Fasken Martineau DuMoulin LLP and Gerald Ranking modified them to remove evidence of wrong-doing by Mr. Van Allen. (EXHIBIT Y)
- 273.14.Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver may, or may not, have notified the Law Society of Upper Canada as they should have upon becoming aware that there was a voice recording and other strong evidence and allegations of wrong-doing against Mr. Ranking and Mr. Silver.

273.15.Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver, may or may not, have notified their insurers as they should have upon becoming aware that there was a voice recording and other strong evidence and allegations of wrong-doing against Mr. Ranking and Mr. Silver.

274. Conviction for Contempt of Court based upon provably false evidence

- 275.On January 15, 2010 I was convicted by His Honour Justice Shaughnessy of Contempt of Court, and sentenced to three months in jail, a fine of \$7,500 and costs personally of \$72,875.40.
- 276.I verily believe that I was convicted by the Honourable Court based upon multiple instances of false evidence placed before the court. I need my new experienced civil lawyer to lay out all the false evidence before the court in a manner that is proper, but because I do not have a lawyer at this time, I will describe some of the instances of false evidence as best as I can. There are more instances that my new lawyer will lay out for the court, perhaps by submitting evidence and instructing me to submit a further affidavit. My new lawyer will also review this affidavit and assist me to lay out my information in a manner that is more effective and might have me submit a new affidavit that enhances this affidavit with a clearer version more acceptable to the court.
- 277.I have no experience, knowledge or training in conducting civil litigation, nor do I have any idea of the law, rules and normal procedures. I ask in advance the indulgence and forgiveness of the court that my submissions are unprofessional and incomplete and cannot possibly meet the standards of the court that lawyers are required to meet. Nonetheless, this affidavit is the truth as best as I can present it to the court.
- 278. I need a qualified lawyer to represent me, and am diligently trying to retain a lawyer, but am doing the best as I can on my own as ordered by the court. As detailed in other sections of my affidavit, I am having great difficulties in retaining a lawyer, and I believe (and have been told by a very few young lawyers) that this is because the quality and certainty of the evidence of my voice recordings makes many lawyers very uncomfortable.
- 279.I have attached digital voice recordings and other exhibits to corroborate my evidence in this affidavit, that shows that Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver placed false evidence before the court in writing and orally, and that I told the truth to the court in writing in

- my October 30, 2009 and my two December 1, 2009 letters sent to the court and to Ranking and Silver and all the lawyers.
- 280.My digital recordings and other exhibits show that the lawyers Gerald Ranking and Lorne Silver placed false evidence before the court that the court considered and used to convict me.
- 281. When the court accepted the false evidence of Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver and convicted me the court did not have in its possession the digital recordings that I now submit as evidence.
- 282. Further, when the court convicted me and accepted all the evidence proffered by Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver and their clients over the course of the entire Nelson Barbados litigation, the court did not have the perspective that it would have had if it had known that the lawyers, law firms and clients had submitted provably false evidence to the court. Had the court known about the false evidence and listened to the voice recordings, the court would have looked at all other evidence with greater concern, time and detail. The court may have questioned Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver and their clients about the veracity of all the evidence since 2007 instead of accepting it in the manner that it did.
- 283.Had the court known that Fasken Martineau DuMoulin LLP's and Gerald Ranking's purported Barbados-registered client "PricewaterhouseCoopers East Caribbean Firm" does not exist as a genuine legal registered entity, and never has, the court would have looked at all other evidence with greater concern, time and detail.
- 284.It is my belief that in submitting the false evidence that they did to the court that Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver took a chance that I did not record the November 17, 2009 telephone conversation with them. When they fabricated their false evidence for the court in a written 'Statement for the Record' and then on December 2, 2009 verbally confirmed their false version of events to the court and 'categorically' rejected my version as presented in my December 1, 2009 letters, it is my belief that Ranking and Silver and their law firms took a chance that I did not record the telephone conversation, or if I did, that the court would never hear my recording.
- 285.However, I did record the November 17, 2009 telephone conversation with Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and

- Lorne Silver using two different technologies. I submit those two recordings with this affidavit. (EXHIBITS K and L)
- 286.In the Court's "Reasons on Motion for Contempt" Justice Shaughnessy stated that "Mr. Ranking placed on the record of the examination a narrative of the conversation with Mr. Best, which is not disputed by counsel and which I accept as an accurate account." (EXHIBIT Z, Reasons on Motion for Contempt, page 4, in section [7])
- 287.I note that Justice Shaughnessy accepted Mr. Ranking's version and in doing so rejected my version as detailed in my December 1, 2009 letters to the court and the lawyers.
- 288.I am appalled that the various lawyers who were present for the November 17, 2009 phone call and then in court on December 2, 2009 and January 15, 2009 did not inform the court that the 'Statement for the Record' submitted as evidence by Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver was false. These lawyers kept their silence and they had to have known that the Statement for the Record was false.
- 289. Upon reading my December 1, 2009 letters these same lawyers present for the November 17, 2009 call and other lawyers in the case who had read my letters, the 'Statement for the Record' and had received a copy of the Van Allen affidavit would have to have been aware that Lorne Silver lied to me about the Private Investigator, and that Silver and Ranking had deceived the court when they rejected the version of events in my December 1, 2009 letters. These lawyers kept their silence.
- 290. These lawyers knew that the version of the conversation placed before the court by Silver and Ranking was false, incomplete and deceptive, yet when the court said upon my conviction: 'Mr. Ranking placed on the record of the examination a narrative of the conversation with Mr. Best, which is not disputed by counsel and which I accept as an accurate account', none of the lawyers disputed this.
- 291.A comparison with the 'Statement for the Record' submitted as evidence to the court by Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver, and the true account rendered by my digital voice recordings and the true transcript of the November 17, 2009 telephone conversation shows that the "Statement for the Record' is false, fabricated, not true, deceptive and contains outright lies and omissions designed to deceive the court.
- 292. The variance between the 'Statement for the Record' and the truth is of such frequency and strength that there can be no accident. As an example, Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and

- Lorne Silver informed the court in the 'Statement for the Record' that I had admitted to them that I received a copy of the court order dated November 2, 2009.
- 293. In fact, the digital voice recordings show that some sixteen times I denied receiving the court order, or asked for a copy of the court order to be sent to me and/or vehemently denied receiving the order. Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver cross-examined me on my denial that I had not received a copy of the court order, and in this way acknowledged that they clearly understood that I was saying that I had not received a copy of the court order. They refused to send me a copy, saying that they had already done so, amid my protestations that I had not received a copy. There was clear acknowledgement on their part that I was saying that I had not received a copy of the order.
- 294.After the conversation Fasken Martineau DuMoulin LLP, Gerald Ranking, Cassels Brock & Blackwell LLP and Lorne Silver then dictated their account 'Statement for the Record' of the conversation to a court reporter, wherein they falsely informed the court that I had admitted to them that I received a copy of the court order. This was a lie, as a comparison between their 'Statement for the Record' and the true voice recordings and transcript proves. Ranking and Silver lied to the court.

295.Intent to submit a further affidavit about the November 17, 2009 Call

- 296.I am composing this part of my affidavit at 4am on Monday, December 10, 2012 and I have run out of time. In this section I intended to list in an easy to reference chart containing what was really said during the recorded conversation about a specific issue, what Mr. Ranking and Mr. Silver placed into their 'Statement for the Record' about each issue, what I said in my December 1, 2009 letters about each issue, and what Mr. Ranking and Mr. Silver said in court on various dates in response to my allegations and facts contained in my December 1, 2009 letters.
- 297.My new lawyer will certainly advise and assist me in this regard. Further, my forensic audio experts will then have certified the recordings of the call, and I will be able to produce for evidence a final version of the transcript, that is not a draft.
- 298. However, for the time being, the Court and others can know that my account of the call is true and that Ranking's and Silver's version contains falsehoods and is deceitful and that they placed false evidence before the court. This is seen by 1/ Reading Mr. Ranking's and Mr. Silver's 'Statement for the Record', 2/ Listening to the call recordings while following my draft transcript. 3/ Reading the court transcript from December 2, 2009.

299.December 2, 2009 transcript

- 300. When reading the December 2, 2009 transcript of Mr. Ranking making submissions to the court, it is evident that Mr. Ranking's submissions to the court are in the context of speaking about my December 1, 2009 letters to Ranking and the Court.
- 301.Starting on page 4, line 32, Mr. Ranking states that my December 1, 2009 letters are defamatory to Ranking and Silver:
- 302. "Mr. Best at his will can write to counsel, can make frankly defamatory remarks about Mr. Silver and I to the court without any affidavit evidence, and yet hide away somewhere..."
- 303.Mr. Ranking calls my letters 'defamatory', in effect telling the Court that my December 1, 2009 letter and version of the telephone call is false, that I lied to the court in my letter.
- 304.In fact, my voice recordings show that Mr. Ranking's and Mr. Silver's version of the call is false. Mr. Ranking is defaming me, telling the Court that my version is false, making the court think that I am a liar. My version of the call in the December 1, 2009 letters is true as the voice recordings show.
- 305.In the court transcript of December 2, 2009 on page 41 at about line seven, Mr. Ranking talks about my December 1, 2009 letter to him and says that he speaks for Mr. Silver and Ms. Clarke in rejecting my version of events of the call of November 17, 2009. Ranking, Silver and Ms. Clarke are telling the court that I lied to the court in my December 1, 2009 letters:
- 306. "And I think what is important from this letter, and I should say both on behalf of Mr. Silver and myself and I think I also speak for Ms. Clarke, although she wasn't actually in the eyes of Mr. Best, so I actually never spoke to her about the accusations, but it goes without saying that we categorically reject Mr. Best's version of events that day."
- 307.I note on page 18 at about line 26, Mr. Ranking is talking about the private investigator that he retained, Bill Van Allen, and that the Van Allen affidavit is before the court. This is the same Bill Van Allen that was to be cross-examined on November 17, 2009 when Mr. Silver lied to me saying he had no idea who retained the private investigator even though Silver and Ranking and everyone there were entirely aware that Ranking hired the private investigator. It is right in the Van Allen affidavit that Ranking hired him and Ranking acknowledges this when making submissions to the court on page 19 at about line 7.

- 308. Fasken Martineau DuMoulin LLP and Gerald Ranking hired the Private Investigator Bill Van Allen. Lorne Silver knew that as Van Allen and Kwidzinski were to be cross-examined on the same day, November 17, 2009 and correspondence had flowed between the lawyers about this. Silver probably even had a copy of Bill Van Allen's affidavit and report when he lied to me and he would have received that from Fasken Martineau DuMoulin LLP and Gerald Ranking.
- 309. The case and business records and communications records flowing between the lawyers would show when the Van Allen and Kwidzinski reports, information and affidavits were distributed and what was said about cross-examining Van Allen and Kwidzinski. These records would show that Lorne Silver directly lied to me about this issued when he said he had "no idea" who hired the private investigator. Further, the records would also show that Ranking and Silver deceived the court on this issue.
- 310.I hope that all the involved law firms, lawyers and the private investigator preserved all their records as soon as they received my December 1, 2009 letters because I made strong allegations in those letters, and the voice recordings and other evidence prove that my letters are accurate and true.

Sworn before me at Town of Breaford west Cavillimbury in the Country of Simcon

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Donald Best

This /O day of December, 2012

MARIJANE RUTH PERRY, a Commissioner, etc., County of Simcoe, for W. ROY GORDON, Berrister and Solicitor. Expires October 15, 2014.

This is **Exhibit A**to the affidavit of Donald Best sworn December 10, 2012

MARIJANE RUTH PERRY, a Commissioner, etc., County of Simcoe, for W. ROY GORDON, Barrister and Solicitor. Expires Oclober 15, 2014.

FORM 15C

Courts of Justice Act NOTICE OF INTENTION TO ACT IN PERSON

(General heading)

I, DONALD BEST NOTICE OF INTENTION TO ACT IN PERSON BRIAN GREENSPAN The plaintiff (or as may be), formerly represented by (name) as lawyer of record, intends to act in person.	
(complete if filed by the lawyer of record) The plaintiff (or us a record on his/her behalf.	nay be) consents to the filing of this form by the lawyer of
Date DECEMBER 7, 2012	
DONALD BEST	DONALD DEST (print name of plaint(ff (or as may be))
(complete if filed by the lawyer of record) I (name of lawyer of record) confirm that I have explained the purpose of this form to (name of the plaintiff or as may be) and have confirmed his/her intention to act in person in place of me. The plaintiff (or as may be) signed this form at the time he/she consented to act in person.	
Dateby	Signed
	(print name of lawyer of record and Law Society or service and telephone number of party intending to act in
Person) TO (Name and address of former lawyer of record) AND TO (Names and addresses of lawyers for all other par	ties, or names and addresses of all other parties)
TO FORMER LAWYER: B	RIAN GREERANDINANI
-O OTHER LAWYERS: L	ORNE SILVER
	ERRY RANKING
	ILL MCKENZIE
TO TRIAL COORDINATO	
\mathcal{D}_{ℓ}	ECEMBER 7, 2012

Donald Best Ontario, Canada

December 7, 2012

Attn: Trial Coordinator Jackie Travis

Superior Court of Justice Court House Oshawa, Ontario

VIA FAX: 905-743-2652

RE: Nelson Barbados, Donald Best Contempt of Court case

Next court date: December 11, 2012 before Justice Shaughnessy

Dear Ms. Travis,

As per the order of His Honour Justice Shaughnessy I am submitting the Notice of Intention to Act in Person that was sent to me by Mr. Ranking on November 14, 2012.

I also attach the fax transmission receipt proving I sent copies to:

Gerald Ranking

Fasken Martineau Fax: 416-364-7813

Lorne Silver

Cassels Brock Lawyers Fax: 416-640-3018

Brian H. Greenspan

Greenspan Humphrey Lavine Fax: 416-868-1990

Bill McKenzie Orillia, Ontario

Yours truly,

Donald Best

Donald Best Ontario, Canada

December 7, 2012

To:

Gerald Ranking Fasken Martineau Fax: 416-364-7813

Lorne Silver Cassels Brock Lawyers Fax: 416-640-3018

Brian H. Greenspan Greenspan Humphrey Lavine Fax: 416·868·1990

Dear Sirs.

As per the order of His Honour Justice Shaughnessy I am submitting the Notice of Intention to Act in Person that was sent to me by Mr. Ranking on November 14, 2012.

Despite several requests I do not have a copy of the order signed by the court that flowed from the November 16, 2012 court date. If any of you have a signed order, please fax it to me. Justice Shaughnessy required me to submit this Notice of Intention before court on December 11, 2012 if I haven't found a lawyer yet, which I have not.

I am diligently searching for a lawyer but with Hanukkah and Christmas it is obvious that I will not be able to find, let alone brief and instruct a lawyer in December.

I propose that at the upcoming December 11, 2012 court date the matter be adjourned to February, 2013 so I can find a lawyer. The cross-examinations should be postponed until after I have a lawyer. That would only be fair.

Yours truly,

Donald Best

To Name:

Lorne Silver

To Number:

416-640-3018

Subject:

Attempt 1:

Date/Time:

12-8-2012 2:57:10 PM (GMT)

Pages:

2

Transmission Time:

01:18

Reason:

Successful Send

To Name:

Gerald Ranking

To Number:

416-364-7813

Subject:

Attempt 1:

Date/Time:

12-8-2012 2:57:10 PM (GMT)

Pages:

Transmission Time:

01:21

Reason:

Successful Send

To Name:

Brian H Greenspan

To Number:

416-868-1990

Subject:

Attempt 1:

Date/Time:

12-8-2012 2:57:10 PM (GMT)

Pages:

2

Transmission Time:

01:23

Reason:

Successful Send

To Name:

Trial Coordinator Jackie Travis

To Number:

905-743-2652

Subject:

Attempt 1:

Date/Time:

12-8-2012 4:55:34 PM (GMT)

Pages:

3

Transmission Time:

00:44

Reason:

Successful Send

This is **Exhibit B**to the affidavit of Donald Best sworn December 10, 2012

MARIJANE RUTH PERRY, a Commissioner, etc., County of Simcoe, for W. ROY GORDON, Barrister and Scicitor.

Expires October 15, 2014.

Court File No. 141-07

SUPERIOR COURT OF JUSTICE (Central East Region)

THE HONOURABLE JUSTICE SHAUGHNESSY

FRIDAY, the 16th DAY OF NOVEMBER, 2012

IN THE MATTER OF a Contempt Order issued against Donald Best On January 15, 2010, by the Honourable Justice Shaughnessy

NELSON BARBADOS GROUP LTD.

Applemit

-and-

RICHARD IVAN COX, et al.

les pondents

ORDER

THIS Application, made by counsel on behalf of the Applicant, Donald Best, for an Order setting aside the contempt order of January 15, 2010, was spoken to on November 16, 2012 at the Superior Court of Justice, Durham Region Courthouse, 150 Bond Street East, Oshawa, Ontario, by the Honourable Justice Shaughnessy.

UPON HIBARING, sybmissions from counsely by The Apphipment and for The Respondents kingstone Estates Limberly and like Natural Confess East Calibbean Figure,

- THIS COURT ORDERS that this Application is adjourned to December 11, 2012, at 9:30 a.m. to permit the Applicant to retain new counsel or alternatively to confirm that he has filed a Notice of Intention to Act in Person .
- AND THIS COURT ORDERS that Mr. Greenspan shall remain counsel of record until at least December 11, 2012, being the return date of this application.
- 3. AND THIS COURT ORDERS that Mr. Greenspan shall provide to Mr. Ranking and Mr. Silver the address of the residence at which Mr. Best is residing on or before noon on Monday, November 19, 2012. Mr. Ranking and Mr. Silver shall keep the address and telephone number confidential and will use the information for the beld purpose of conducting this present litigation.

Nov-28-12

bring any naturalization

- AND THIS COURT ORDERS that Mr. Best will promptly notify Messrs. Ranking and Silver of any change in his address or telephone number.
- 5. AND THIS COURT ORDERS that Messrs. Ranking and Silver on behalf of their respective clients may file Notices of Appearance without this step being viewed as an attornment to this jurisdiction. They may also on behalf of their clients, fit motions in relation to this proceeding without such step being considered a fresh step in the proceeding.
- AND THIS COURT ORDERS and directs that the order staying the execution of the warrant shall be amended to further provide that:
 - a. Mr. Best shall surrender his Canadian passport or any other passport to Mr. Brian Greenspan and Mr. Greenspan shall retain the passport until further Order of the Court. The passport is to be surrendered to Mr. Greenspan on or before Monday, November 19, 2012 at 12:00 noon; and
 - b. Mr. Best shall present himself at the Durham Regional Police Station, 77 Center Street, Oshawa, every 1st and 3rd Monday of the month to confirm his current address and telephone number.
- 7. AND THIS COURT ORDERS that the cross-examination of the Applicant on his affidavities set for January 11, 2013 has no like regular location and time.
- 8. AND THIS COURT ORDERS that this Application will be adjourned to January 25, 2012, at 9:30 a.m. to be spoken to in relation to setting a date for the hearing of the applications.
- 9. AND THIS COURT FURTHER ORDERS that costs are reserved to the hearing of the application.

The Honograble Mr. Justice Shaughnessy

Append as to form and butut, as enough this 22rd drag of Almand, 2012 w: Caseels, Brook; Blackrell, LLP pr: fellow W: Caseels, Brook; Blackrell, LLP pr: fellow LAW fees for knassland Estates berouted and LAW fees for knassland Estates berouted and as point for a. Randon, brooker Caribbean From Prie Worterborn Company East Caribbean From

This is **Exhibit C**to the affidavit of Donald Best sworn December 10, 2012

MARIJANE RUTH PERRY, a Commissioner, etc., County of Simoca, for W. ROY GORDON, Bantaler and Seasifor Expass Cotober 15, 2014. Sandra L. Secord

Neal Roth

John Anthony Caldwell

Melissa Miller

Frank FELKAI QC

James Lockyer

Giovanna Asaro

Michael F. Smith

Peter Rosenthal

Michael D. Richards

Mr. Michael T. Green

Vadim KATS

Robert ACKERMAN

Albert SOKOLSKY

William C. McDowell

William A. Brunton

Mark Baker

Robert L. Tapper Q.C.

Robert Brunet

William Gange

Bob Sokalski

Diana Lumba

Dave Hill

2756

James G. Edmond

Steve Cavanagh

Eugene Meehan

Maria Grande

Clayton Ruby (October)

Brian Shiller (October)

This is **Exhibit D**to the affidavit of Donald Best sworn December 10, 2012



MARIJANE RUTH PERRY, a Commissioner, etc., County of Sinace, for W. ROY GORDON, Bartisler and Scikcitor. Expires Octuber 15, 2014, Robert G.W. Lapper, Q.C

November 28, 2012

CEO,

Thomas G. Conway

Treasurer,

The Law Society of Upper Canada Osgoode Hall, 130 Queen Street West Toronto, Ontario M5H 2N6

CEO Fax: 416-947-5219

madamsky@lsuc.on.ca

Treasurer Fax: 416-947-7623

RE: Special circumstances involving LSUC members

Dear Sirs:

My name is Donald Best.

Several lawyers recommended that I contact the two of you at the Law Society of Upper Canada for assistance because the special circumstances of my case are deterring lawyers from representing me.

The difficulty I am experiencing in finding a lawyer stems from the fact that I have a voice recording of my telephone conversation with two Ontario lawyers that, according to several experienced and senior counsel, proves the lawyers advertently misled the Court both in writing and orally.

I was subsequently convicted of civil contempt in abstentia upon this (false) evidence created and submitted to the court by the two lawyers. In his reasons for my conviction, the judge specifically mentioned that he was relying upon the evidence of the two lawyers: their version of what was said in a phone call versus my version.

My voice recording proves the evidence upon which I was convicted of civil contempt was a fabrication by the two lawyers.

The case is an application by me, Donald Best, in Oshawa, Ontario to overturn a finding of contempt resulting from my failure to appear for one or more examinations in and out of court in a civil case costs hearing. On January 15, 2010, I was convicted and sentenced to three months in jail in absentia.

The case name is 'Nelson Barbados Group Limited v Cox et al', currently being heard in Oshawa by Justice J. B. Shaughnessy.

I am writing to you at the Law Society of Upper Canada because I have been unable to find an experienced civil lawyer willing to aggressively pursue my interests, who has no conflicts with some of the large law firms involved on the other side.

I want to highlight that this has turned out to be a strongly contested application by opposing lawyers who have in the past shown a propensity to be unduly aggressive towards opposing counsel as part of their tactics.

Please know that there is a good likelihood that a lawyer properly representing my interests will decide to bring a motion to remove existing lawyers from the record on the basis that their own evidence is going to be used in the application to show that they may have advertently misled the court on multiple issues, orally and in written submissions.

I have been advised by senior counsel that my supporting voice recordings and transcripts are probably admissible.

You will, of course, draw your own conclusions however I should advise you that two very senior lawyers (one civil, one criminal) have opined that the evidence shows that the lawyers advertently misled the Court. The voice recordings are very disturbing to those lawyers who have listened to them.

When the judge convicted me of contempt on January 15th he specifically relied upon a written 'Statement for the Record' created by lawyers Mr. Gerald Ranking and Lorne Silver, and specifically mentioned that in his 'Reasons' for my conviction. The judge accepted their (false) version of events, which I am able to show was false through a recording of my conversation with them. In short, I was framed with fabricated evidence and I can prove it.

Besides lying to me during the phone call, and then later lying to the court in writing and orally; when I informed Ranking and Silver that persons had been committing criminal offenses against my family and me and I asked for their assistance to discover the perpetrators, the lawyers said words to the effect that they 'didn't care', that my concerns were a 'non-issue' and that they 'wouldn't

help me even if they could'. They also said words that their clients didn't care either. (exact quotes are in my true transcript and voice recording)

When I wrote the judge and lawyers detailing that Ranking and Silver told me they 'didn't care' and 'wouldn't help me even if they could' the judge asked Ranking and Silver about my version of the telephone conversation.

Mr. Ranking and Mr. Silver told the judge on the court transcript that they categorically rejected my version of the conversation. My voice recording proves that my version is true, and that Ranking and Silver were thus again lying to the judge, this time orally on the record.

Lawyers as Witnesses

It is clear to me even as a layman that Mr. Silver and Mr. Ranking should not continue representing their clients where there is strong evidence that they are witnesses against me. After all, the court has not been told everything, and I wonder how much Mr. Silver's and Mr. Ranking's clients know about the recording and the evidence upon which I was found in contempt. Surely their clients did not instruct or encourage them to do what they did and the clients should find other lawyers?

Anonymous threats to witnesses from Miller Thomson LLP computers

There is also strong forensic evidence that a series of threatening and harassing anonymous emails to my witnesses originated from the computer systems of one of the involved large Toronto law firms (Miller Thomson), starting in at least 2004 and carrying on for many years. There is strong documentary evidence that the Miller Thomson law firm was provided with this evidence in writing in 2009 and 2010, yet the firm's lawyer, Mr. Andrew Roman, withheld the evidence from the judge during my case: all the while arguing that his client and firm were not involved.

As you can imagine this set of circumstances may lead to some push back by the judge who will presumably realize he does not look good having accepted unsworn written and oral statements from lawyers and then relied on those (false) statements to convict me. The same judge now has to decide whether those statements were false, and if false, were they deliberate or inadvertent.

This would be very awkward for any judge however this judge has gone so far as to tell these lawyers on the record and in the court transcripts that they are his 'heroes' so that may add complications.

The materials have already been filed with the Court and any lawyer representing me may decide to file additional documents after conferring with me.

There is a date to set a date scheduled for December 11, 2012. There is a cross examination of me set for January 11, 2013.

Before you recommend a lawyer for me, may I suggest that you search the following conflicts and including that the law firms involved do not refer work to your recommended lawyer. This is often a conflict that has been overlooked in past discussions with lawyers.

I need assurances that once I hire a law firm, they will aggressively 'go the distance' which may include an appeal.

Please reply to this email addr	ess:
or via Fax:	

Yours truly

Donald Best

Conflicts of Interest checks for:

Richard Cox

Kingsland Estates Limited

Price Waterhouse Coopers (Barbados)

Price Waterhouse Coopers East Caribbean Firm

Gerald Ranking, lawyer

Lorne Silver, lawyer

Andrew Roman, lawyer

Cassels Brock Blackwell law firm

Faskin Martineau law firm

Miller Thomson law firm

Overview

The basic story is that in 2007 my Ontario company Nelson Barbados Group Limited sued a number of people in Canada and Barbados and some of the Barbadians challenged jurisdiction and were successful, so it was just a matter of fixing the costs and paying them. The history was that my company had always paid assessed costs so I figured that was how it would end.

However, as a tactical move to separate me from my lawyer, the defendants said my lawyer had to pay costs personally (he never did) which meant he had to quit the case in about August 2009. From them on it was impossible for me to find a lawyer even though I interviewed many of them.

On October 30, 2009 I wrote to the judge and said as soon as the court fixes the costs they will be paid, that I couldn't find a lawyer and would not be appearing for the costs hearing scheduled for November 2, 2009.

The Barbadians play rough and had threatened my lawyer and some witnesses and then in late October 2009 they got to me and threatened my family. Then I was physically assaulted so I left the country with my family on November 11, 2009. I tried to get a lawyer after that and could not find one willing to take my case.

The Barbadians got an order to examine me which the judge signed on November 12, 2009 but backdated the order to November 2, 2009. This order was not sent to me until November 17, 2009 and I received it in New Zealand on November 25, 2009.

I had been keeping in touch with the trial coordinator by phone from time to time to find out how much had to be paid and when I called her November 16, 2009 from the South Pacific she told me I was supposed to be in an examination in Toronto on November 17, 2009, which I was not aware of. On November 17, 2009 I called the Toronto examination office, spoke to Ranking and Silver and informed them that I was willing to be cross-examined by phone even though I had not received a copy of the judge's order.

I recorded the phone call, and it turned out to be a good thing I did because Ranking and Silver lied to the court about what was said, and I was convicted of Civil Contempt of Court based upon their lies to the court.

My voice recording and my true transcript are in the documents I am sending to you. You and anyone can hear that I am telling the truth about what happened to me, and determine that Mr. Ranking and Mr. Silver lied to me and to the court.

During the November 17, 2009 phone call, instead of letting me be examined, the lawyers Silver and Ranking refused, hung up on me over my protestations, and then did up a 'Statement for the Record' which they dictated to a court reporter. This 'Statement for the Record' was then submitted to the court as evidence.

Their 'Statement for the Record' contained outright falsehoods and deceptions about multiple issues. The 'Statement for the Record' was a fabrication that placed false evidence before the court. The court then relied upon this 'Statement for the Record' to convict me of Contempt of Court. This reliance upon the 'Statement for the Record' as evidence used to convict me is clearly indicated in Justice Shaughnessy's January 15, 2010 'Reasons for Conviction'.

Besides lying to me during the phone call, and then later lying to the court in writing and orally; when I informed Ranking and Silver that persons had been committing criminal offenses against my family and me and I asked for their assistance to discover the perpetrators, the lawyers said words to the effect that they 'didn't care', that my concerns were a 'non-issue' and that they 'wouldn't help me even if they could'. They also said words that their clients didn't care either. (exact quotes are in my true transcript and voice recording)

This was frightening to me as this case has been characterized by criminal acts against my witnesses over the last ten years, including firebombing of homes with sleeping children, kidnapping at gunpoint, beatings, witnesses losing employment in retaliation for testifying, anonymous death threats over the internet, etc.

During the November 17, 2009 phone call Ranking and Silver kept saying there was a court order that I had to be there. I said, repeatedly, that I had not received the order, and they cross-examined me on my denials. Ranking and Silver were fully aware and acknowledged during our conversation that I was saying I had NOT received the judge's order. Now it turns out it would have been impossible for me to have received the court order since it had not been sent out to me until the day after the phone call!

The judge's order was first sent to me on November 18, 2009.

Sixteen times during our November 17, 2009 telephone conversation I told Ranking and Silver in no uncertain terms that I had NOT received the judge's

order and would they please send me a copy, etc. Sixteen times: the truth is there in the recording.

Then immediately after the call ended, Ranking and Silver created their 'Statement for the Record' as evidence wherein they said, even over the objection from one other lawyer, that I had said to them during the call that I had received the Judge's Order. That was a lie, and just one of their many lies in their 'Statement for the Record'.

There was a motion on December 2, 2009 to find me in contempt of the Judge's backdated 'November 2/12, 2009' Order and I wrote to Ranking, Silver, the judge and all the involved lawyers a letter dated December 1, 2009 to tell the truth about what happened during the November 17, 2009 call.

You will read in my December 1, 2009 letter that I accused Ranking and Silver of lying to the judge in their 'Statement for the Record'.

In the court transcript from December 2, 2009, the judge asked Ranking and Silver what the truth was. In effect the judge was asking Ranking and Silver; whose version should he believe, theirs or my version as detailed in my letter?

The lawyers not only said their 'Statement for the Record' was true but that my letter was a lie and defamatory. I have marked that statement for you in the court transcript from December 2, 2009. Here again Ranking and Silver are lying to the Court because their version in the 'Statement for the Record' is false. During the December 2, 2009 court appearance, Ranking and Silver doubled down on their lies orally, when offered a chance to correct the court record.

In saying what they did to the court on December 2, 2009, Ranking and Silver took a chance that I didn't make a recording of the November 17, 2009 phone conversation. But I did make a recording and they are proven to have lied to the court; first in writing and then orally when confronted about their written submissions.

When the judge convicted me of civil contempt on January 15th he specifically relied on Ranking and Silver's 'Statement for the Record' and specifically mentioned that in his 'Reasons' for my conviction. The judge accepted their (false) version of events. Apparently my December 1, 2009 letter made the judge feel I was a liar because Ranking and Silver in effect said I was lying to the court in my December 1, 2009 letter.

via fax

Robert G.W. Lapper, Q.C

November 30, 2012

CEO,

Thomas G. Conway

Treasurer,

The Law Society of Upper Canada Osgoode Hall, 130 Queen Street West Toronto, Ontario M5H 2N6

CEO Fax: 416-947-5219 email: madamsky@lsuc.on.ca

Treasurer Fax: 416-947-7623

RE: Special circumstances involving LSUC members

- 1. I am not making a complaint.
- 2. I am seeking LSUC's assistance in finding a qualified, experienced lawyer to represent me, as dozens of lawyers have turned me down.
- 3. I am running out of time to find a lawyer, and the Law Society of Upper Canada referral service will only provide me with the names of three malpractice lawyers per day!

Dear Sirs:

Perhaps my November 28 communication was misunderstood. I received a short email from Mr. Lapper's Executive Assistant, Mirka Adamsky-Rackova, that indicated my letter had been forwarded to your Director of Professional Regulation, who is in charge of complaints against lawyers according to your website.

I am not making a complaint (as the case is before the court) so the referral to your Director of Professional Regulation seems out of place.

I am seeking the assistance of the Law Society of Upper Canada to find an experienced civil lawyer who is willing to aggressively pursue my interests, who

has no conflicts with some of the large law firms and Pricewaterhouse Coopers involved on the other side.

So far I have been turned down by several dozen lawyers for various reasons and I am getting quite desperate because the judge has declared that I must have a lawyer or act for myself on December 11, 2012. I don't view that as fair as I really don't know anything about litigation or the rules that govern the civil courts and am in no way qualified to defend myself in any situation, let alone one where I have been sentenced to three months in jail.

After spending 18 months with my previous senior lawyer and paying him over \$60,000 of borrowed money, at the last minute he told the court and me that he lacks the civil law skill set to face off against Mr. Silver and Mr. Ranking. I wish he had said that in June of 2011 when he said he could 'handle' them. It is in no way my fault that I now find myself without a lawyer.

If a primarily criminal lawyer with over 35 years of practice does not feel qualified to act for me in this civil contempt case, how can I possibly act for myself?

Some of the lawyers I approached who expressed an interest in my case have refused because they too lack the experience and skills, even though they expressed sympathy and the opinion that the facts of my case and my voice recordings are "troubling" and "disturbing".

Many of the lawyers indicate they are not interested without further explanation, or they declared a conflict of interest with the large law firms and Pricewaterhouse Coopers accounting firm on the other side.

Some of the junior and senior lawyers I have spoken with were very forthright and told me that they cannot go against the big law firms because they receive work from them. Some have told me they work daily in the same professional or personal circles as the lawyers and firms who oppose me, and they cannot in these circumstances bring evidence or a motion that would harm the careers of the other lawyers.

One very senior civil lawyer told me "All lawyers lie. Live with it. Get over it." Obviously I did not retain this man.

I am getting rather desperate because no experienced civil lawyer appears ready to take my case and I have approached dozens.

LSUC Referral Service

I have been calling your referral service to ask for Civil Lawyers who are experienced in civil matters and also are willing to take matters involving malpractice of other lawyers.

On Friday, November 30, 2012, the LSUC representative took my name and offered me a free consultation with one lawyer and I accepted. Then they provided me with a name that I had been provided with several days before but who had not returned my calls.

When I explained this, the LSUC representative said that a referral lawyer had up to four days to return my call.

I then asked for another three names of civil lawyers in Markham who were willing to do malpractice law against other lawyers and she said there were only three lawyers in Markham/North Toronto on this list, and in any event she was not able to provide me with another three names today because I was only allowed three names a day. Further, she said that the computer was set up so that she could not provide more than three names a day to people calling in for referrals or, in the alternative, only one consultation/referral per case.

I said that I would take the three names and she said I would then have to call back on Monday for those names or cancel the 'free consultation/referral'. I then said to cancel the 'free consultation/referral' so I could have three names as I would pay them for their consultation myself.

She then cancelled the 'free consultation/referral' and provided me with 3 names of civil / malpractice lawyers in Toronto, but would not provide me with any additional names until Monday, even though it was only 9am in the morning.

I am running out of time to find a lawyer, and the Law Society of Upper Canada referral service will only provide me with the names of three lawyers per day! I do not understand this refusal of the Law Society of Upper Canada to simply provide me with the list of experienced civil lawyers who are willing to engage in malpractice lawsuits against other lawyers. This policy slows and hinders my search for a lawyer, and does not benefit me or the public in any way that I can imagine.

I don't understand why the Law Society of Upper Canada does not publish a list of experienced civil lawyers who also are willing to take matters involving malpractice of other lawyers. I have been contacting lawyers from your 'Certified Specialists in Civil Litigation' list on the internet, but it is obvious to me that people are reluctant to involve themselves due to the nature of my evidence.

2768

The voice recording that I made when compared to Mr. Ranking and Mr. Silver's version of events really speaks for itself. Any jury would understand the voice recordings and how I was convicted upon false evidence.

Surely there is an experienced civil lawyer within a 200 km radius of Toronto who is willing to represent me even if it means presenting evidence and filing motions that might be detrimental to the careers of the opposing lawyers?

Will the Law Society of Upper Canada assist me to find an experienced lawyer who is willing to represent me?

I really am getting desperate.

Thank you,

Donald Best

This is **Exhibit E**to the affidavit of Donald Best sworn December 10, 2012

MARIJANE RUTH PERRY, a Commissioner, etc., County of Strader, for W. ROY GORDON, Banister and La lader Expites October 15, 2014. Your Request for Assistance
From LawRefer <LawRefer@lsuc.on.ca>
To (Donald Best)
Sent Wednesday, December 5, 2012 at 10:45 AM

Dear Mr. Best,

Your correspondence of November 28, 2012 was forwarded to our office.

The Law Society of Upper Canada is the regulatory body for the legal profession in the Province of Ontario and we are not able to offer legal advice to the public.

Residents of Ontario can call the Law Society Lawyer Referral Service (LSRS) at 416-947-3330 or 1-800-268-8326 (toll free within Ontario) to speak with a legal information officer. You may be entitled to a consultation of up to thirty minutes free with a lawyer or paralegal either on the phone or in person. If you decide to retain this lawyer or paralegal after the consultation, the lawyer or paralegal's normal fees and disbursements would apply.

Our office is opened Monday to Friday from 9:00 am to 5:00 pm.

Additional information about the service and our new online service is available on the following web page:

http://www.lsuc.on.ca/faq.aspx?id=2147486372

Sincerely,

The Law Society of Upper Canada

This is **Exhibit F**to the affidavit of Donald Best sworn December 10, 2012

MARIJANE RUTH PERRY, a Commissioner, etc., Bornedd Part Schoor, Programmissioner, etc., Explies Coloner 15, 2014.

Via fax and email: 416-599-8341

LawPRO
Lawyers' Professional Indemnity Company
250 Yonge Street, Suite 3101
P.O. Box 3
Toronto, ON M5B 2L7
B: (416) 598-5800

F: 416-599-8341

Attn:

Kathleen Waters
President & CEO
Kathleen.Waters@lawpro.ca

Duncan Gosnell
Executive Vice President and Secretary
Duncan.Gosnell@lawpro.ca

Ray Leclair
Vice President, Public Affairs
Ray.Leclair@lawpro.ca

RE: Special circumstances involving LSUC members

Dear Ms. Waters, Mr. Gosnell and Mr. Leclair:

My name is Donald Best.

I am contacting you at LawPRO for assistance because the special circumstances of my case are deterring lawyers from representing me.

I understand from the internet that LawPRO knows about many specialist lawyers who have experience in handling 'difficult' cases for the legal profession. I'm hoping that you can provide the names of a few lawyers who might consider taking me as a client.

The difficulty I am experiencing in finding a lawyer stems from the fact that I have a voice recording of my telephone conversation with two Ontario lawyers that, according to several experienced and senior counsel, proves the lawyers advertently misled the Court both in writing and orally.

I was subsequently convicted of civil contempt in abstentia upon this (false) evidence created and submitted to the court by the two lawyers. In his reasons for my conviction, the judge specifically mentioned that he was relying upon the evidence of the two lawyers: their version of what was said in a phone call versus my version.

My voice recording proves the evidence upon which I was convicted of civil contempt was a fabrication by the two lawyers, Mr. Gerald Ranking, and Mr. Lorne Silver.

I do not understand how these lawyers can continue to represent their clients at my trial when I have a recording of them that proves they put false evidence before the court. I don't know if their clients have knowledge of the false evidence or if the clients were in any way involved in that activity, but I intend that my new lawyer would explore that during the trial, cross-examination etc.

After spending 18 months with my previous senior criminal lawyer and paying him over \$60,000 of borrowed money, at the last minute last month he told the court and me that he lacks the civil law skill set to face off against experienced civil lawyers in a complex civil case. I wish he had said that in June of 2011 when he said he could 'handle' them. It is in no way my fault that I now find myself without a lawyer.

In the past month I have been turned down by several dozen lawyers for various reasons and I am getting quite desperate because the judge has declared that I must have a lawyer or act for myself on December 11, 2012.

If a primarily criminal lawyer with over 35 years of practice does not feel qualified to act for me in this civil contempt case, how can I possibly act for myself?

Some of the lawyers I approached who expressed an interest in my case have refused because they too lack the experience and skills, even though they expressed sympathy and the opinion that the facts of my case and my voice recordings are "troubling" and "disturbing".

Many of the lawyers indicate they are not interested without further explanation, or they declared a conflict of interest with the large law firms and Pricewaterhouse Coopers accounting firm on the other side.

Some of the junior and senior lawyers I have spoken with were very forthright and told me that they cannot go against the big law firms because they receive work from them. Some have told me they work daily in the same professional or personal circles as the lawyers and firms who oppose me, and they cannot in

Donald Best to LawPRO 2 of 8

these circumstances bring evidence or a motion that would harm the careers of the other lawyers.

One very senior civil lawyer told me "All lawyers lie. Live with it. Get over it." Obviously I did not retain this man.

I am getting rather desperate because no experienced civil lawyer appears ready to take my case and I have approached dozens.

Background

The case is an application by me, Donald Best, in Oshawa, Ontario to overturn a finding of contempt resulting from my failure to appear for one or more examinations in and out of court in a civil case costs hearing. On January 15, 2010, I was convicted and sentenced to three months in jail in absentia.

The case name is 'Nelson Barbados Group Limited v Cox et al', currently being heard in Oshawa by Justice J. B. Shaughnessy.

I am writing to you at LawPRO because I have been unable to find an experienced civil lawyer willing to aggressively pursue my interests, who has no conflicts with some of the large law firms involved on the other side.

I want to highlight that this has turned out to be a strongly contested application by opposing lawyers who have in the past shown a propensity to be unduly aggressive towards opposing counsel as part of their tactics. These are the same lawyers who lied to the court.

I do not understand how these lawyers can still represent their clients when I have a recording of them that proves they put false evidence before the court. I accused them of this in writing in December of 2009 but they still continue to act as lawyers in the case.

Please know that there is a good likelihood that a lawyer properly representing my interests will decide to bring a motion to remove existing lawyers from the record on the basis that their own evidence is going to be used in the application to show that they may have advertently misled the court on multiple issues, orally and in written submissions.

I have been advised by senior counsel that my supporting voice recordings and transcripts are probably admissible.

You will, of course, draw your own conclusions however I should advise you that two very senior lawyers (one civil, one criminal) have opined that the evidence

shows that the lawyers advertently misled the Court. The voice recordings are very disturbing to those lawyers who have listened to them.

When the judge convicted me of contempt on January 15th he specifically relied upon a written 'Statement for the Record' created by lawyers Mr. Gerald Ranking and Lorne Silver, and specifically mentioned that in his 'Reasons' for my conviction. The judge accepted their (false) version of events, which I am able to show was false through a recording of my conversation with them. In short, I was framed with fabricated evidence and I can prove it.

Besides lying to me during the phone call, and then later lying to the court in writing and orally; when I informed Ranking and Silver that persons had been committing criminal offenses against my family and me and I asked for their assistance to discover the perpetrators, the lawyers said words to the effect that they 'didn't care', that my concerns were a 'non-issue' and that they 'wouldn't help me even if they could'. They also said words that their clients didn't care either. (exact quotes are in my true transcript and voice recording)

When I wrote the judge and lawyers detailing that Ranking and Silver told me they 'didn't care' and 'wouldn't help me even if they could' the judge asked Ranking and Silver about my version of the telephone conversation.

Mr. Ranking and Mr. Silver told the judge on the court transcript that they categorically rejected my version of the conversation. My voice recording proves that my version is true, and that Ranking and Silver were thus again lying to the judge, this time orally on the record.

Lawyers as Witnesses

It is clear to me even as a layman that Mr. Silver and Mr. Ranking should not continue representing their clients where there is strong evidence that they are witnesses against me. After all, the court has not been told everything, and I wonder how much Mr. Silver's and Mr. Ranking's clients know about the recording and the evidence upon which I was found in contempt. Surely their clients did not instruct or encourage them to do what they did and the clients should find other lawyers?

Anonymous threats to witnesses from Miller Thomson LLP computers

There is also strong forensic evidence that a series of threatening and harassing anonymous emails to my witnesses originated from the computer systems of one of the involved large Toronto law firms (Miller Thomson), starting in at least 2004 and carrying on for many years. There is strong documentary evidence that the Miller Thomson law firm was provided with this evidence in writing in 2009 and

Donald Best to LawPRO

2010, yet the firm's lawyer, Mr. Andrew Roman, withheld the evidence from the judge during my case: all the while arguing that his client and firm were not involved.

As you can imagine this set of circumstances may lead to some push back by the judge who will presumably realize he does not look good having accepted unsworn written and oral statements from lawyers and then relied on those (false) statements to convict me. The same judge now has to decide whether those statements were false, and if false, were they deliberate or inadvertent.

This would be very awkward for any judge however this judge has gone so far as to tell these lawyers on the record and in the court transcripts that they are his 'heroes' so that may add complications.

The materials have already been filed with the Court and any lawyer representing me may decide to file additional documents after conferring with me.

There is a date to set a date scheduled for December 11, 2012. There is a cross examination of me set for January 11, 2013.

Before you recommend a lawyer for me, may I suggest that you search the following conflicts and including that the law firms involved do not refer work to your recommended lawyer. This is often a conflict that has been overlooked in past discussions with lawyers.

I need assurances that once I hire a law firm, they will aggressively 'go the distance' which may include an appeal.

Please reply to this email address:

Yours truly Donald Best

Conflicts of Interest checks for:

Richard Cox
Kingsland Estates Limited
Price Waterhouse Coopers (Barbados)
Price Waterhouse Coopers East Caribbean Firm Gerald Ranking, lawyer
Lorne Silver, lawyer
Andrew Roman, lawyer
Cassels Brock Blackwell law firm
Faskin Martineau law firm

Miller Thomson law firm

Overview

The basic story is that in 2007 my Ontario company Nelson Barbados Group Limited sued a number of people in Canada and Barbados and some of the Barbadians challenged jurisdiction and were successful, so it was just a matter of fixing the costs and paying them. The history was that my company had always paid assessed costs so I figured that was how it would end.

However, as a tactical move to separate me from my lawyer, the defendants said my lawyer had to pay costs personally (he never did) which meant he had to quit the case in about August 2009. From them on it was impossible for me to find a lawyer even though I interviewed many of them.

On October 30, 2009 I wrote to the judge and said as soon as the court fixes the costs they will be paid, that I couldn't find a lawyer and would not be appearing for the costs hearing scheduled for November 2, 2009.

The Barbadians play rough and had threatened my lawyer and some witnesses and then in late October 2009 they got to me and threatened my family. Then I was physically assaulted so I left the country with my family on November 11, 2009. I tried to get a lawyer after that and could not find one willing to take my case.

The Barbadians got an order to examine me which the judge signed on November 12, 2009 but backdated the order to November 2, 2009. This order was not sent to me until November 17, 2009 and I received it in New Zealand on November 25, 2009.

I had been keeping in touch with the trial coordinator by phone from time to time to find out how much had to be paid and when I called her November 16, 2009 from the South Pacific she told me I was supposed to be in an examination in Toronto on November 17, 2009, which I was not aware of. On November 17, 2009 I called the Toronto examination office, spoke to Ranking and Silver and informed them that I was willing to be cross-examined by phone even though I had not received a copy of the judge's order.

I recorded the phone call, and it turned out to be a good thing I did because Ranking and Silver lied to the court about what was said, and I was convicted of Civil Contempt of Court based upon their lies to the court.

My voice recording and my true transcript are in the documents I am sending to you. You and anyone can hear that I am telling the truth about what happened to me, and determine that Mr. Ranking and Mr. Silver lied to me and to the court.

During the November 17, 2009 phone call, instead of letting me be examined, the lawyers Silver and Ranking refused, hung up on me over my protestations, and then did up a 'Statement for the Record' which they dictated to a court reporter. This 'Statement for the Record' was then submitted to the court as evidence.

Their 'Statement for the Record' contained outright falsehoods and deceptions about multiple issues. The 'Statement for the Record' was a fabrication that placed false evidence before the court. The court then relied upon this 'Statement for the Record' to convict me of Contempt of Court. This reliance upon the 'Statement for the Record' as evidence used to convict me is clearly indicated in Justice Shaughnessy's January 15, 2010 'Reasons for Conviction'.

Besides lying to me during the phone call, and then later lying to the court in writing and orally; when I informed Ranking and Silver that persons had been committing criminal offenses against my family and me and I asked for their assistance to discover the perpetrators, the lawyers said words to the effect that they 'didn't care', that my concerns were a 'non-issue' and that they 'wouldn't help me even if they could'. They also said words that their clients didn't care either. (exact quotes are in my true transcript and voice recording)

This was frightening to me as this case has been characterized by criminal acts against my witnesses over the last ten years, including firebombing of homes with sleeping children, kidnapping at gunpoint, beatings, witnesses losing employment in retaliation for testifying, anonymous death threats over the internet, etc.

During the November 17, 2009 phone call Ranking and Silver kept saying there was a court order that I had to be there. I said, repeatedly, that I had not received the order, and they cross-examined me on my denials. Ranking and Silver were fully aware and acknowledged during our conversation that I was saying I had NOT received the judge's order. Now it turns out it would have been impossible for me to have received the court order since it had not been sent out to me until the day after the phone call!

The judge's order was first sent to me on November 18, 2009.

Sixteen times during our November 17, 2009 telephone conversation I told Ranking and Silver in no uncertain terms that I had NOT received the judge's order and would they please send me a copy, etc. Sixteen times: the truth is there in the recording.

Then immediately after the call ended, Ranking and Silver created their 'Statement for the Record' as evidence wherein they said, even over the objection from one other lawyer, that I had said to them during the call that I had

received the Judge's Order. That was a lie, and just one of their many lies in their 'Statement for the Record'.

There was a motion on December 2, 2009 to find me in contempt of the Judge's backdated 'November 2/12, 2009' Order and I wrote to Ranking, Silver, the judge and all the involved lawyers a letter dated December 1, 2009 to tell the truth about what happened during the November 17, 2009 call.

You will read in my December 1, 2009 letter that I accused Ranking and Silver of lying to the judge in their 'Statement for the Record'.

In the court transcript from December 2, 2009, the judge asked Ranking and Silver what the truth was. In effect the judge was asking Ranking and Silver; whose version should he believe, theirs or my version as detailed in my letter?

The lawyers not only said their 'Statement for the Record' was true but that my letter was a lie and defamatory. I have marked that statement for you in the court transcript from December 2, 2009. Here again Ranking and Silver are lying to the Court because their version in the 'Statement for the Record' is false. During the December 2, 2009 court appearance, Ranking and Silver doubled down on their lies orally, when offered a chance to correct the court record.

In saying what they did to the court on December 2, 2009, Ranking and Silver took a chance that I didn't make a recording of the November 17, 2009 phone conversation. But I did make a recording and they are proven to have lied to the court; first in writing and then orally when confronted about their written submissions.

When the judge convicted me of civil contempt on January 15th he specifically relied on Ranking and Silver's 'Statement for the Record' and specifically mentioned that in his 'Reasons' for my conviction. The judge accepted their (false) version of events. Apparently my December 1, 2009 letter made the judge feel I was a liar because Ranking and Silver in effect said I was lying to the court in my December 1, 2009 letter.

Donald Best to LawPRO 8 of 8

This is **Exhibit G**to the affidavit of Donald Best sworn December 10, 2012

MARIJANE RUTH PERRY, a Commissioner, etc., Count - Connobe, for W. ROY GORDON, Balling a - Deachar, Engles Outober 15, 2014. Dear Mr. Donald Best:

Thank you for your fax/email this afternoon requesting names of legal counsel whom we believe would be well qualified to represent you in on-going proceedings.

While LAWPRO actively encourages representation in legal proceedings, given the nature of LAWPRO's role as insurer of Ontario lawyers, it regretfully is not in a position to make recommendations of counsel to parties whom it does not insure.

More appropriately, the Law Society of Upper Canada provides guidance to the public in regard to finding a lawyer, and as part of this, offers a Lawyer Referal Service and a Lawyer & Paralegal Directory. Details are available on the Law Society's website at www.lsuc.on.ca

For details regarding the Law Society Referral Service see: http://www.lsuc.on.ca/faq.aspx?id=2147486372

For the Lawyer & Paralegal Directory see: http://www1.lsuc.on.ca/

LawyerParalegalDirectory/index.jsp

For a Directory of Certified Specialists see: http://www1.lsuc.on.ca/specialist/jsp/directory1.isp

Further details are available from the Law Society Client Service Centre at:

Toll-free: 1-800-668-7380 ext. 3315

General line: 416-947-3315

Given particular comments in your correspondence, you may also wish to consider speaking with a Law Society representative to determine whether a complaint against one or more lawyers may (or may not) be appropriate in the circumstances you have described.

Regretfully, this is the extent of assistance that LAWPRO is able to provide to you in regard to this matter.

Yours truly,

Duncan Gosnell
Exec. Vice-President & Secretary
Lawyers' Professional Indemnity Company (LAWPRO®)
250 Yonge Street, Suite 3101, P.O. Box 3
Toronto. Ontario M5B 2L7

Tel: 416-598-5804 or 1-800-410-1013 Fax: 416-599-8341 or 1-800-286-7639

Follow <u>@LAWPRO</u> & <u>@practicePRO</u> on Twitter Follow LAWPRO on LinkedIn

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This is Exhibit H

to the affidavit of Donald Best

sworn December 10, 2012



MARILANT, RUTH PERRY, a Commissioner, etc., Cell of the peet for W. ROY GORDON, Burkley on School Expensional Concept 15, 2014.

www.fasken.com

Fazern Detineau DuMoulin LLP Barristers and Solicitors Patent and Trade-mark Agents

333 Bay Street, Suite 2400 Bay Adelaide Centre, Box 20 Toronto, Ontario, Canada MSH 2T6 FASKEN (O)
MARTINEAU

416 366 8381 Telephone 416 364 7813 Facsimile 1 800 268 8424 Toll free

FACSIMILE COVER SHEET

FACSIMILE CO	ver sheet	υ	Date: November 14, 2012	
то	Firm and City	Telephonc	Facsimile	
Donald Best	Ontario, Canada			
FROM		Telephane	Facsimile	
Gerald L.R. Ranking granking@fasken.com		416 865 4419	416 364 7813	
Pages (including cover):	8	Sender's ID/File:	11790/211200.00002	
	or unclear, please call 416 865 t at the same fax number, ple		recipients.	
·	Filed Mailed	Hand Delivered	Couriered	

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Vancouver Calgary Toronto Ottawa Montréal Québec City London Paris Johannesburg

Fasken Martineau DuMoulin LLP Barristers and Solicitors Patent and Trade-mark Agents

333 Bay Street, Suite 2400 Bay Adolaide Centre, Box 20 Toronto, Ontario, Canada M5H 2T6

416 366 8381 Telephone 416 364 7813 Facsimile 1 800 268 8424 Toll free



Gerald L.R. Ranking Direct 416 865 4419 granking@fasken.com

November 14, 2012 File No: 211200.00002

VIA FACSIMILE

Mr. Donald Best Ontario, Canada

Dear Mr. Best:

Re: Nelson Barbados v. Ivan Cox et al

Donald Best - Contempt Order of January 15, 2010

I acknowledge your letter dated November 13th sent by fax earlier this morning.

You are responsible for the position in which you now find yourself. You took many months to retain Mr. Greenspan. Mr. Greenspan, on your behalf, secured an order (dated August 9, 2012) staying execution of the arrest warrant. We then, in good faith, began communicating with Mr. Greenspan and then Mr. Davis. Within weeks, we learn that they are no longer representing you. You have thus secured, without notice, a stay of your arrest and you now suggest that we wait 3 months for you to select new counsel, without so much as an explanation or an attendance before Justice Shaughnessy.

Equally, you have failed to comply with your obligations under Rule 15.03(3) of the Rules of Civil Procedure to deliver a Notice of Intention to Act in Person. We remain in the dark as to your current whereabouts. We do not have an address or a telephone number. And most importantly, you have, as per your past practice, failed to be forthright. We expect you to deliver a Notice of Intention to Act in Person immediately. A copy of Rule 15 and Form 15C is attached. I have also written to Mr. Greenspan (copying Mr. Davis). A copy of that letter is attached as well.

Your conduct is unacceptable and my well amount to a further abuse of the court process. PricewaterhouseCoopers LLP ("PwC") is understandably concerned. PwC objects, in the strongest of terms, to any adjournment, without the strictest of terms. It expects you to be present in court on November 16th to fully explain your conduct. At that time, and depending upon your submissions, PwC may be prepared to extend an indulgence to

Vancouver Calgary Toronto Dittawa Montrési Québec City Landon Paris Johannesburg



Page 2

permit you to engage counsel and to agree to a schedule to present yourself for cross-examination, as previously discussed with Mr. Greenspan.

If you fail to attend, or if you fail to fully explain your conduct to the satisfaction of Justice Shaughnessy, I have instructions to make submissions, on reasonable notice, to remove the stay and to seek your incarceration. I would also expect to receive instructions to bring a further motion for contempt based on your most recent conduct.

Yours very truly,

Gerald L.R. Ranking

GLRR/jo Encls.

c.c.:

Justice Shaughnessy c/o Jackie Traviss

Brian Greenspan Milt Davis Lome Silver

FORM 15C

Courts of Justice Act

NOTICE OF INTENTION TO ACT IN PERSON

(General heading)

NOTICE OF INTENTION TO ACT IN PERSON

The plaintiff (or as mo	ny be), formerly represented by (name) as lawyer of record, intends to act in person.	
(complete if filed by record on his/her beha	he lawyer of record) The plaintiff (or as may be) consents to the filing of this form by the lawyer of if.	
	Signed	
	(print name of plainiff (or as may be))	
(complete if filed by the to (name of the plaint as may be) signed this	the lawyer of record) I (name of lawyer of record) confirm that I have explained the purpose of this form iff or as may be) and have confirmed his/her intention to act in person in place of me. The plaintiff (or form at the time he/she consented to act in person.	
	Signed	
registration number)	(print name of lawyer of record and Law Society	
(Date)	(Name, oddress for service and telephone number of party intending to act in person)	
TO (Name	(Name and address of former lawyer of record)	
AND TO (Names	and addresses of lawyers for all other parties, or names and addresses of all other parties)	
	RCP-E 15C (July 1, 2007)	

RULE 15 REPRESENTATION BY LAWYER

WHERE LAWYER IS REQUIRED

- 15.01 (1) A party to a proceeding who is under disability or acts in a representative capacity shall be represented by a lawyer. R.R.O. 1990, Reg. 194, r. 15.01 (1); O. Reg. 575/07, s. 1.
- (2) A party to a proceeding that is a corporation shall be represented by a lawyer, except with leave of the court. R.R.O. 1990, Reg. 194, r. 15.01 (2); O. Reg. 575/07, s. 1.
- (3) Any other party to a proceeding may act in person or be represented by a lawyer. R.R.O. 1990, Reg. 194, r. 15.01 (3); O. Reg. 575/07, s. 1.

NOTICE OF AUTHORITY TO COMMENCE PROCEEDING

Request for Notice by Lawyer

15.02 (1) A person who is served with an originating process may deliver a request that the lawyer who is named in the originating process as the lawyer for the plaintiff or applicant deliver a notice declaring whether he or she commenced or authorized the commencement of the proceeding or whether his or her client authorized the commencement of the proceeding. O. Reg. 427/01, s. 9; O. Reg. 575/07, s. 1.

Power of Court

- (2) If the lawyer fails to deliver a notice in accordance with the request, the court may,
- (a) order the lawyer to do so;
- (b) stay the proceeding; and
- (c) order the lawyer to pay the costs of the proceeding. O. Reg. 427/01, s. 9; O. Reg. 575/07, s. 1.

Proceeding Commenced without Lawyer's Authority

(3) If the lawyer declares that he or she did not commence or authorize the commencement of the proceeding, the court may, on motion without notice, stay or dismiss the proceeding. O. Reg. 427/01, s. 9; O. Reg. 575/07, s. 1.

Proceeding Commenced without Client's Authority

(4) If a lawyer has commenced a proceeding without the authority of his or her client, the court may, on motion, stay or dismiss the proceeding and order the lawyer to pay the costs of the proceeding. O. Reg. 427/01, s. 9; O. Reg. 575/07, s. 1.

Effect of Stay

(5) If a proceeding is stayed under this rule, no further step may be taken without leave of the court. O. Reg. 427/01, s. 9.

CHANGE IN REPRESENTATION BY PARTY

Notice of Change of Lawyer

15.03 (1) A party who has a lawyer of record may change the lawyer of record by serving on the lawyer and every other party and filing, with proof of service, a notice of change of lawyer (Form 15A) giving the name, address and telephone number of the new lawyer. O. Reg. 575/07, s. 12.

Notice of Appointment of Lawyer

(2) A party acting in person may appoint a lawyer of record by serving on every other party and filing, with proof of service, a notice of appointment of lawyer (Form 15B) giving the name, address and telephone number of the lawyer of record. O. Reg. 575/07, s. 12.

Notice of Intention to Act in Person

(3) Subject to subrule 15.01 (1) or (2), a party who has a lawyer of record may elect to act in person by serving on the lawyer and every other party and filing, with proof of service, a notice of intention to act in person (Form 15C) that sets out the party's address for service and telephone number. O. Reg. 575/07, s. 12.

Claim for Lawyer's Lien

- (4) A party may move, on notice to the party's former lawyer of record, for an order determining whether and to what extent the lawyer has a right to a lawyer's lien. O. Reg. 575/07, s. 12.
- (5) In the order, the court may impose such terms as are just in connection with the lien and its discharge. O. Reg. 377/95, s. 3.

MOTION BY LAWYER FOR REMOVAL AS LAWYER OF RECORD

Client to be Served

- 15.04 (1) A lawyer may move, on notice to his or her client, for an order removing him or her as lawyer of record. O. Reg. 575/07, s. 13 (1).
- (2) Service of a notice of motion for the removal of a lawyer from the record and service of the order shall be made on the client,
 - (a) personally or by an alternative to personal service under rule 16.03; or
 - (b) by mailing a copy to the client at,
 - (i) the client's last known address, and
 - (ii) another address, if any, where the lawyer believes the copy is likely to come to the client's attention. O. Reg. 42/05, s. 2 (1); O. Reg. 575/07, s. 1.

Party under Disability

- (3) Where the party for whom the lawyer is acting is under disability, the notice of motion and the order shall also be served on the litigation guardian and,
 - (a) where the party is a minor, on the Children's Lawyer, and

(b) in any other case, on the Public Guardian and Trustee. R.R.O. 1990, Reg. 194, r. 15.04 (3); O. Reg. 69/95, ss. 18-20; O. Reg. 575/07, s. 1.

Contents of Order

- (4) The order removing a lawyer from the record shall include,
- (a) the client's last known address, or the address for service if different;
- (b) another address, if any, where the lawyer believes the copy is likely to come to the client's attention;
- (c) the client's telephone number and fax number, if any, unless the court orders otherwise:
- (d) if the client is a corporation, the text of subrules (6) and (7); and
- (e) if the client is not a corporation, the text of subrules (8) and (9). O. Reg. 42/05, s. 2 (2); O. Reg. 575/07, s. 1.

Proof of Service of Order to be Filed

(5) Proof of service of the order shall be filed forthwith after it is served. R.R.O. 1990, Reg. 194, r. 15.04 (5).

Corporations

- (6) A client that is a corporation shall, within 30 days after being served with the order removing the lawyer from the record,
 - (a) appoint a new lawyer of record by serving a notice under subrule 15.03 (2); or
 - (b) obtain and serve an order under subrule 15.01 (2) granting it leave to be represented by a person other than a lawyer. O. Reg. 575/07, s. 13 (2).
 - (7) If the corporation fails to comply with subrule (6),
 - (a) the court may dismiss its proceeding or strike out its defence; and
 - (b) in an appeal,
 - (i) a judge of the appellate court may, on motion, dismiss the corporation's appeal, or
 - (ii) the court hearing the appeal may deny it the right to be heard. O. Reg. 171/98, s. 1.

Clients Other Than Corporations

- (8) A client who is not a corporation shall, within 30 days after being served with the order removing the lawyer from the record,
 - (a) appoint a new lawyer of record by serving a notice under subrule 15.03 (2); or
 - (b) serve a notice of intention to act in person under subrule 15.03 (3). O. Reg. 575/07, s. 13 (3).
 - (9) If the client fails to comply with subrule (8),

- (a) the court may dismiss the client's proceeding or strike out his or her defence; and
- (b) in an appeal,
 - (i) a judge of the appellate court may, on motion, dismiss the client's appeal, or
 - (ii) the court hearing the appeal may deny the client the right to be heard. O. Reg. 42/05, s. 2 (3).

DUTY OF LAWYER OF RECORD

- 15.05 A lawyer of record shall act as and remains the lawyer of record for his or her client until.
 - (a) the client delivers a notice under rule 15.03; or
 - (b) an order removing the lawyer from the record has been entered, served on the client and every other party and, where required by subrule 15.04 (3), in accordance with that subrule, and filed with proof of service. O. Reg. 575/07, s. 14.

WHERE A LAWYER OF RECORD HAS CEASED TO PRACTISE

15.06 Where the lawyer of record for a party has ceased to practise law, and the party for whom the lawyer acted has not served a notice under rule 15.03, any other party may serve a document on the party by mailing a copy to the party at the party's last known address, or may move for directions. O. Reg. 575/07, s. 14.

LAWYER FROM ANOTHER PROVINCE

15.07 If a lawyer from another province represents a party to a proceeding, any party to the proceeding may move for directions for the conduct of the proceeding. O. Reg. 575/07, s. 14.

This is **Exhibit I**to the affidavit of Donald Best sworn December 10, 2012



MARMANE RUTH PERRY, a Commissioner, etc., County of Simone, for W. ROY GORDON, Barnsiar and Solicitor. Expl. éa Coluber 15, 2014. CASSELS BROCK

11/15/2012 12:38:58 PM PAGE

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Fax Server 2793

CASSELS BROCK

DATE

November 15, 2012

FROM

Lorne S. Silver

PHONE

416.869.5490

FAX

416.640.3018

E-MAIL

lsilver@casselsbrock.com

Please report any problems with the receipt of this transmission to Christine Barbison at

416.869.5788

FILE # 39233-1

LAWYER #95

ORIGINAL will (not) follow

PAGES (inclusive) 3

TO

FAX

PHONE

Donald Best

This facsimile is privileged and may contain confidential information intended only for the person(s) named above. Any other distribution, copying or disclosure is strictly prohibited, if you have received this facsimile in error, please notify us immediately by telephone and return the original transmission to us by mail without making a copy. Facsimile communication is not a 100% secure medium. Unless you advise us to the contrary, by accepting communications that may contain your personal information from us via facsimile, you are deemed to provide your consent to our transmission of the contents of this message in this manner. If you do not want to communicate with us via facsimile,



November 15, 2012

DELIVERED BY FACSIMILE

Mr. Donald Best Ontario, Canada Isilver@casselsbrock.com tel 416 869 5490 fax 416 640 3018 file # 43136-2

Dear Mr. Best:

Re:

Nelson Barbados v. Ivan Cox et al.

Donald Best Contempt Application - October 12, 2012

Superior Court of Justice (Central East Region) Court File No.: 141-07

I acknowledge receipt of your letter dated November 13, 2012.

I also acknowledge receipt of Mr. Ranking's letter to you dated November 14, 2012 and support the positions taken therein.

In specific response to your November 13th letter, our client does not agree to adjourn the November 16, 2012 attendance before Mr. Justice Shaughnessy on the terms or to the dates that you propose. Accordingly, on behalf of our client and on behalf of Mr. Ranking's client (as Mr. Ranking cannot be in attendance tomorrow morning), I will be present in Court on November 16th to address Justice Shaughnessy directly in respect of these matters. Please ensure that you are present as well in order that you may fully explain your conduct and, as Justice Shaughnessy might direct, participate in the fixing of a schedule for the determination of the issues which arise within the subject Application.



Page 2

I trust the foregoing is satisfactory.

Yours very truly/

Lorne S. Silver

LSS:cb

cc. Brian Greenspan

cc. Milt Davis

cc. Gerald Ranking

cc. Justice Shaughnessy - c/o Jackie Traviss

cc. client

This is **Exhibit J**to the affidavit of Donald Best sworn December 10, 2012

MARIJANE RUTH PERRY, a Commissioner, etc., Court of 5 more for W. ROY GORDON, Bold over 15 Coloiton, Express October 15, 2014. THE HONOURABLE MR. JUSTICE J. BRYAN SHAUGHNESSY SUPERIOR COURT OF JUSTICE



L'HONORABLE JUGE J. BRYAN SHAUGHNESSY COUR SUPÉRIEURE DE JUSTICE

> COURT HOUSE 601 ROSSLAND ROAD EAST WHITBY, ONTARIO L1N 9G7

TELEPHONE. (905) 430-5820 FAX: (905) 430-5822

November 5, 2009

SENT VIA FAX

Sean Dewart Sack Goldblatt Mitchell LLP – (416) 591-7333

Gerald L.R. Ranking Fasken Martineau DuMoulin LLP – (416) 364-7813

Paul Schabas Blake, Cassels & Graydon LLP – (416) 863-2653

Ryder Gilliland Blake, Cassels & Graydon LLP – (416) 863-2653

David R. Byers Stikeman Elliott LLP – (416) 947-0866

Adrian Lang Stikeman Elliott LLP - (416) 947-0866

Lawrence Hansen Devry, Smith & Frank LLP – (416) 449-7071

Lorne S. Silver/Jessica Zagar Cassels Brock & Blackwell LLP – (416) 640-3018

David Conklin Goodmans LLP - (416) 979-1234

David Bristow - (416) 597-3370

Andrew Roman - (416) 595-8695

Nelson Barbardos Group Limited 427 Princess Street, Suite 200 Kingston, Ontario K7L 5S9

ATTENTION: Donald Best

Counsel:

RE: Eric Iain Stewart Deane et al ats Nelson Barbados Group Ltd. - Court File No. 07-0141

In recent days I have received correspondence from Mr. Donald Best, an e-mail from Mr. Andrew Roman and an inquiry from Mr. David Bristow, Q.C.

I would remind all counsel and Mr. Best that it is not appropriate to communicate with a Judge for the purpose of arguing a position.

These arguments or positions can be advanced in court.

Yours very truly,

Justice J.B. Shaughnessy

JBS:ct

This is Exhibit K & L (disk with digital voice recordings)

K = Victory Verbatim on 2009-11-17 at 09.48.mov

 $L = 091117_000.mp3$

to the affidavit of Donald Best

sworn December 10, 2012



MARIJAME RUTH PERRY, a Commissioner, etc., (cently of Smooth, for W. ROY GORDON, But hard and the prior, Express Cotoper 15, 2014.

This is **Exhibit M**to the affidavit of Donald Best sworn December 10, 2012



MAR JANE RUTH PERRY, a Commissioner, etc., Clar North Europe, for W. ROY GORDON, Both state and Gordon. Explica Collabor 15, 2014.

www.fasken.com

FASKEN

MARTINEAU

Gerald L.R. Ranking Direct 416 865 4419 granking@fasken.com

Fasken Martineau DuMoulin LLP Barristers and Solicitors Patent and Trade-mark Agents

86 Wellington Street West Suite 4200, Toronto Dominion Bank Tower Box 20, Toronto-Dominion Centre Toronto, Ontario, Canada M5K 1N6

416 366 8381 Telephone 416 364 7813 Facsimile

August 12, 2009 File No: 211200,00002

BY FACSIMILE

Ms. Connie Turnbull
Judicial Secretary
Court House
601 Rossland Road East
Whitby, Ontario
L1N 9G7

Dear Ms. Turnbull:

Re: Nelson Barbados Group Ltd. v. Cox et al

Court File No.: 07-0141

Thank you for your letter dated August 6, 2009. I was away from the office until yesterday on vacation, and hence, my delayed response.

I have prepared a Joint Compendium for the cost hearing which should contain all (or certainly the most relevant) materials. I circulated the index to Mr. McKenzie by letter dated July 31, 2009 for comment so as to provide him with an opportunity to supplement the compendium. I did not receive a response from Mr. McKenzie and I am therefore completing the compendium on the assumption it includes all relevant materials. In light of the foregoing, I am hopeful that Justice Shaughnessy will not be required to refer to the 17 boxes at the Whitby court house.

Having said that, if events unfold over the next week which indicate that materials in the court file will be required. I will personally attend the court house early on the morning of Thursday, August 20th to extract the relevant materials to be put before His Honour in addition to the joint compendia. I must this is satisfactory.

Yours very truly,

Gerald L. R. Ranking

GLRR/io

Ottawa

Montreal

Aug Com Raching

Aug Co

Vancouver

Calgary

Toronto

Ottowa

This is **Exhibit N**to the affidavit of Donald Best sworn December 10, 2012



MARIJANE RUTH PERRY, a Commissioner, etc., County of Symbols, for VA. ROY GORDON, Base 14, cms. Selfactor Expires October 15, 2014.

File No. CV141-07 SUPERIOR COURT OF JUSTICE 5 NELSON BARBARDOS GROUP LIMITED 10 Plaintiff - against -15 RICHARD IVAN COX ET AL Defendants 20 PROCEEDINGS AT MOTION BEFORE THE HONOURABLE Mr. JUSTICE SHAUGHNESSY on October 12, 2012, 25 at OSHAWA, Ontario 30 APPEARANCES 35 BRIAN GREENSPAN Counsel for the Plaintiff LORNE SILVER Counsel for the Defendant 40

Barbados v Cox October 12, 2012

Friday, October 12, 2012

UPON RESUMING:

(9:44 a.m.)

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THE COURT: Yes, Mr. Greenspan?

MR. GREENSPAN: Thank you, Your Honour. Your

Honour, pursuant to our last appearance five

parties were served, actually six parties but Mr.

McKenzie was served as a matter of courtesy. Of

the five parties served with respect to this

matter, three responded that they did not wish to

participate in the matter and that was Mr. Schabas,

Ms Rubin and Mr. Roman. We're not retained to

further participate in this matter or the

application that's brought before you. The two

remaining counsel Mr. Silver and Mr. Ranking have

advised that they do wish to participate.

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We've had - we've exchanged a number of communications and had a conference call several days ago and that's when we sought a new date for the matter and to at least put it over to set a date to - a date to set a date for the hearing of the application.

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THE COURT: A date to set a date.

MR. GREENSPAN: Mr. Silver was unable to be here today. I've undertaken to address the Court with respect to what progress has been made.

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We - subject to Mr. Silver and Mr. Ranking filing a notice of appearance on behalf of their respective

2 Barbados v Cox October 12, 2012

clients, and that's not yet occurred and hopefully that'll be worked out in the next several days; the proposal is that they wish to cross-examine Mr. Best on his affidavit and we've tentatively, and I think agreed that that would take place on November 12th and 13th. Actually November 12th; November 13th if necessary, and your office provided us with a date of November 16th to return before you to provide a progress report at that time and hopefully at that time, to set a date for the actual application before you, or the re-opening of the issue of Mr. Best's contempt.

That's what we wish to do today along with the following, and that is pursuant to the last appearance and Your Honour's order staying the warrant of arrest and staying the execution of the warrant of arrest, Mr. Best is here today and present before the Court pursuant to that order, and what we would wish is a further extension of that stay of the arrest warrant and rather than simply making it to November 16th, if we could make it - and the draft order that I've got before me is that the Court first of all orders that the matter's adjourned to November 16th, at which time a date for the hearing of this application will be set, and that the Court further orders that the stay of the execution of the arrest warrant be extended to the date set for the hearing of the application.

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Barbados v Cox October 12, 2012

That means that we won't have to make multiple appearances but rather simply put the arrest warrant over to the date of the application directly, and Your Honour that - that's really all I have to say this morning to the matter and I think that that again, hopefully, there will be worked out or at least in the near future will receive proper notices of appearance from both counsel and we can proceed with the crossexamination.

They've not indicated what further material or whether they'll be filing any material. That may be subject to cross-examination as well but they haven't indicated yet what material will be filed. THE COURT: All right. Well then I've made an endorsement, Mr. Greenspan. Messrs Silver and Ranking will be responding on behalf of clients. MR. GREENSPAN: I might indicate Your Honour, that Mr. Silver's indicated that his client is Kingsland Estates Limited. Mr. Ranking's not yet indicated precisely the name of his client but I don't think it's necessary for the time being.

THE COURT: No, I got pretty good knowledge of the history and there may be some changes in names ... MR. GREENSPAN: Yes, sir.

THE COURT: ... but I'm aware of who Mr. Ranking's client was. Was, yes. So in any event, adjourned to November 16th, 2012, at 9:30 a.m. to permit cross-examination and to then set a date for hearing. The arrest warrant for Mr. Best is

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extended to a date set for the actual hearing of the matter.

MR. GREENSPAN: Thank you, sir. That's the draft order.

THE COURT: The order's signed. Thank you, Mr. Greenspan.

MR. GREENSPAN: Thank you, sir. Unfamiliar as I am with civil procedure in this building, I take it I'm supposed to take this somewhere?

THE COURT: Actually if you want, if there's a second copy what I might just do is sign the second copy. That'll be the file copy and you can take the original with you now.

MR. GREENSPAN: And I don't have to do anything? THE COURT: No.

MR. GREENSPAN: That's terrific. Thank you so much. Appreciate it, sir.

* * * * *

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5 Barbados v Cox October 12, 2012

FORM 2 Certificate of Transcript Evidence Act, subsection 5 (2)

I, Deborah Tinmouth, certify that this document is a true and accurate transcript of the recording of Barbadoes v Cox in the Superior Court of Justice held at 150 Bond Street, Oshawa taken from Recording No. 2812 501 400795 20121012 0917
Certified on Form One

November 28, 2012

15

Deborah Tinmouth Court Reporter

THIS IS NOT A CERTIFIED COPY UNLESS ORIGINALLY SIGNED

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This is Exhibit O

to the affidavit of Donald Best

sworn December 10, 2012

MARIJANE RUTH PERRY, a Commissioner, etc., County of Sendose, for W. ROY GORDON, Earlierer and 3d holes. To pilos Juroper 15, 1014. 2810 Nov-26-12 02:24pm

From-Fasken Martineau DuMulin LLP

416 364 7813

T-264 P.001/005 F-974

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Fasken Martineau DuMoulin LLP Barristers and Solicitors Patent and Trade-mark Agents

333 Bay Street, Suite 2400 Bay Adelaide Centre, Box 20 Toronto, Ontario, Canada M5H 2T6

416 366 8381 Telephone 416 364 7813 Facsimile 1 800 268 8424 Toll free FASKEN (O)

Date: November 26, 2012

FACSIMILE COVER SHEET

то	Firm and City	Telephone	Facsimile	
Brian H. Greenspan	Greenspan Humphrey Lavine Toronto, Ontario	416 868 1755	416 868 1990	
Lorne Silver	Cassels Brock Toronto, Ontario	416 869 5490	416 640 3018	

FROM		Telephone	Facsimile
Gerald L.R. Ranking granking@fasken.com		416 865 4419	416 364 7813
Pages (including cover):	Ŝ	Sender's M/File:	11790/211200.00002
	nclear, please call 416 865 4386 the same fax number, please co led Mailed		recipients. Couriered

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Nov-26-12

02:24pm

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416 364 7813

T-264 P.002/005 F-974

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416 366 8381 Telephona 416 364 7813 Facsimile 1 800 268 8424 Toll free



Gerald L.R. Ranking Direct 416 865 4419 granking@fasken.com

November 26, 2012 File No: 211200.00002

VIA FACSIMILE

Mr. Brian H. Greenspan Greenspan Humphrey Lavine 15 Bedford Road Toronto, Ontario M5R 2J7

Dear Mr. Greenspan:

Re: Nelso

Nelson Barbados v. Ivan Cox et al

Donald Best - Contempt Order of January 15, 2010

Enclosed, please find the Notice of Appearance of Pricewaterhouse Coopers East Caribbean Firm in the afore mentioned application. The Notice of Appearance is served upon your firm, as counsel for Mr. Best, in accordance with the terms of Justice Shaughnessy's order dated November 16, 2012, and in particular, paragraph 5 thereof. Thank you.

Yours very truly,

Gerald L.R. Ranking

GLRR/jo Encl.

c.c.:

Lome Silver

Ottawa

1 201 1 1000 200 1 01

Court File No. 141-07

SUPERIOR COURT OF JUSTICE (Central East Region)

IN THE MATTER OF a Contempt Order issued against Donald Best in January 15, 2010 by the Honourable Justice Shaughnessy

NELSON BARBADOS GROUP LIMITED

Plaintiff

- and -

RICHARD IVAN COX, et al.

Defendants

NOTICE OF APPEARANCE

PricewaterhouseCoopers East Caribbean Firm intends to defend this action.

November 26, 2012

FASKEN MARTINEAU DUMOULIN LLP

Barristers and Solicitors
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto, Ontario
M5H 2T6

Gerald L.R. Ranking (LSUC: 23855J)

Tel: 416 865 4419 Fax: 416 364 7813

Lawyers for the Defendant, PricewaterhouseCoopers East Caribbean Firm

T-264 P.004/005 F-974

-2-

TO: GREENSPAN HUMPHREY LAVINE

Barristers and Solicitors

15 Bedford Road Toronto, Ontario M5R 2J7

Brian H. Greenspan

Tel: 416 868 1755 Fax: 416 868 1990

Lawyers for the Applicant

AND TO: CASSELS BROCK & BLACKWELL LLP

Barristers and Solicitors 2100 Scotia Plaza 40 King Street West Toronto, Ontario M5H 3C2

Lorne S. Silver (LSUC: 24238L)

Tel: 416 869 5490 Fax: 416 640 3018

Lawyers for Kingsland Estates Limited

Plaintiff

Court File No. 141-07

SUPERIOR COURT OF JUSTICE (Central East Region) Proceeding commenced at Oshawa

NOTICE OF APPEARANCE

FASKEN MARTINEAU DUMOULIN LLP

Barristers and Solicitors 333 Bay Street, Suite 2400 Bay Adelaide Centre, Box 20 Toronto, Ontario M5H 2T6

Gerald L.R. Ranking (LSUC: 23855J)

Tel: 416 865 4419 Fax: 416 364 7813

Lawyers for the Defendant, PricewaterhouseCoopers East Caribbean Firm This is **Exhibit P**to the affidavit of Donald Best sworn December 10, 2012

MARISH HE RUTH PERRY & Commissioner, etc., Cham and surface to, white BOY GORDON, Barrows and Marion Expect Cotabor 18 LOTA



	Ranking en Martineau	416 364 7813	416 366 8381	
Brian H. Greenspan @ Greenspan Humphrey Lavine		416 868 1990	416 868 1755	
то		FAX	PHONE	
E-MAIL	lsilver@casselsbrock.com			
FAX	416.640.3018		PAGES (inclusive) 2	
PHONE	416.869.5490	416.869.5788	ORIGINAL will (not) follow	
FROM Lorne S. Silver		of this transmission to Christine Barbison at	LAWYER # 95	
DATE October 4, 2012		Please report any problems with the receipt	FILE # 39233-1	

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2/002



October 4, 2012

DELIVERED BY FACSIMILE

Isilver@casselsbrock.com tel 416 869 5490 fax 416 640 3018 file # 39233-1

Brian H. Greenspan Greenspan Humphrey Lavine 15 Bedford Road Toronto ON M5R 2J7

Dear Mr. Greenspan:

Re: Nelson Barbados v. Ivan Cox et al.

Donald Best Contempt Application - October 12, 2012

Further to my letter to you dated September 27, 2012, I am pleased to confirm that I have been retained on behalf of Cox and Kingsland and have been instructed to oppose the request to set aside the contempt order issued against Donald Best on January 15, 2010. I also understand that Gerry Ranking has been instructed to oppose (on behalf of PWC) and I expect that you will hear from him in this regard directly.

As indicated in my previous correspondence, I am not available (out of town) on October 12, 2012 and accordingly, the motion return date must be adjourned. I would be pleased to discuss with you a timetable for the motion.

I look forward to hearing from you.

Lorne S. Silver

Yours very

LSS:cb

cc. Gerald Ranking

cc. client

Cassels Brock & Blackwell LLP 2100 Scotia Plaza, 40 King Street West, Toronto Canada MSH 3C2
tel 416.869.5300 fax 416.360.8877 www.casseisbrock.com

This is **Exhibit Q**to the affidavit of Donald Best sworn December 10, 2012



MARIJAVE RUTH PERRY, a Commissioner, etc., County of Suncte, for VV ROY GORDON, etc., Barricles and Solicitor.
Expiles Colober 15, 2014.

Court File No. 141-07

SUPERIOR COURT OF JUSTICE (Central East Region)

IN THE MATTER OF a Contempt Order issued against Donald Best in January 15, 2010 by the Honourable Justice Shaughnessy

NELSON BARBADOS GROUP LIMITED

Plaintiff

- and -

RICHARD IVAN COX, et al.

Defendants

NOTICE OF APPEARANCE

Kingsland Estates Limited, intends to respond to this application.

October 11, 2012

CASSELS BROCK & BLACKWELL LLP

2100 Scotia Plaza 40 King Street West Toronto, ON M5H 3C2

Lorne S. Silver LSUC #: 24238L

Tel: 416.869.5490 Fax: 416.640.3018 Isilver@casselsbrock.com

Lawyers for Kingsland Estates Limited

This is **Exhibit R**to the affidavit of Donald Best sworn December 10, 2012

MARIJANE RUTH PERRY, a Commissioner, etc., Churty of Britise Farty RCY CORDON, Barrela and Rough Especial City of Corollar



How we are structured

What is 'PwC'?

PwC is the brand under which the member firms of PricewaterhouseCoopers International Limited (PwCIL) operate and provide professional services. Together, these firms form the PwC network. 'PwC' is often used to refer either to individual firms within the PwC network or to several or all of them collectively.

In many parts of the world, accounting firms are required by law to be locally owned and independent. Although regulatory attitudes on this issue are changing, PwC member firms do not and cannot currently operate as a corporate multinational. The PwC network is not a global partnership, a single firm, or a multinational corporation.

For these reasons, the PwC network consists of firms which are separate legal entities. The firms that make up the network are committed to working together to provide quality service offerings for clients throughout the world. Firms in the PwC network are members in, or have other connections to, PricewaterhouseCoopers International Limited (PwCIL), an English private company limited by guarantee. PwCIL does not practise accountancy or provide services to clients. Rather its purpose is to act as a coordinating entity for member firms in the PwC network. Focusing on key areas such as strategy, brand, and risk and quality, the Network Leadership Team and Board of PwCIL develop and implement policies and initiatives to achieve a common and coordinated approach among individual firms where appropriate. Member firms of PwCIL can use the PwC name and draw on the resources and methodologies of the PwC network. In addition, member firms may draw upon the resources of other member firms and/or secure the provision of professional services by other member firms and/or other entities. In return, member firms are bound to abide by certain common policies and to maintain the standards of the PwC network as put forward by PwCIL.

The PwC network is not one international partnership and PwC member firms are not otherwise legal partners with each other. Many of the member firms have legally registered names which contain "PricewaterhouseCoopers", however there is no ownership by PwCIL. A member firm cannot act as agent of PwCIL or any other member firm, cannot obligate PwCIL or any other member firm, and is liable only for its own acts or omissions and not those of PwCIL or any other member firm. Similarly, PwCIL cannot act as an agent of any member firm, cannot obligate any member firm, and is liable only for its own acts or omissions.

This is **Exhibit S**to the affidavit of Donald Best sworn December 10, 2012

MARIJANTE DE THE PETRON & Commissioner, etc., Chapter of Amobe for My, POY GORDON, Barry of Control English Control of Control



DRAWN ANOIOR PREPARED BY:

ALICIA V. RICHARDS HILL ATTORNEY-AT-LAW OF THE FARM OF YEARPHOOD & BOYCE ATTORNEYS-AT-LAW M. LAYES STREET BREDGETOWN, BARBADOS

BARBADOS

2096 No. 21#1

IN THE HIGH COURT OF JUSTICE

CIVIL DIVISION

IN THE MATTER OF (INTER ALIA) SECTION 226 OF THE COMPANIES ACT CHAPTER 308 OF THE LAWS OF BARBADOS

AND IN THE MATTER OF AN APPLICATION BY MARJORIE KNOX FOR RHLIEF PURSUANT TO THOSE SECTIONS

AND IN THE MATTER OF KINGSLAND ESTATE LIMITED A COMPANY CONTINUED UNDER THE PROVISIONS OF THE SAID COMPANIES ACI CHAPTER 308 OF THE LAWS OF BARBADOS

AND IN THE MATTER OF THE SUPREME COURT OF JUDICATURE ACT CHAPTER 117A OF THE LAWS OF BARBADOS AND THE RULES OF THE SUPREME COURT OF JUDICATURE

BETWEEN

MARJOR E ILMA KNOX

AND

APPLICANT

ERIC AS IBY BENTHAM DEANE RICHARDS IVAN COX GERARI COX ALLAN COX KINGSL AND ESTATES LIMITED ATTORI EY GENERAL PRICEWATERHOUSECOOPERS FIRST RESPONDENT
SECOND RESPONDENT
THIRD RESPONDENT
FOURTH RESPONDENT
FIFTH RESPONDENT
SIXTH RESPONDENT
SEVENTH RESPONDENT

AFFIDAVIT OF PHILIP ST. EVAL ATKINSON

11 PHILIP ST. EVAL ATKINSON, Chartered Accountant of Auburn, in the parish of Saint Joseph in this Island MAKE OATH AND SAY as follows:

That I am a Partner of PricewaterhouseCuopers (Barbados), the above-named Seventh Respondent and have been duly authorized to swear to this Affidavit

on behalf of the said Seventh Respondent. The firm PricewaterhouseCoopers (Barbados) is a member in PricewaterhouseCoopers International Limited (PricewaterhouseCoopers International), a membership-based company organized in the United Kingdom.

- That the information contained herein is true to the best of my knowledge, information and belief and comes to me by virtue of my association with the said Seventh Respondent and my involvement with the audit of the accounts of the Fifth Respondent.
- 3. That I make this Affidavit in support of the Summons filed herewith to strike out this action as against the Seventh Respondent as well as in response to the Affidavit sworn to by John Knox on behalf of the Applicant and filed in support of the Originating Summons filed with this Honourable Court on the 27th day of November, 2006.
- 4. That I have read the said Originating Summons as well as the Affidavit of John Knox (hereinafter called the "Knox Affidavit") in support of the said Originating Summons and say that there is absolutely no grounds for the Seventh Respondent to be a party to this action.
- 5. The Seventh Respondent was at no time employed by the Applicant as her auditor as alleged at paragraph 8 of the Knox Affidavit or at all. The Seventh Respondent was in fact the auditors of the Fifth Respondent for the financial years up to June 30, 2005.
- 6. The Applicant has alleged at paragraph 20 of the Knox Affidavit that the Fifth Respondent "refused the Auditors recommendations and failed to obtain an appraisal or apparently any independent advice regarding value or as to the proper procedure for ensuring that full und fair value for the lands will be realized and the funds therefore paid to Kingsland". This statement wrongly and misleadingly implies that the Seventh Respondent made recommendations to the Management of the Fifth Respondent concerning business into which it entered. The only recommendation which the Seventh Respondent can and did make to the officers of the Fifth Respondent was that the Company comply with International Accounting Standards (hereafter called "IAS"). Disclosure of the fair value of the land is a requirement on the IAS.
- 7. It is further incorrectly suggested by the Applicant that no valuation was done by the Pitth Respondent for the lots being acquired by the Government. There is now produced and shown to me and marked "PSA1" for identification a

copy of a valuation of the said land carried out by Ferra Caribbean, which has been brought to my attention by the Fifth Respondent.

- The Applicant has erroncously asserted at paragraphs 21 of the Knox Affidavit that the Seventh Respondent did not perform "the required function of actually reviewing all documentation regarding the acquisition of the lands and have not therefore fully or properly undertaken their function of performing un independent review of these matters". Such allegations are inaccutate and may be deemed as misstatements and should accordingly be struck out by this Honourable Court as being frivolous, vexatious and an asuse of process. Note 4 from the June 30, 2005 financial statements, to which the Applicant referred, simply states that subsequent to the year end formal aspeptance of the price officied by the Government was given.
- That the agreement of the price for the land subsequent to the year end had absolutely no financial impact on the financial statements at June 30, 2005. It is imply a comment by Management that they had agreed a price after the end of the financial year at June 30th, 2005. To the best of my knowledge, information and belief up to and including today's date no transaction has necessive with respect to this matter. In circumstances where it is not a matter which had been consummated at the time the Seventh Respondent signed its Audit Report there is no requirement to audit the transaction. In any event the transaction does not relate to the period covered by the audit.
- 10. Further, the Seventh Respondent, having noted the comment made by Management, satisfied itself that there was evidence produced that an agreement had in fact been arrived at between the relevant parties. There is now produced and shown to me and marked "PSA2" for identification a copy of a latter disclosed to us by Messrs R.G.Mandeville & Co., Attorneys-at-Law for the Fifth Respondent, in which they confirm that the Fifth Respondent accept of the offer of \$6,828,962.00 and sought an offer from the Government of a similar unit price for the remaining parcels of land which were acquired. The International Standards of Auditing (hereinafter referred to as "ISA") required nothing further of the Seventh Respondent in the exercise of the duties for which it was contracted.
- Additionally, it is not the duty of the Seventh Respondent to report on individual transactions as stated at paragraph 25 of the Knox Affidavit. The Seventh Respondent only reports on the Fifth Respondent's financial statements as a whole.

- Reference by the Knex Affiliavit to the fact that the Applicant caused certain 12, advertisements to be sent to the Seventh Respondent to 2005 is irrelevant and extraneous to the matter of hand. An advertisement offering land in the same area for sale at a particular price does not indicate the true value of the land. idercover, Auditors are not managers and do not participate in the decision making process of a company. Documents such as those to which the Knox Affidavit referred are more appropriately directed to and ledged with the Management of the Company.
- The Seventh Respondent accordingly denies any and all allegations of not 13. currying out its duties to the Fifth Respondent in a proper manner as alleged by the Applicant in the Knux Affidevil. There is no requirement under IAS to disclose enything further than what Managoment disclosed in the Note 4. The Note does indicate that the lands were subject to compulsory acquisition as well as the fact that there was a comparatively inconsiderable portion of the lands for which the price had not been agreed by Management. Further, and in particular, the Note simply dealt with the statement by Management that they had agreed to a price for the lands acquired, not that the transaction had been consummated. Having scenred evidence of this agreement by way of independent documentation from The Fifth Respondent's Attorney-at-Law the Seventh Respondent has undoubtedly fulfilled the ISA requirements applicable to the matter at hand. 14

Wherefore I humbly pray that this Honourable Court will see it fit to strike the mane of the Seventh Respondent from the Originating Summouns filed by the Applicant on the 27^{th} November and award costs of and nonscioned by this application to the said Seventh Respondent.

Sworu to by the said PHILIP ST. EVAL ATKINSON of the Law Courts this 11th day of Decomber, 2016. Befrae me: AF CEITED · 11.0 egyl assistant Dec 06/12/11 Whanda Relling

This Affiduate it is filed on behalf of the Seventh Respondent.

DRAWN AND/OR PREPARED BY:

ATTORNEY AFLAW

ATTORNEY AFLAW

OF THE FIRM OF

TEARWOOD A DOTCE

ATTORNEYS AFLAW

14 JAMES ATTORN

MEDDETORN, GARRADOS

MEDDETORN, GARRADOS

BARBADOS

2006 No. 2141

IN THE HIGH COURT OF JUSTICE

CIVIL DIVISION

IN THE MATTER OF (INTER ALLA)
SECTION 226 OF THE COMPANIES ACT
CHAPTER 308 OF THE LAWS OF
BARBADOS

AND IN THE MATTER OF AY APPLICATION BY MARJORIE KNOX FUR RELIEF PURSUANT 10 THOSE SECTIONS

AND IN THE MATTER OF KINGSLAND ESTATE LEMITED A COMPANY CONTINUED UNDER THE PROVISIONS OF THE SAID COMPANIES ACT CHAPTER 508 OF THE LAWS OF BARBADOS

AND IN THE MATTER OF THE SUPREMB COURT OF HIDICATURE ACT CHAPTER 11/A OF THE LAWS OF BARBADOS AND THE RULES OF THE SUPREME COURT OF RUDICATURE

BELWERN

MAPFORIE ILMA KNOX

APPLICANT

AND

ERIC ASIBY BENTHAM DEANE RICH ARDS IVAN COX
GERARD COX
ALI-AN COX
KINGSLAND ESTATES LIMITED
ATTO NEY GENERAL
PRICE VATERHOUSECOOPERS

PIRST RESPONDENT
SECOND RESPONDENT
THIRD RESPONDENT
POURTH RESPONDENT
FITTH RESPONDENT
SIXTH RESPONDENT
SIXTH RESPONDENT
SEVENTH RESPONDENT

EXHIBITS TO THE AFFIDAVIT OF PHILIP ST. EVAL ATKINSON

These are the exhibits mentioned and referred to as Exhibit "PSA1" and "PSA2" in the Affidavit of PUILIP ST. EVAL ATKINSON sworm to before me on the 11th day of December 2006.

LEGAL ASSISTANT

This is **Exhibit T**to the affidavit of Donald Best sworn December 10, 2012

MARIJANE RUTH PERRY, e Commissioner, etc., County of Simpse for W. ROY GORDON, Earnweit and Counter Expires Corober 15, 2014. Registration of Eusiness Names Act Chapter 317

#18309

Form 1

FORM OF APPLICATION FOR REGISTRATION

Name of Business: PricewaterhouseCoopers	' /
General Nature of Business: Chartered Accounting	
Principal Place of Business Price Waterhouse Centre, Collymore Rock, St. Mich.	

Names and Surnames of Individuals or Individual in full: See attached Schedule I	

Any former Christian or Surname Nos. (1-13), (15-18) - NONE; No. 14 - Douglas.	
Present Nationality Nos. (1,3,4) 7-18) - Barbadian; Nos. (2,3,5,14) - British;	***
No. (6) - Canadian; No. (14) - Grenadian; No. (5) - Guyanese	
Nalionality of Origin: Nos. (1,4), (7-10), (16-18) - Barbadian; Nos. (2,3,6) - Bri	
No. (11) - Dominican; No. (14) - Grenadian; No. (5) - Guyanese; No. (12) -	***********
Trinidadian: No. (13) - Vincentian	
Trinidadian; No. (13) - Vincentian Address of each Individual See attached Schedule II	
Address of each Individual See attached Schedule II	
Address of each Individual See attached Schedule II	***********
Address of each Individual See attached Schedule II	
Address of each Individual See attached Schedule II	
Address of each Individual See attached Schedule II Other Business Occupation (if any) of each Individual Nos. (1–18) Chartered Accountants	3
Address of each Individual See attached Schedule II Other Business Occupation (if any) of each individual Nos. (1–18) Chartered Accountants	3
Other Business Occupation (if any) of each individual Nos. (1-18) Chartered Accountants Corporate Name of Corporation Not applicable	3
Address of each Individual See attached Schedule II Other Business Occupation (if any) of each Individual Nos. (1–18) Chartered Accountants	3
Address of each Individual See attached Schedule II Other Business Occupation (if any) of each individual Nos. (1–18) Chartered Accountants Gorporate Name of Corporation Not applicable	3
Address of each Individual. Other Business Occupation (if any) of each Individual. Nos. (1–18) Chartered Accountants Corporate Name of Corporation. Not applicable Date of Commencement of Business (if after 15th June, 1940). June 30, 1998. CERTHEED TRUE COPY	3
Other Business Occupation (if any) of each individual. Nos. (1–18) Chartered Accountants Corporate Name of Corporation. Not applicable Date of Commencement of Business (if after 15th June, 1940). June 30, 1998.	3
Address of each Individual. Other Business Occupation (if any) of each Individual. Nos. (1–18) Chartered Accountants Corporate Name of Corporation. Not applicable Date of Commencement of Business (if after 15th June, 1940). June 30, 1998. CERTHEED TRUE COPY	3
Other Business Occupation (if any) of each individual Nos. (1–18) Chartered Accountants Corporate Name of Corporation Not applicable Date of Commencement of Business (if after 15th June, 1940) June 30, 1998 CERTIFIED TRUE COPY	3
Other Business Occupation (if any) of each individual Nos. (1–18) Chartered Accountants Corporate Name of Corporation Not applicable Date of Commencement of Business (if after 15th June, 1940) June 30, 1998 CERTIFIED TRUE COPY	3

DIRECTOR

Form 1 STATEMENT GIVING NOTICE OF PARTNERS SCHEDULE 1

Name of Partnership PricewaterhouseCoopers Partnership No.

Name of Partner	Signature
Anthony Grant Ellis	
Graham Alexander Kirby	
Jeremy Andrew Marryshow	
William StClair Hutchinson	
Christopher Dennis de Caires	
Peter Kenneth Jesson	
Maria Elizabeth Evelyn Robinson	
Maurice Andrew Franklin	
Wayne Ivan Fields	
Douglas Arthur Newsam	
Marcus Andrew Hatch	
Richard Michael Bynoe	
Philip St. Eval Atkinson	
Joyce Etiennette Dear	· yaarena
Stephen Andrew Jardine	
Geoffrey Richard Gregory	
Lindel Elon Nurse	
Robert Charles David Tibbits	

FORM 1

STATEMENT GIVING NOTICE OF PARTNERS SCHEDULE II

Particulars

Name of Partnership	Partnership No.:
PricewaterhouseCoopers	

Name and Address of Partner	Nationality of Origin	Present Nationality	
Anthony G. Ellis 96 Wanstead Heights St. James, Barbados	Barbadian	Barbadian	
Graham A. Kirby 180 Atlantic Shores Christ Church, Barbados	British	British	
Jeremy A. Marryshow "Cascade", Bannatyne Christ Church, Barbados	British	British/Barbadian	
William StC. Hutchinson "Casanza", Rendezvous Ridge Christ Church, Barbados	Barbadian	Barbadian	
Christopher D. de Caires 1 Warrens Terrace West St. Thomas, Barbados	Guyanese	British/Guyanese	

Date	Signature	Title
June 30, 1998	A.G. Ellis	Partner

FORM 1

STATEMENT GIVING NOTICE OF PARTNERS SCHEDULE II (continued)

Particulars

Name of Partnership	Partnership No.:	
PricewaterhouseCoopers		

Name and Address of Partner	Nationality of Origin	Present Nationality
Peter K. Jesson "La Casa", 159 Salters Road St. James, Barbados	British/Canadian	Canadian
Maria E. Evelyn Robinson 'Stratford', Navy Gardens Christ Church, Barbados	Barbadian	Barbadian
Maurice A. Franklin 85 Mullins Bay St. Peter, Barbados	Barbadian	Barbadian

Date	Signature	Title	
June 30, 1998	A.G. Ellis	Partner	

INFORMATION RE REGISTRATION OF PARTNERS

	Surname	Name	Middle Names	Any former christian name or surname	Birth Nationality	Present Nationality	Home address
/	Atkinson	Philip	St. Eval		Barbadian	Barbadian	"Random", Waterford, St. Michael
V	Bynoe	Richard	Michael		Barbadian	Barbadian	Glenayre, Locust Hall, St. George
/	Dear	Јоусе	Etiennette	Douglas	Dominican	Barbadian	"Kelvingrove", Sunset Drive, Pine Gardens, St. Michael
V	Fields	Wayne	Ivan		Trinidadian	Barbadian	96 Cooper Hill, Sandy Lane, St. James
	Gregory	Geoffrey	Richard		Vincentian	Barbadian	19 Harmony Hall, Rockley Resort,
	Hatch	Marcus	Andrew		Grenadian	Grenadian, 7 Barbadian, British	"Westshore Lodge", Greenidge Drive, Paynes Bay, St. James
V	Jardine	Stephen	Andrew			Barbadian	#11 Frere Pilgrim, Christ Church
	Newsam	Douglas	Arthur		Barbadian	Barbadian	#105A Durants, Christ Church
	Nurse	Lindell	Elon		Barbadian	Barbadian	#21 Valley View, St. George
	Tibbits	Robert	Charles David		Barbadian	Barbadian	Rockley New Road, Christ Church

Form 1 STATEMENT GIVING NOTICE OF PARTNERS SCHEDULE 1

Name of Partnership PricewaterhouseCoopers Partnership No.

	Name of Partner		Signature	
V	Anthony Grant Ellis			
V	Graham Alexander Kirby			
L	Jeremy Andrew Marryshow			
V	William StClair Hutchinson			<u>. </u>
V	Christopher Dennis de Caires	\perp		
~	Peter Kenneth Jesson			
	Maria Elizabeth Evelyn Robinson			
/	Maurice Andrew Franklin			
	Wayne Ivan Fields			
سا	Douglas Arthur Newsam			
V	Marcus Andrew Hatch			
u	Richard Michael Bynoe			
<u>.</u>	Philip St. Eval Atkinson			
- ·	Joyce Etiennette Dear			
اسا	Stephen Andrew Jardine			
	Geoffrey Richard Gregory			
1	Lindel Elon Nurse			
1	Robert Charles David Tibbits	(1
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APPENDIX ATTACHING TO

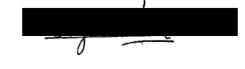
FORM 1 - STATEMENT GIVING NOTICE OF PARTNERS

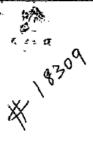
SCHEDULE 1

The signatures noted below are true and correct copies of the signatures of Stephen Jardine and Douglas Newsam

BARBADOS









\$50.00 \$50.00 2011/6/23

BUSINESS NAMES RULES, 1940

FORM 3

STATEMENT GIVING NOTICE OF CHANGES

To the Registrar,

We hereby give you notice of the following Changes in the firm of **PricewaterhouseCoopers**

which require to be registered under Section 8 of The Registration of Business Names Act., Cap. 317.

Signed (name)

PARTICULARS

Change of Name of Firm: PricewaterhouseCoopers East Caribbean

Change of persons with names in full of new individuals: N/A

Change of place of Business: N/A

Change of Registered Office: N/A

Date of Change: June 23, 2011

Change of Nature of Business: N/A

Any other Change: N/A

See attached Schedule 1

* **2**

REGISTRATION OF BUSINESS NAMES ACT CHAPTER 317

FORM 3

STATEMENT GIVING NOTICE OF PARTNERS SCHEDULE 1

Name of Partnership
PricewaterhouseCoopers

Name of Partner

Name of Partner

Philip St. Eval Atkinson

Name of Partner

Philip St. Eval Atkinson

Richard Michael Bynoe

Ronaele Theresa Dathorne-Bayrd

Gloria Rose-Mary Eduardo

Marcus Andrew Hatch

Stephen Andrew Jardine

Russell Allan Edgar Jones

Bruce Ian Osbert McClean

Lindell Elon Nurse

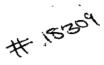
Brian Douglas Robinson

Christopher Stephen Sambrano

Ann Margaret Wallace-Elcock

Craig Lawrence Errol Waterman

Michelle Jennifer White-Ying





UB0000 \$50.00

BUSINESS NAMES RULES, 1940

FORM 3

STATEMENT GIVING NOTICE OF CHANGES

To the Registrar,

We hereby give you notice of the following Changes in the firm of

PricewaterhouseCoopers East Caribbean

which require to be registered under Section 8 of The Registration of Business Names Act, Cap. 317.

See Schedule 1

Signed (name).....

Marcus Andrew Hatch Senior Partner

DEXTIFIED TRUE COPY

CONTRACTOR

PARTICULARS

Change of Name of Firm: N/A

Change of persons with names in full of new individuals: See attached Schedule 11

Change of place of Business: N/A

Change of Registered Office: N/A

Date of Change: July 1, 2012

Change of Nature of Business: N/A

Any other Change: RETIREMENT OF PARTNERS: - Russell Allan Edgar Jones

Lindell Elon Nurse

This is **Exhibit U**to the affidavit of Donald Best sworn December 10, 2012

MARIJANE RUTH PERRY, a Commissioner, etc., County of cimcula, for W. ROY GORDON, Bernard and Cohohor Expires Colober 15, 2014.

Court File No. 141/07

SUPERIOR COURT OF JUSTICE

NELSON BARBADOS GROUP LTD.

Plaintiff

- and -

RICHARD COX et al

Defendants

BEFORE THE HONOURABLE JUSTICE SHAUGHNESSY,
AT THE COURTHOUSE IN OSHAWA, ONTARIO
ON THURSDAY, AUGUST 9, 2012.

MOTION WITHOUT NOTICE

APPEARANCES:

B. GREENSPAN

Counsel for Donald Best

Submissions

THURSDAY, AUGUST 9, 2012 2 THE COURT: Good morning, Mr. Greenspan. MR. GREENSPAN: Good morning, Your Honour. Your 3 4 Honour, first of all, I'd like to thank you and 5 your office for arranging for what I hope will be just a brief moment of your time and I apologize 6 7 for interrupting the flow of what's happening. 8 THE COURT: Oh, you don't have to apologize. I'm 9 always happy to accommodate you. By the way, 10 just while I'm thinking of it, congratulations on the honourary doctorate that you just received. 11 MR. GREENSPAN: Thank you, sir. 12 13 THE COURT: I just read about it in 14 Law Society Gazette yesterday. MR. GREENSPAN: Thank you, Your Honour. 15 THE COURT: So heartiest congratulations. We're in 16 17 very esteemed company. 18 MR. GREENSPAN: Thank you. It's interesting. 19 Unfortunately, I am going to be attending a funeral today later on in the day. 20 Trotter's mother passed away but Justice Trotter 21 22 sent me a website when I got the doctorate and it was "Now that you're a doctor you can perform 23 surgeries," and there is a website of self-24 surgeries that is really quite spectacular. I 25 haven't done that yet but thank you very much, 26 sir. I appreciate it. 27 28 Anyway, it's interesting and I wasn't going to 29 mention it but because we're starting informally, 30 Where Her Majesty the Queen doesn't come YOU know, it's quite unusual for me to be on a

Submissions

first and there have been times throughout my career where I have appeared on civil contempt matters.

The very first civil matter I ever did was, quite nostalgically, a case called City of Sault Ste. Marie versus Ann Young and Mr. Kurisko, later Mr. Justice Kurisko, from Sault Ste Marie was on the other side on behalf of the City of Sault Ste. Marie and I was in the Civil Court of Appeal in Osgoode and Justice Jessop was in the middle, so it's the early eighties at the time, and he looked at me and said, "Is this your baptism in the Civil Court of Appeal?" And I said, "It is, sir," and he said, "Picked the wrong vehicle." So there is a history of perhaps civil contempt issues.

THE COURT: Well, it would be interesting to be on a case with Stan Kurisko as well.

MR. GREENSPAN: It was. It was very. It was very, no question about it.

Sir, what brings me here today is to seek your directions because the civil case that led to the civil contempt...

THE COURT: Yes.

MR. GREENSPAN: The matter of Nelson Barbados Group Ltd. and 63 defendants were named.

THE COURT: Yes.

MR. GREENSPAN: ...in that action. That case has now been resolved and settled and it's over. And now. in an attempt to seek - and you will see we not only have the application before you today

but we have a draft application of the release that we will seek in the main motion that we want to bring before you that we are at a bit of a loss as to who we ought to serve.

To just remind you, at the time of what was occurring, at the relevant time, Your Honour held Mr. Best in contempt on January the 15th of 2010. You sentenced him at that time to three months' incarceration and a fine of \$7500. At that time, counsel - four sets of counsel appeared on behalf of the defendants during that timeframe.

THE COURT: Yes.

MR. GREENSPAN: But they only represented 11 of the defendants or at least the record reflects that they represented 11 of the 63 defendants. The rest of the defendants were apparently unrepresented or didn't actually participate in response to the action by Nelson Barbados. As a result - and quite frankly, now that it is settled, we are not confident, although we are happy to serve them, that Mr. Silver or Mr. Roman, Mr. Ranking or Mr. Clarke have much interest in returning to court to respond or to make representations with respect to the application which we seek. But at the same time, we wanted to do it right. We wanted to make sure that we served any interested party who might want to attend for whatever reason they want to attend. Our inclination was to serve only the defendants who were appearing at the time as the transcript reveals.

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Submissions

THE COURT: Yes.

MR. GREENSPAN: That was our first inclination but we wanted to make sure that we weren't remiss in our obligation to serve other parties if Your Honour thought, as a matter of practice, we ought to. So that's the first and most important part of the reason for my attendance this morning, just who ought we to serve.

The other one is perhaps a little bit more controversial and there is this very lengthy affidavit that we have served that will be the primary affidavit in the main motion once we schedule that and we hope to schedule it certainly no later than the end of October. We would like to schedule it early in the fall, subject to Your Honour's availability and your schedule.

In that lengthy affidavit, there are positions that are taken that may impact — and I must say in terms of his recollection and what occurred, it may impact upon some of the counsel who were active at the time in this matter in terms of their recollection, his recollection and again, we thought, as a matter of fairness, all of those counsel ought to be aware of it and ought to be served with this affidavit in order that they might, if they choose, respond to the position that Mr. Best takes in his affidavit. So that was that aspect of it.

The other aspect is, as his affidavit reveals, he has primarily, with his family, lived in New Zealand.

THE COURT: I found out for the first time after I read the material.

MR. GREENSPAN: Well, quite frankly, we didn't know until this affidavit and I must say I am unaware of where he currently resides.

THE COURT: I am not asking you.

MR. GREENSPAN: He contacts us either by email and we arrange for telephone calls and I must say, and I don't think we've been remiss, but it's been a very very difficult process since we were first approached about getting involved in this matter. It's been a difficult process to come to the level of knowledge that we now have to be able to produce this affidavit, which was only sworn in April of this year, and we were retained in May of last year. So it's taken us all...

THE COURT: May of last year?

MR. GREENSPAN: May of 2011 is when we were - the end of May, 2011 is when we were first retained but it took us about 10 months really to get our hands around this and to understand it and be able to produce the affidavit as we see it primarily because there was - the telephone nature of the relationship and the desire to get materials together so that we could understand it and present it properly to you. But in the interim, what we now see is this.

He has got to return to Canada. There is a

Submissions

warrant that Your Honour issued, subject to your order of January 15, 2010, for his arrest. What we respectfully would suggest or request from Your Honour is that the execution of that order be lifted to October 31st, 2012 or the date of the application, whichever is the earlier, so that we might be permitted the opportunity for Mr. Best to return to Canada, come before the court out of custody and be able to make the representations and be subject to potential cross-examination on his affidavit out of custody and therefore, be in a position that when we come before you - if Your Honour, at the end of the day, chooses to re-incarcerate, so be it but that at least the preparations, the cross-examinations, potentially, and the appearance in court and his movement through Immigration, that that can be made out of custody.

We don't anticipate that he would come to Canada prior to early September, so we're just talking about a period of perhaps four to six weeks at the maximum where he would be at large in Canada and not subject to the execution of the arrest warrant. That is really the only secondary issue and I leave that with Your Honour and at your discretion, sir, and those are the two issues that I wanted to raise before you on this matter.

THE COURT: Well, my first comment, Mr. Greenspan, is that this contempt hearing was not on my initiative. So it was not one made at the instance of the court. It was brought primarily,

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I'm going to say, by Mr. Silver and Mr. Ranking and if anything, the way the case was conducted and frankly, there was - I mean I have got three transcripts here. I'm telling you there must have been eight, maybe eight transcripts or more of various attendances, not always directly. Well, Mr. Best was the principal of Nelson Barbados. Mr. McKenzie was the lawyer representing the corporation up to a point. So I can't remember at this point in time who actually put it before me or whether it was joint or how many persons were on it. I would think, though, as a starting point, that there should be notice. Are they no longer interested? You know the parties, who they represented in these proceedings, presumably, and do they have any appetite? I really don't know.

The second part is do they have standing, in any event? My sense - I am not making a ruling on it. I am going to let them come. I am going to ask you to serve at least the individuals who appeared on the contempt hearing.

MR. GREENSPAN: Yes, sir.

THE COURT: And I can't tell you which law firms those are from looking at it.

MR. GREENSPAN: It would appear...

THE COURT: There is another - sorry.

MR. GREENSPAN: I'm sorry, sir. It would appear - well, in the three transcripts that we do have, on all of them it appears to be the same. On January the 15th, which is when the contempt citation took place, at that time, if you can

look to page three of the transcript, you will 1 2 see that the usual suspects were all there, and 3 that is at Schedule A. I THE COURT: Yes. As looked at the other 4 transcripts, Motion, December 2nd, they seem to be 5 the same but when I went over... 6 7 MR. GREENSPAN: Yes, sir. THE COURT: ... to November 2nd, there is somebody 8 9 called Butler, Conklin and Kewan and they may 10 have been alternative representatives to 11 others. There is many more counsel who 12 participated in the proceedings but not in that 13 contempt proceeding. So I think we would be safe at least on the contempt motion is what I am 14 15 looking at, the contempt hearing, at least Silver, 16 Roman and Ranking. Those three I distinctly 17 remember. Morse, Clarke I think were - riding the 18 rails would be my term. 19 MR. GREENSPAN: Morse was with Ranking. 20 THE COURT: Maybe that's the case. 21 MR. GREENSPAN: Okay, so it's Mr. Ranking and 22 Ms. Morse for the defendant, Price Waterhouse, 23 who we believe actually initiated the contempt. 24 THE COURT: That may very well be. My memory is 25 just light on this and I must tell you I don't 26 have the file or the transcript. I didn't order 27 it up. But if you have any difficulty, I will get 28 the court file for you. I'm sure it's gone to 29 storage somewhere. 30 MR. GREENSPAN: If you might, sir, if you look at 31 January 15th for a moment. 32 THE COURT: January 15th, yes.

MR. GREENSPAN: Yes, if you look at January 15th... 1 THE COURT: Got it. 2 MR. GREENSPAN: Go to the second page, Schedule A, 3 you will see that for the defendants... 4 THE COURT: Yes. 5 MR. GREENSPAN: ...were Lorne Silver, Mr. Ranking 6 and Ms. Morse for Price Waterhouse, Mr. Roman and 7 then Ms. Clarke. 8 THE COURT: Now what are we going to do about 9 Nelson Barbados because Mr. McKenzie and his law 10 11 firm, well, they have parted ways is what I'm told but something erupted, as you know, after 12 this. 13 MR. GREENSPAN: Yes. 14 15 THE COURT: ... where Mr. McKenzie had to leave and 16 not only that but counsel, a very leading counsel 17 and I forgot his name, had to get off the record. 18 So I don't now who represents Nelson Barbados at 19 this point in time. MR. GREENSPAN: Well, I think no one does at this 20 21 point but I am more than happy - I will tell you, 22 sir, that I know Mr. McKenzie personally. I think he's now retired from practice but there is no 23 problem in ensuring that Mr. McKenzie is aware of 24 25 the proceedings and is given notice of the 26 proceedings as well. 27 THE COURT: I think it would helpful for other 28 reasons and I suppose if Mr. Best is still a 29 Director of Nelson Barbados, which is 30 representation to the court, and that status 31 hasn't changed, then Nelson Barbados Group Ltd. 32 is on notice by Mr. Best being on notice.

1	.	MR. GREENSPAN: Yes, sir.
. 2	?	THE COURT: So I think that would probably do it.
3	3	MR. GREENSPAN: Thank you.
- 4	1	THE COURT: I think you are quite right that
	5	Mr. Ranking and certainly Mr. Silver and Mr.
w1 (5	Roman - but those three were the three lead
. 7	7	counsel and as the many applications proceeded,
PR 8	3	other counsel just dropped off or they didn't
. 9	•	even gown. They just watched what was going on in
_{pq} 10		the courtroom. So I think if you've got that
11	ı	group, I think we've got service out of the way.
, 12	2	MR. GREENSPAN: So the last one, just for
13	3	certainty
_{pn} 14	1	THE COURT: Ms. Clarke?
. 15	5	MR. GREENSPAN: Ms. Clarke. Should I, just as a
_ 10	5	matter of caution, add her?
. 17	7	THE COURT: I think so. We might as well.
m 18	3	MR. GREENSPAN:because she did appear at the
- 19	9	time.
20)	THE COURT: Yes, and that is the First Caribbean
21	ı	International Bank.
22	2	MR. GREENSPAN: Yes.
23	3	THE COURT: But boy, they had
24	4	MR. GREENSPAN: I'm sure they will have no
25	5	interest, sir.
p 26	5	THE COURT:little or no interest whatsoever
27	7	here.
- 28	3	MR. GREENSPAN: No, no. I'm sure their first
29	•	question will be, "Who is paying the bill?"
3(THE COURT: And I am always cognizant of that but
31	L	in any event, it may be we will see who, if any,
32	2	shows. So that would be the first step.
•	•	

The second is a date. We may have to get the trial co-ordinator on the phone here because she is the real boss. Would you mind getting Jackie on the phone just for a moment? I am just going to put out some dates and Mr. Greenspan can tell me how it works. It looks to me the week of October 1st could be available because I am duty judge that week but then I start criminal the weeks of October 8th, 15th. There is the week of October 22nd. I am doing civil pre-trials but they can rearrange or squeeze cases around that week. So maybe we could get her on the phone and find out which...

MR. GREENSPAN: So that was October 22nd?

THE COURT: The week of. The only day I would not want it is the 25th. I am doing a very lengthy sentencing that day or I'm having a sentence hearing. I don't know if I will be doing the sentencing that day.

COURT REGISTRAR: How long?

THE COURT: I am going to say half a day. I think the 22nd might be better if we could go into that week but I don't know how that works for Mr. Greenspan. Of course, we don't know what works for the other counsel either. That is the problem.

COURT REGISTRAR: October 23rd in the a.m. She also has October 12th, either a.m. or p.m.

MR. GREENSPAN: That may be better. October...

COURT REGISTRAR: 12th.

MR. GREENSPAN: That's a Friday.

THE COURT: I think she is thinking at the end of

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13 Submissions

a criminal sitting. I have a reputation for 1 finishing early so I think they are thinking they 2 will squeeze a day in. 3 MR. GREENSPAN: Sir, I'll tell you, I'm scheduled 4 that day to be the final day of a motion in 5 Newmarket and I think that is a safe - like there 6 was a couple of days that were added on as safety 7 days and I have co-counsel on that one, so I'm 8 really comfortable with Friday, October 12th. 9 THE COURT: So am I. 10 MR. GREENSPAN: All right, that's good. 11 THE COURT: So would you tell her the 12th and are 12 we going in the morning then, Mr. Greenspan? 13 MR. GREENSPAN: Yes, sir. 14 THE COURT: Thank you. I will mark Nelson Barbados 15 at 9:30 a.m. re: Best. Now, I come to the third 16 item. It gives me some concern in terms of the 17 18 history of Mr. Best but I suppose what I'd like 19 to hear is that Mr. Best would surrender himself 20 into custody when I go to hear this but that may 21 be too extreme. But it is the history that 22 bothers me, which is still alive in my mind. This 23 is not a case I could possibly ever forget 24 because I think I began it in 2008 and it ended 25 in 2010. But on the other hand, counsel may very 26 well want to cross-examine him and so, with your 27 advice that he will be in attendance, I don't see 28 where I have any difficulty. So I am prepared to 29 make an interim order. I will make it on the 30 motion or the application record here, I guess. 31 We will get you a copy of this, Mr. Greenspan,

but so far I have ordered:

14 Submissions

1	1. I hereby order that the counsel listed on
2	the contempt hearing transcript of
3	January 15, 2010 shall be served with the
4	application and supporting materials.
5	2. The application is adjourned to Friday,
6	October 12, 2012, 9:30 a.m. before me.
7	3. It is further ordered that the execution of
8	the arrest warrant shall be temporarily
9	stayed until October 12, 2012 to permit
10	Mr. Donald Best to return to Canada,
11	instruct counsel and, if required, to be
12	available for cross-examination on his
13	affidavit.
14	MR. GREENSPAN: Thank you, sir.
15	THE COURT: That's it on that?
16	MR. GREENSPAN: Thank you, I appreciate it. I
17	take it, unlike my usual practice, I have to
18	prepare a formal order, I suspect, for the court
19	to execute it.
20	THE COURT: I'm afraid that's how it happens in
21	this arena. I want to raise an issue with you
22	right now.
23	MR. GREENSPAN: Yes, sir.
24	THE COURT:which, frankly, is of no
25	consequence or importance to me but I suspect you
26	would know because you have a client who you have
27	been dealing with for some time. Mr. Best and
28	Mr. McKenzie filed a complaint with the Canadian
29	Judicial Council.
30	MR. GREENSPAN: I'm aware, sir.
31	THE COURT: You know from representing judges and
32	other people throughout the time, I don't know

Submissions

that they file a complaint. I am never told. It was reviewed by the Chief Justice of Manitoba and I received notification May, June of this year that - my Chief Justice, Heather Smith, sent me a copy advising that the Judicial Council did not wish any comments from me and that they had closed their file and I was given the decision - I will call it that - of the Chief Justice of Manitoba.

I just want to point that out. I'm sure you knew οf no importance frankly, ít is person that consequence because every before this court has the absolute right to register a complaint before the Judicial Council. So I, frankly, want to just tell you that at the outset but I think you know and further, as I say, it is of no consequence. It doesn't influence me whatsoever.

MR. GREENSPAN: Sir, I want to make it clear for the record that I was fully aware of the complaint having been made. I in fact received a copy through Mr. Best of the decision of the Judicial Council. I have also reviewed that. I am fully aware of it. Had I had any concerns, you would have heard the concerns expressed and I, from the outset of this application, sir, made it clear that our view was that this matter should come back before you and we are content that this matter come before you and that you make the determination on the motion.

THE COURT: Great. I must tell you I don't think

there is any judge upstairs who is exactly hankering to try to go in and understand this case and its history.

MR. GREENSPAN: No.

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THE COURT: So they are relieved, I can tell you. I had a discussions with my colleagues about that "I don't know what said. I event and Mr. Greenspan is going to say and if he does say it," and then all I saw was this aghast look from all of them saying, "Come on, don't push this on to us. It's going to take us days to understand the history." I mean the history, what happened, is very much alive in my head because of the very unusual circumstances of the case.

MR. GREENSPAN: I appreciate that and we're fully aware of it and we're, as I say, totally content that the matter proceed before you.

COURT: I tell And also want to Mr. Greenspan, in terms of any procedural matters because you serve these counsel and you know, several of them are very very busy, if they are going to run into a problem about it, we can simply convene a conference call if you call Jackie Traviss, the Trial Co-ordinator. I would convene a conference call to try to work out dates. I found, in that particular case, it was extraordinary the number of leaps and bounds we had to go to get everybody together in the courthouse at the same time. But if it will be of any assistance - but I will not discuss anything else other than scheduling.

MR. GREENSPAN: Yes, sir.

1	THE COURT: And with everyone on the phone and
2	rather than have you come out here, just arrange
3	it and I'll be happy to accommodate you.
4	MR. GREENSPAN: Thank you, sir. We would
5	appreciate it. Thank you.
6	THE COURT: We will get Mr. Mills to photocopy for
7	Mr. Greenspan a copy of my endorsement.
8	ADJOURNMENT (9:39 AM)
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11	FORM 2
11 12	FORM 2 Certificate of Transcript
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12	Certificate of Transcript
12 13	Certificate of Transcript Evidence Act, subsection 5(2)
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12 13 14 15	Certificate of Transcript Evidence Act, subsection 5(2) I, Maxine Newell, certify that this document is a true and accurate transcript of the recordings of Nelson Barbados &
12 13 14 15	Certificate of Transcript Evidence Act, subsection 5(2) I, Maxine Newell, certify that this document is a true and accurate transcript of the recordings of Nelson Barbados & Cox et al in the Superior Court of Justice held at 150 Bond
12 13 14 15 16	Certificate of Transcript Evidence Act, subsection 5(2) I, Maxine Newell, certify that this document is a true and accurate transcript of the recordings of Nelson Barbados & Cox et al in the Superior Court of Justice held at 150 Bond St. E., Oshawa, Ontario, taken from Recording number 2812-

Maxine Newell, C.C.R.

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This is **Exhibit V**to the affidavit of Donald Best sworn December 10, 2012

MARIJANE RUTH FERRY a Commissioner, etc., Courty of Stimple, for VVI ROY GORDON, Bettled sont Selector Express Cotober 15, 2014

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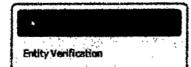
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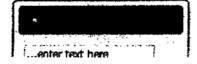
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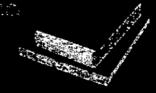
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Number 3473

Category . Company

Date registered / Incorporated 1979-04-18

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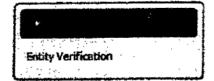
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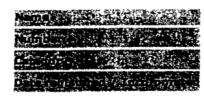
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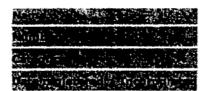
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Name PRICEWATERHOUSECOOPERS SRL

Number 1020

Category Society with Restricted Liability

Date registered / Incorporated 2011-06-23

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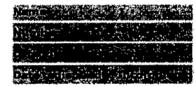
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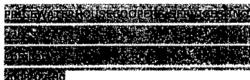
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PRICEWATERHOUSE COPERS @

PricewaterhouseCoopers International Limited 1 Embankment Place London WC2N 6NN Telephone +44 (0) 20 (7) 583 5000 Facsimile +44 (0) 20 (7) 822 4652

December 2, 2005

Ms. Kathleen I. Davis 10921 SW 117th Street Miami, FL 33176

Dear Ms. Davis:

I write in response to your letter dated November 14, 2005 addressed to Samuel A. DiPiazza Jr., CEO of PricewaterhouseCoopers International Limited ("PwCIL"). I am the General Counsel of PwCIL.

PwCIL is a membership-based UK company that acts to coordinate in certain respects the practices of PwC member firms around the world. PwCIL does not provide professional services to clients. The firm in Barbados performing the audit of Kingsland Estates Ltd. ("PwC Barbados") is a member firm of PwCIL. The member firms of PwCIL are separate and independent partnerships or companies, and are part of the PricewaterhouseCoopers global network of firms.

As PwC Barbados is responsible for performing the audit of Kingsland Estates Ltd., I have referred your letter to that firm for its consideration.

Very truly yours,

Lawrence W. Keeshan

This is **Exhibit W**to the affidavit of Donald Best

sworn December 10, 2012



MARIJANE RUTH PERRY, a Commissioner, etc., County of Simcoe, for W. ROY GORDON, Barrister and Solicitor. Expires October 15, 2014.

Nelson Barbados Group Ltd.

427 Princess Street, Suite # 200 Kingston, ON K7L 5S9

December 1, 2009

Justice Shaughnessy
Superior Court of Justice
Court House 601 Rossland Rd. E. Whitby ON L1N 9G7
VIA FAX: 905-430-5804 (Trial Coordinator – Whitby)
VIA FAX: 905-430-5822 (Judicial Secretary to Justice Shaughnessy)

RE: Nelson Barbados Group Ltd. v Richard Ivan Cox et al (Proceeding Wednesday, December 2, 2009)

Your Honour,

I mean no disrespect to the court, and I am not writing you to advance my case or talk about the costs issue before the court.

I would rather be addressing the court personally, but this is impossible as I have been forced to flee the country with my family out of fear due to the actions of defendants and their law firms as detailed in the attachments.

I am concerned that the court has been in the past, and is being now, deliberately misled on a number of central issues by Mr. Ranking and Mr. Silver.

In particular I overheard Mr. Ranking and Mr. Silver in what they thought was a private conversation, agreeing to not inform Your Honour about various details of my November 17, 2009 conversation with them, and I detailed this in the attached letter to Mr. Ranking.

As you will see from my letter to Mr. Ranking, that I have copied to all counsel and yourself, Mr. Silver and Mr. Ranking have created a Victory Verbatim transcript that falsely reports to the court that I said I had received a copy of the court's order. The lawyer Heidi Rubin is a witness to this and knows the truth.

Further, as agreed to between Mr. Silver and Mr. Ranking, the Victory Verbatim transcript is at major variance with a complete and accurate accounting of our conversation in many important areas.

Further, Your Honour signed a court order on November 13, 2009 believing that Donald Best and Nelson Barbados Group Ltd. had been properly served with all the court documents that the court had been told were served. I believe that Your Honour was misled.

After speaking with your trial coordinator and reading various documents posted on the internet, I believe that if Your Honour audited the documents filed at court and held Mr. Ranking and Mr. Silver to account for each document that the court has been told was properly served, Your Honour would find that Mr. Ranking and Mr. Silver cannot explain themselves.

Your Honour, I mean no disrespect to the court. Please forgive me if this letter is in any way improper. My family and I are frightened and lost our well-being and security and left our home and country in fear due to the improper actions of the defendants and their lawyers as detailed in the letter to Mr. Ranking.

Yours truly,

Nelson Barbados Group Ltd. per

President

Attached

1/ December 1, 2009 letter to Mr. Ranking

2/ Victory Verbatim transcript of November 17, 2009

3/ Barbados Underground article of October 30, 2009

Cc: (without attachments 2 and 3)

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427 Princess Street, Suite # 200 Kingston, ON K7L 5S9

December 1, 2009

Gerald L. R. Ranking
Fasken Martineau DuMoulin LLP
66 Wellington Street West
Suite 4200, Toronto Dominion Bank Tower
Box 20, Toronto-Dominion Centre
Toronto, Ontario, Canada M5K 1N6

VIA FAX: 416-364-7813

Dear Sir

You should be aware that when we last spoke on November 17, 2009 and you hung up the phone in the middle of my writing down your questions, the line did not disconnect. I therefore overheard your following conversations, including your private conversation with Mr. Silver after the others left the room, wherein the two of you agreed to go on the record and spin your report to the court for your own "utility" and to not inform the court of various details of our conversation. This was after you refused my several requests to properly put our conversation on the record at the time with a court reporter.

This letter recounts our conversation based upon my notes made at the time, which I assure you are complete and accurate. I want this letter to be part of the court file.

I am in receipt of your package of November 18, 2009 sent via courier that includes your November 18, 2009 letter and the manipulated "transcript" of our conversation that you created after the fact.

As I expected after overhearing your discussion with Mr. Silver, the contents of your letter and the transcript are at major variance with a complete and accurate accounting of our conversation.

I find it appalling that in your "Statement for the Record" on page 12 both you and Mr. Silver falsely report to the court that I said I had received a copy of Justice Shaunessey's order when I said exactly the opposite several times and clearly explained several times that I had not received the order. I even asked for a copy of the order to be sent to me. I note in your transcript that you and Mr. Silver are of one mind that I did say I received the court order, but Heidi Rubin recounted the truth that I said I hadn't received the order and that I asked for a copy to be sent to me. This is as I expected after overhearing your discussion with Mr. Silver.

I am not in contempt of Justice Shaughnessy's order because I didn't know about it until November 16, 2009 and it was not sent to me until November 18, 2009.

After reading your version of events and my accurate notes, and in the absence of explanations from you and Mr. Silver, I have difficulty believing that your and Mr. Silver's actions in manipulating the transcript and other actions as detailed herein are in keeping with how lawyers should conduct themselves.

Further, as a result of carefully examining the materials that I did receive and various internet postings as detailed herein, I believe that the questionable actions of Fasken Martineau DuMoulin LLP and Cassels Brock & Blackwell LLP as detailed herein have all along been directly and indirectly supported and assisted by other defendant law firms and lawyers.

I received your November 18, 2009 courier package on November 24, 2009 along with some other mail when it caught up with me in another country where I was forced to flee to with my family after the law firms and defendants involved in this case took actions that imperiled my and my family's safety as detailed herein.

The package you sent also contains the court order signed by Justice Shaunnesey on November 13, 2009 and, as you know, it is the first time the order was sent to me. You sent it to me for the first time on November 18, 2009.

Now that I review it all, there's no way this order could have been issued without you telling the judge that all documents had been served on me. You knew they hadn't been served on me and so did the trial coordinator when I spoke to her as detailed later in my letter. Notwithstanding this, and your "transcript" that falsely reports to the court I said I received the court order, you have no problem informing the court that I am in contempt.

I asked you and Mr. Silver for a complete listing of the documents that the court has been told I have been served, along with the affidavits of service. You both refused.

As I told you and Mr. Silver several times, as further detailed below, I am willing to cooperate with the court and the procedure, to testify, to bring documents and to satisfy my lawful obligations to the court, but 1/ I have to know about those obligations to comply with them, 2/ I have to have received all the documents that the court has been told I received in order to comply with the court, and 3/ most of all I must be assured of my and my family's safety.

To address some of the statements made by you in your letter of November 18, 2009 and in the "Statement for the Record": (See attached November 18, 2009 letter from Ranking, and the Victory Verbatim "transcript")

1/ You state in your letter and the "transcript" that I was aware that I was to appear for questioning on Tuesday, January 17, 2009 but you fail to report to the court what

I told you at the time, that I first learned of the order when the trial coordinator read parts of the order to me on January 16, 2009 when I called her to ask what costs had been determined on November 2, 2009. I also clearly told you and Mr. Silver several times that I had NOT received a copy of the court order.

I also clearly told you and Mr. Silver that the trial coordinator informed me that the order had only been signed on Friday November 13, 2009 and was couriered to you on that day. You probably didn't receive it until Monday the 16th. She said I had not been sent the order and some of the other documents that the court has been told I have been sent. You leave this fact out of your letter and the Victory Verbatim "transcript" to the court.

Earlier in the summer I was served with papers that said on August 21, 2009 costs would be assessed. Then I was told it was adjourned to November 2. I wrote the court a letter on October 30, 2009 and expected costs would be assessed. I never saw one thing that told me otherwise until I called the trial coordinator on November 16, 2009 to learn the amount of the costs.

2/On page 2, section (c) of your letter and in various sections of your "transcript" (ie: pgs 5, 6, and others) you provide an inaccurate account of our conversation respecting the issue of my and my family's safety. This is an issue that I addressed in some detail with you and Mr. Silver.

I told you and Mr. Silver that I was reading an article published on October 30, 2009 on the Barbados Underground website (Attached) and that based upon the content of the article, it appeared that Mr. Silver and his law firm published on the internet my confidential Ministry of Transport information, including my driver's license number, my date of birth, and my address history since I was 17 years old.

I said the article states that Mr. Silver's firm hired a private investigator who obtained my confidential employment information from the Toronto Police Association that was also published in the same article and that the author of this article has a copy of the report from the private investigator hired by Mr. Silver and the other law firms.

I said the article contains a general call for persons, including disaffected family members and satellite piracy criminals and others I have previously worked against as a police officer and as an investigator, to report to Mr. Silver my whereabouts, phone numbers, and residence address. The article provides Mr. Silver's email address for this purpose.

I said that there is a call on this article and other places on the internet for rogue police officers to be hired to track down my family. I said that the article had been picked up by other websites including pirate satellite and biker (motorcycle gang) websites.

I said that out of fear my family and I left our home and hadn't slept in weeks and that I had spent days, not hours, but days, on the phone dealing with identity theft issues as a direct result of my confidential Ministry of Transport information being put in public.

I told you that based upon my knowledge of the Ministry of Transport data security and the laws respecting the same that I believe persons committed violations of criminal, federal and provincial laws for my confidential MTO information to be released to the public.

I said that I was willing to testify, but that I wanted guarantees from everybody there that not you, not your law firm and none of your defendants, none of your clients have hired surveillance to take pictures of me because it will be on the web tomorrow and further endanger my family and me.

Contrary to your statement in (c) of your letter and on page 5 of the "transcript" that you and Mr. Silver confirmed there was no surveillance, you both qualified "that I know of" and refused to guarantee the actions of your clients.

Mr. Silver shared your inappropriate response to my concerns for the safety of my family and me and the public release of my confidential Ministry of Transport information and confidential Toronto Police employment information.

You both laughed. You continued laughing and chuckling. Mr Silver said it was "a non-issue". You said you didn't care.

I said I was intimidated, that whoever let my Ministry of Transport information go public knew exactly what they were doing to intimidate me and to create identity theft. I said that I knew exactly why it was done.

When I asked Mr. Silver who posted my confidential MTO information on the web and the calls for criminals to hunt down my family and me, you whispered to Mr. Silver, "Kill this".

Mr. Silver answered my question "I have no idea and I can't help find that out nor would I if I could."

I asked how my confidential MTO information came to be in public and Mr. Silver further said, "I have no idea nor do I care." I asked who hired the private investigator and Mr. Silver said "I have no idea."

In (b) of your letter and in the "transcript" (ie:pgs 7, 11 and others) you and Mr. Silver state that I refused to agree to alternate dates, but you neglect to inform the court that you refused to talk further about my and my family's safety and that my objection to agreeing to another date was clearly stated to be based upon my safety

and that you cannot or "don't care" to control the actions of your clients and whomever released my confidential MTO information to the public.

On November 24, 2009, I spoke with Mr. Rick Perry, the legal director for the Toronto Police Association, about the Barbados Underground article that states the Toronto Police Association provided my address from their police records as 123 Mountain Park Road, Hamilton, Ontario.

Mr. Perry told me that if the private investigator received this personal information from the Toronto Police Association (TPA), he did so illegally. Mr. Perry stated that if my address or any other information was released from TPA records, it may be a criminal matter and that he is horrified by the thought that TPA data about a former undercover police officer has been made public.

It is clear to me from the October 30, 2009 Barbados Underground article that all the defendants have been sent a report or reports from a private investigation agency that contains my confidential Ministry of Transport information, including my driver's license number, date of birth, complete name, and address history since I was 17 years old and living at 123 Mountain Park, Hamilton, Ontario. The report is also said to contain my confidential information as illegally obtained from the Toronto Police Association.

I have not been sent the report(s) and I want a copy of it (them).

The information in the October 30, 2009 Barbados Underground article shows me that several Ministry of Transport searches have been undertaken. I know that MTO searches revealing personal information such as address history, date of birth and driver's license numbers are closely controlled and can only be done by a very strict agreement with the Ministry of Transport or through internal police computer searches.

I want each of the defendant law firms, and their private investigators and process servers, to provide me with copies of their MTO search logs showing any and all MTO searches performed relating to this case. I want copies of the operating agreements between the Ministry of Transport and the law firms, private investigation firms, process servers and anyone else who performed MTO searches of my confidential information.

Further, I want copies of all investigations, inquiries and reports about me as made by the defendants, their law firms and hired investigators and anyone else. I need to know everything the defendants and their lawyers have about me, and have distributed about me and to whom, so I can properly ascertain my family's and my safety.

The October 30, 2009 internet article details some of my police experience, apparently taken from the private investigation report(s) about me. It is

disingenuous for Toronto lawyers to claim that I am a mysterious, unknown person or that they are unaware of my ongoing security concerns when over the past three decades both as a police officer and then as a private investigator, I have found myself working with, or for, or against various Toronto law firms numerous times, including some of the lawyers and law firms involved in this case. My name would also appear in the records of the Law Society of Upper Canada as having chaired a joint committee with Law Society members.

My undercover work against organized crime as a police officer and as a private investigator is well known. I have arrested organized crime members and other criminals for offences including murder, extortion, abduction, robbery with violence and other serious crimes. Criminals have served years in prison as a result of my work both as a police officer and later as an undercover private investigator.

Like many current and former undercover law enforcement officers and private investigators, I have received threats over the years including in recent years relating to my work as a private investigator. For this reason like many of my colleagues I have been forced for decades to maintain a low profile so my family will be safe.

Mr. Ranking. you and the other lawyers are well aware of the security and safety issues faced by undercover police and investigators and their families. Your private investigators would also be aware of the same, and especially so if they accessed my confidential information from both the MTO and the police.

That is why my confidential information was released in public. You and your fellow lawyers knew how devastating that would be to my family and me and that is why it was done. With the history of this case and documents previously published on the internet by the defendants, you and your fellow lawyers knew exactly what would happen when the private investigation report(s) was distributed to your clients.

Further, I see proof that some of the postings on the October 30, 2009 Barbados Underground article were placed there by an insider from Cassels Brock & Blackwell LLP.

On November 10, 2009 at 6:31pm, a person calling themselves "Finally some attention in Canada" posted a comment and referred readers to a document located on the Cassels internal server at the following address:

http://www.casselsbrock.com/docs%5CAllarco%20CCAA%20Initial%20Order.pdf

When accessed, visitors download a PDF document called:

"docs\Allarco CCAA Initial Order"

I am informed by a computer expert that the internet address as listed in the comment for the document location at Cassels Brock law firm's website is not published in public. The computer expert also informs me that a search at the Cassels Brock website using their public search engine does NOT reveal this document.

I am informed by the computer expert and believe that this address had to have come from an insider at Cassels as the address is so unusual and unique that it would be impossible for a person to know of its existence without having insider information.

This "Finally some attention in Canada" person posted other comments as can be seen in the article, and the content further proves the writer is an insider at Cassels law firm.

Regarding my business background, it is disingenuous for the lawyers for Barbados and several of the defendants who are or were associated with the government to claim that I am some mysterious or unknown person.

In 2005 I explored business investments and life in Barbados and became enthusiastic about the opportunities and about planning to spend my later years in that country. To this end, I incorporated Nelson Barbados Group Ltd. as my vehicle for investing in Barbados. I am the sole officer, director and shareholder of the company. I always have been the only one.

To further my business interests in Barbados, I met with various officials of the Barbados and United Kingdom governments and banking people during my trips to the island. Aside from the various meetings in Barbados, both the Barbados and UK governments have files containing correspondence with me and records for various projects and investments that were explored.

The defendants or lawyers who publish various articles at the Barbados Underground website claim in writing that they have access to Government of Barbados immigration records about me. I believe them as they published facts such as the number of times I visited Barbados and exactly where I stayed.

Once again, it is disingenuous for the lawyers for Barbados and several of the defendants who are or were associated with the Barbados government to claim they know nothing of Donald Best.

I respectfully ask you and your fellow lawyers and clients to answer the following questions.

1/ Who posted my confidential MTO information in the Barbados Underground October 30, 2009 article?

- 2/ How did my confidential MTO information come to be public?
- 3/1 want each of the defendant law firms, and their private investigators and process servers, to provide me with copies of their MTO search logs showing any and all MTO searches performed relating to this case. I want copies of the operating agreements between the Ministry of Transport and the law firms, private investigation firms, process servers and anyone else who performed MTO searches of my confidential information.
- 4/ Who hired the private investigator referred to in the Barbados Underground October 30, 2009 article?
- 5/ Provide the name of the private investigator and all reports and communications sent to, and received from the investigator.
- 6/ Who received the private investigation report(s)? Was the private investigation report(s) sent to all defendants? Was the court told I was provided a copy of the report(s)?
- 7/ How did the private investigator come to possess my confidential employment information from the Toronto Police Association?
- 8/ I want copies of all investigations, inquiries, searches and reports about me as made by the defendants, their law firms and hired investigators and anyone else. I need to know everything the defendants and their lawyers have about me, and have distributed about me and to whom, so I can properly ascertain my family's and my safety.
- 9/ Who provided the internet address from the Cassels webserver as found in the comment posted by "Finally some attention in Canada" at November 10, 2009 at 6:31pm? Who provided the location of that document to any and all persons who could have posted that on the internet? Who posted the comments on the internet?
- 10/ Provide the Barbados government files containing correspondence with me and the records for various projects and investments that were explored.
- 11/ Provide the Barbados government immigration, surveillance and other records about me as mentioned on Barbados Underground.
- Mr. Ranking, I believe that the release of my confidential MTO and police employment information to the public is intended by you and your fellow lawyers to intimidate me, and to cause other persons to stalk me, including criminals whom I have had professional dealings with both as a police officer and a private investigator.

Unless you answer the above questions, I shall continue to believe that you and your fellow lawyers and defendants have done this deliberately.

You have achieved your purpose of intimidating me and also my family. You have driven me out of the country and underground to protect my and my family's safety, and now you are going to court and saying "See, he's not cooperating, Judge. You should throw the book at him."

And then you and Mr. Silver are falsely telling the judge that I said I received the order when I said exactly the opposite and you know it.

You and Mr. Silver are not willing to tell me what you told the judge about what documents have been served upon me. You obviously told the judge that everything was sent to me and even the trial coordinator acknowledges it didn't happen.

I await your answers to the above list of questions, along with a list of all court documents that you and the other lawyers have told the judge I have been served with, along with the affidavits of service for each document.

The reason I have copied this letter to every lawyer is because it has been made clear that you and all of your fellow lawyers at the various law firms are acting in concert. I want all this on the official court record.

Yours truly,

Nelson Barbados Group Ltd. per

President

Cc:

Sean Dewart Sack Goldblatt Mitchell LLP – (416) 591-7333

Heidi Rubin Sack Goldblatt Mitchell LLP - (416) 591-7333

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Gerald L.R. Ranking Direct 416 865 4419 granking@fasken.com

November 18, 2009 File No: 211200.00002

BY ORDINARY MAIL AND COURIER

Mr. Donald Best c/o 427 Princess Street Suite 200 Kingston, Ontario K7L 5S9 Mr. Donald Best c/o Cloverdale Mall 250 The East Mall Suite 1225 Toronto, Ontario M9B 6L3

(by mail only, without enclosures)

Dear Mr. Best:

Re: McKenzie et al ats Nelson Barbados Group Ltd.

A. Your Examination

I am writing further to your telephone discussion with me, Lorne Silver, Heidi Rubin, Sarah Clarke and Marc Lemieux (all of whom were at Victory Verbatim) yesterday. Please note that I am sending this letter to both of your post office box numbers.

First, and by reason of the fact that you failed to attend to be examined, I enclose the Certificate of Non-Attendance issued by Victory Verbatim.

Second, I confirm that you called Victory Verbatim at 9:50 a.m. yesterday morning. You did so because you knew that you were to be examined at 10:00 a.m. I have also now seen your letter dated November 16, 2009 (received after I returned to the office yesterday). It is apparent from your own letter that you were aware that Justice Shaughnessy had ordered you to appear on Tuesday, January 17th to be examined.

Third, and by reason of your failure to attend, I confirm the following salient points from our telephone discussion:

(a) when you indicated that you did not intend to appear to be examined (asking instead to have counsel put questions to you over

Vancouver Calgary Toronto Ottawa Montréal Québec City London Johannasiburg



Page 2

the phone) both Mr. Silver and I told you (on repeated occasions) that you would be in contempt of Justice Shaughnessy's order dated November 2, 2009 if you failed to appear;

- (b) you refused to respond to my repeated request to identify your location, even generally. You also refused Mr. Silver's offer to have the examination stood down to 2:00 p.m. and his subsequent offer to conduct the examination today (Wednesday) or tomorrow (Thursday). Despite repeated requests, you refused to tell me where your were or to commit to be examined on any of those days. You also did not provide alternate dates;
- (c) when you claimed that you were concerned for your safety and that certain information had been posted to a "blog" (allegedly posted you said by Mr. Silver or his firm), Mr. Silver categorically rejected that he or his firm had posted anything on any blog. Likewise, when you asked if there would be surveillance, both Mr. Silver and I confirmed there was no surveillance. I also offered, as a further gesture to you, to have the examination conducted at my office. You refused my offer;
- (d) you also claimed that you had not received the Notice of Examination, or other materials, which I sent to you on November 6, 2009. However, you refused to answer my repeated questions as to whether or not you had picked up materials from your post office box. I also note that, while you claim you did not receive my letter dated November 6th, you knew to call Ms. Traviss on the morning of Monday, November 16th (the day prior to your scheduled examination); and
- (e) with respect to the service of documents, you did not provide a residential address or alternate address for us to provide duplicate copies. Likewise, you did not provide us with any email address or telephone numbers.

Having not appeared, you are now in contempt of Justice Shaughnessy's order dated November 2, 2009. Your very own letter dated November 16th confirms your knowledge of that order, which you flagrantly disregarded.

If possible, we would like to resolve this matter without further involving Justice Shaughnessy. Accordingly, rather than moving for a contempt order now, we are prepared to give you one, and only one, opportunity to purge your contempt. Mr. Silver



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and I have re-arranged our schedules and we enclose herewith a further Notice of Examination which requires you to appear on Wednesday, November 25th (one week from today's date) at 10:00 a.m. at Victory Verbatim in Toronto, Ernst & Young Tower, 222 Bay Street, Suite 900 to answer the questions set forth in Justice Shaughnessy's order dated November 2, 2009. If you fail to appear on that date, we will move for contempt and our motion will be returnable in Whitby before the Honourable Justice Shaughnessy on Wednesday, December 2, 2009 at 9:30 a.m.

This is a very serious matter. We urge you to retain counsel and to seek advice with respect to the matters in issue and the seriousness of your having failed to attend to be examined pursuant to court order. Mr. Silver and I are also prepared to speak with you, or your counsel, if you have questions. And we will also do whatever we can to accommodate your reasonable requests. By way of example, the examination can be conducted at my office (or Mr. Silver's) if you prefer. But let there be no misunderstanding, we expect you to appear to be examined on Wednesday, November 25th and we will move forthwith for a contempt order if you do not appear.

I also enclose a bound brief containing the transcribed statement I made for the record (at Victory Verbatim yesterday) following our telephone call. The statement also attaches the signed order of Justice Shaughnessy (Exhibit "1"), the affidavit of Jeannine Ouellette (Exhibit "2") and my letter to you dated November 6th (Exhibit "3").

Would you also please send Mr. Silver and I a fax identifying whether or not you have in your possession, power or control the documents identified in paragraph 4 of Justice Shaughnessy's order dated November 2, 2009. All such documents should be delivered to me in advance of your examination, or at a minimum, brought with you to your examination on November 25th.

B. Mr. McKenzie's Cross-Examination

By reason of your refusal to attend to be examined on November 17th, I also wish to advise that Mr. McKenzie's cross-examination has been re-scheduled from Friday, November 20th to Monday, November 30th, 2009. Unless we advise otherwise, the examination will take place in Barrie, Ontario at Simcoe Court Reporting, 134 Collier Street, Barrie, ON, Phone No. (705) 734 2070, commencing at 10:00 a.m.

You are invited, and welcome, to attend that cross-examination if you wish.

I also wish to put you on notice that any questions refused on either your examination or the cross-examination of Mr. McKenzie will be the subject matter of a motion to be heard by Justice Shaughnessy at 9:30 a.m. on Wednesday, December 2, 2009 in Whitby. The outcome of that motion may directly affect the interests of Nelson Barbados Group Ltd.,



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or you personally, and I therefore bring the motion date to your attention. We invite you to attend the courthouse in Whitby on December 2, 2009, and you should set that date aside now, because questions which Mr. McKenzie may refuse to answer (on November 30th) may affect your interests, or the interests of Nelson Barbados Group Ltd., and you may wish to make submissions to Justice Shaughnessy on whether or not His Honour should order the questions to be answered.

Yours very truly,

Gerald L. R. Ranking

GLRR/jo

Encis.

c.c.:

Lorne Silver/Jessica Zagar Paul Schabas /Ryder Gilliland

Adrian Lang

Lawrence Hansen/Larry Keown

David I. Bristow Andrew Roman David D. Conklin Sean Dewart Jessica Duncan

(Enclsoures to c.c's will be delivered)

Court File No. 07-0141

ONTARIO
SUPERIOR COURT OF JUSTICE

GL/1ms

BETWEEN:

NELSON BARBADOS GROUP LTD.

Plaintiff

- and -

RICHARD IVAN COX, GERARD COX, ALAN COX, PHILIP VERNON NICHOLLS, ERIC ASHBY BENTHAM DEANE, OWEN BASIL KEITH DEANE, MARJORIE ILMA KNOX, DAVID SIMMONS, ELNETH KENTISH, GLYNE BANNISTER, GLYNE B. BANNISTER, PHILIP GREAVES a.k.a. PHILP GREAVES, GITTENS CLYDE TURNEY, R.G. MANDEVILLE & CO., COTTLE, CATFORD & CO., KEBLE WORRELL LTD., ERIC IAIN STEWART DEANE, ESTATE OF COLIN DEANE, LEE DEANE, ERRIE DEANE, KEITH DEANE, MALCOLM DEANE, LIONEL NURSE, LEONARD NURSE, EDWARD BAYLEY, FRANCIS DEHER, DAVID SHOREY, OWEN SEYMOUR ARTHUR, MARK CUMMINS, GRAHAM BROWN, BRIAN EDWARD TURNER, G.S. BROWN ASSOCIATES LIMITED, GOLF BARBADOS INC., KINGSLAND ESTATES LIMITED, CLASSIC INVESTMENTS LIMITED, THORNBROOK INTERNATIONAL CONSULTANTS INC., THORNBROOK INTERNATIONAL INC., S.B.G. DEVELOPMENT CORPORATION, THE BARBADOS AGRICULTURAL CREDIT TRUST, PHOENIX ARTISTS MANAGEMENT LIMITED, DAVID C. SHOREY AND COMPANY, C. SHOREY AND COMPANY LTD., FIRST CARIBBEAN INTERNATIONAL BANK (BARBADOS) LTD., PRICE WATERHOUSE COOPERS (BARBADOS), ATTORNEY GENERAL OF BARBADOS, the COUNTRY OF BARBADOS, and JOHN DOES 1-25, PHILIP GREAVES, ESTATE OF VIVIAN GORDON LEE DEANS, DAVID THOMPSON, EDMUND BAYLEY, PETER SIMMONS, G.S. BROWN & ASSOCIATES LTD., GBI GOLF (BARBADOS) INC., OWEN GORDON FINLAY DEANE, CLASSIC INVESTMENTS LIMITED and LIFE OF BARBADOS LIMITED c.o.b. as LIFE OF BARBADOS HOLDINGS, LIFE OF BARBADOS LIMITED, DAVID CARMICHAEL SHOREY, PRICEWATERHOUSECOOPERS EAST CARIBBEAN FIRM, VECO CORPORATION, COMMONWEALTH CONSTRUCTION CANADA LTD and COMMONWEALTH CONSTRUCTION, INC.

Defendants

This is a State Record in the above-noted matter, taken at We Resord in the above-noted watter, taken at We Resord in the above-noted watter, taken at We Resord in the above-noted matter, taken at We Record in the above-noted matter at Well at We

APPEARANCES:

GERALD L.R. RANKING SEBASTIEN KWIDZINSKI (Student-at-Law)

SARAH CLARKE

LORNE S. SILVER

- -- for the Defendant, PricewaterhouseCoopers East Caribbean firm
- -- for the Defendant, First Caribbean International Bank
- -- for the Defendants, Richard Ivan Cox, Gerard Cox, Alan Cox, Gittens Clyde Turney, R.G. Mandeville & Co., Keble Worrell Ltd., Lionel Nurse, Owen Seymour Arthur, Mark Cummins, Kingsland Estates Limited, Classic Investments Limited, The Barbados Agricultural Credit Trust (more properly, Barbados Agricultural Credit Trust Limited), the Attorney General of Barbados, the Country of Barbados, Elneth Kentish, Malcolm Deane, Eric Ashby, Bentham Deane, Errie Deane, Owen Basil Keith Deane, Keith Deane, Leonard Nurse, Estate of Vivian Gordon Lee Deane, David Thompson, Owen Gordon Finlay Deane, Life of Barbados Holdings and Life of Barbados Limited
- -- for the Responding Parties, K. William McKenzie and Crawford McKenzie McLean & Wilford LLP

MARC LEMIEUX

HEIDI RUBIN

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STATEMENT FOR THE RECORD:

1.

RANKING: The time is now 10:30. It is Gerald Ranking, and I am making these statements at Victory Verbatim in a boardroom in the presence of Lorne Silver, Marc Lemieux, Heidi Rubin, Sarah Clarke, and my student, Sebastien Kwidzinski. I want to briefly go over the events of this morning before I mark a number of documents

as exhibits.

When I arrived at the reception of Victory Verbatim at approximately 9:50 a.m., Mr. Best was on the phone. He was calling in and speaking to the receptionist. I offered to speak with him, and the substance of the discussion was that he was not going to attend, but that he wanted the examination to take place over the telephone.

I indicated to him that that was not in accordance with the order of Justice Shaughnessy, and I asked him if he could tell me where he was so that we could determine if he could, in fact, attend to be examined in person.

Mr. Best refused to answer that question. And after some further discussion, he then asked if he could speak with Lorne Silver. At that point, at approximately 9:55 a.m., we then retired to a small telephone room off the reception at Victory Verbatim, and Mr. Silver then put Mr. Best on the conference call in my presence and the presence of my student, Sebastien Kwidzinski.

The call proceeded, and Mr. Best indicated that certain information had been posted on the Barbados underground website and some other blog, which I believe was something to do with a motorcycle website, and he indicated that he was concerned for his safety.

He asked in particular whether or not we had been surveilling him, or whether there would be surveillance at the examination. And Mr. Silver made clear that there would be no such surveillance, and also indicated that neither he, nor any member of his firm or his firm itself, had any role in posting whatever it was that

Best was referring to.

And I add that neither Mr. Silver mor myself or, to the best of my knowledge, anyone else in this room today have any knowledge of what Mr. Best was referring to, although it may well be on the website but we haven't accessed it.

The discussion with Mr. Best proceeded until 10:12 a.m., and I summarize the salient points as follows: Firstly, Mr. Silver and myself made clear that if Mr. Best did not attend, that he would be in contempt of Mr. Justice Shaughnessy's order, dated November 2nd.

In that regard, Mr. Silver offered to put the matter down to 2:00 in the afternoon, to which Mr. Best indicated that he could not attend. I renewed my request for Mr. Best to disclose his whereabouts, and went so far as to say that I did not need to know a specific address, but I needed to know generally whether he was in the jurisdiction, and if so, his general whereabouts. And the example I used was, was he in Barrie or elsewhere? So that we,

as counsel, could organize our schedules to try to accommodate him.

Mr. Silver also offered other days, being Wednesday or Thursday, and Mr. Best's response, as best I recall, was that no time was particularly convenient, and he did not commit to any of the offers made by either myself or Mr. Silver to attend to be examined at another time.

I should also add that Sarah Clarke joined the call at 10:05, and I believe that was the approximate time that Heidi Rubin joined the call as well. I am just checking my notes to see if there is anything further. Yes, the other point that I should make clear is that Mr. Best really was quite insistent that the examination take place by way of conference call.

Mr. Silver asked the first question as to whether or not he... "he" being Mr. Best...had the records of Nelson Barbados. Mr. Best refused to answer, and then asked Mr. Silver to put the second question to him, and Mr. Silver made clear that this

the phone, but just simply a general question to determine where the corporate records might be, given the fact that Mr.

Best had not complied with Justice Shaughnessy's order to deliver the documents to me a week in advance.

Finally, one last point, which I think is salient for the purposes of today, is the fact that Mr. Best indicated that he had not received any of the materials but had spoken to Jackie Travis, although he had not used that name, but he said the trial coordinator, which I assume to be Jackie Travis, and that there was a package of materials that were to have been sent to him.

He claimed that he had not received the materials, and I then indicated to him that I had sent the materials to him by letter dated November 6th, in strict compliance with Justice Shaughnessy's order.

I followed up and I asked him if he had, in fact, gone to his post office box

fact that I asked this question on at least three occasions, Mr. Best refused to answer and to let us know whether or not he had picked up the materials.

Subject to the comments of others
that I will invite momentarily, I would
like to mark as exhibits the signed order
of Justice Shaughnessy, dated November 2nd.
That will be Exhibit 1.

--- EXHIBIT NO. 1: Signed order of Justice
Shaughnessy, dated November 2, 2009

2. MR. RANKING: And I would also like to mark the affidavit of Jeannine Ouellette, sworn November 17th, to which is attached the notice of examination, dated November 6th, 2009. And for the purposes of brevity, if I could put it that way, I have not attached to Ms. Ouellette's affidavit the rest of the material that was, in fact, served that day because our volumes, being the transcript from the cross-examination of John Knox, dated November 4th, the

affidavit of John Knox sworn November 12th, the affidavit of John Knox sworn January
11th, and the transcript of the proceedings before Mr. Justice Shaughnessy on April 7 and April 8, 2009.

Those items are identified in Ms.

Ouellette's affidavit of having been

couriered to Mr. Best on November 6th,

2009. So if I could mark the affidavit of

Jeannine Ouellette as Exhibit 2.

- --- EXHIBIT NO. 2: Affidavit of Jeannine Ouellette, sworn November 17, 2009
- 3. MR. RANKING: And I will also mark as
 Exhibit 3 my letter to Mr. Best, dated
 November 6th.
- --- <u>EXHIBIT NO. 3</u>: Letter to Donald Best from Gerald Ranking, dated November 6, 2009
- 4. MR. RANKING: Let me just check my notes, and then I will invite comments from others. Subject to comments from others, those are my comments today.

court order, and that the court order that we were here on today was one that required him to be cross-examined today.

And that if he had any problems with the court orders, he would have to deal with that with the court and not with us. The other thing that I think I might have missed but was also indicated was I, in trying to reschedule this cross-examination to tomorrow or this afternoon or tomorrow or Thursday, I also specifically asked Mr. Best when he would be available for the cross-examination, and he would not answer that question. Anybody else want to add anything to the record?

MS. RUBIN: Just to be fair to Mr. Best, my notes say that he indicated that he

hadn't received a copy of Justice
Shaughnessy's November 2nd order, and that
he had asked for a copy to be sent to him.

MR. SILVER: I don't think that is
right, actually. I think he said that he
got it for the first time last night.

MS. RUBIN: My notes say that he
indicated that he hadn't seen it, but maybe
I misheard. That is what I heard him say.

MR. LEMIEUX: Marc Lemieux, just to...

MR. SILVER: But in response to that, he
obviously knew...sorry, Marc.

MR. LEMIEUX: No problem.

MR. SILVER: He obviously knew about the examination because he knew to call in this morning at 10:00.

MR. RANKING: Well, I don't want to really get into...my recollection is similar to Mr. Silver's, that he, indeed, indicated that he had obtained the court order, and that he, in fact, called the trial coordinator to find out about the material.

MS. RUBIN: Well, that might have happened before I got on the call.

5.

MR. SILVER: And Mr. Ranking asked repeatedly for him to confirm that he had received and seen the materials that were sent to the post office box in accordance with Exhibit 3 that he just marked, and he refused to answer that question.

MR. LEMIEUX: Marc Lemieux. I just wish to be clear for the record that I was not here today for the examination of Donald Best. Our firm is no longer on the record, and I have no specific knowledge of any of these things that were being discussed with respect to the particular court order of... what packages were sent to him, or what was in those packages, or anything else.

I was not present for the entire phone call, so I don't have any specific knowledge of the entirety of the phone call, or the context of the entire phone call, nor did I take any notes of that which I was present for. So, from my position...and I take no position with respect to any of the things that have transpired or what has taken place this morning. Thank you.

INDEX OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PAGE NUMBER
1	Signed order of Justice Shaughnessy, dated November 2, 2009	9
2	Affidavit of Jeannine Ouellette, sworn November 17, 2009	10
3	Letter to Donald Best from Gerald Ranking, dated November 6, 2009	10

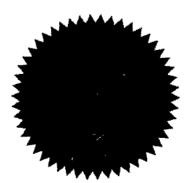
REPORTER'S NOTE:

Please be advised that any undertakings, objections, under advisements and refusals are provided as a service to all counsel, for their guidance only, and do not purport to be legally binding or necessarily accurate and are not binding upon Victory Verbatim Reporting Services Inc.

I hereby certify the foregoing to be a true and accurate transcription of the above noted proceedings held before me on the 17th DAY OF NOVEMBER, 2009 and taken to the best of my skill, ability and understanding.

Certified Correct:

Gina Loraine Variatim Reporter



This is **Exhibit X**to the affidavit of Donald Best sworn December 10, 2012



MARISANE RUTH PERRY a Commissioner, sto., County of Smoote, for WIRDY GORDON. East Control Collector Engrand Control Collector

Court File No.: 07-0141

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

NELSON BARBADOS GROUP LTD.

Plaintiff

- and -

RICHARD IVAN COX, GERARD COX, ALAN COX, PHILIP VERNON NICHOLLS, ERIC ASHBY BENTHAM DEANE, OWEN BASIL KEITH DEANE, MARJORIE ILMA KNOX, DAVID SIMMONS, ELNETH KENTISH, GLYNE BANNISTER, GLYNE B. BANNISTER, PHILIP GREAVES a.k.a. PHILP GREAVES, GITTENS CLYDE TURNEY, R.G. MANDEVILLE & CO., COTTLE, CATFORD & CO., KEBLE WORRELL LTD., ERIC IAIN STEWART DEANE, ESTATE OF COLIN DEANE, LEE DEANE, ERRIE DEANE, KEITH DEANE, MALCOLM 07141 DEANE, LIONEL NURSE, LEONARD NURSE, HEATHER P 11:39 193454 EDWARD BAYLEY, FRANCIS DEHER, DAVID SHOREY OWEN SEYMOUR ARTHUR, MARK CUMMINS, GRAHAM BROWN HOT 10816 \$127.00 BRIAN EDWARD TURNER, G.S. BROWN ASSOCIATES LIMITED 1127.00 GOLF BARBADOS INC., KINGSLAND ESTATES LIMITEDHERUE \$127.00 CLASSIC INVESTMENTS LIMITED, THORNBROOK INTERNATIONAL CONSULTANTS INC., THORNBROOK INTERNATIONAL INC., S.B.G. DEVELOPMENT CORPORATION, THE BARBADOS AGRICULTURAL CREDIT TRUST, PHOENIX ARTISTS MANAGEMENT LIMITED, DAVID C. SHOREY AND COMPANY, C. SHOREY AND COMPANY LTD., FIRST CARIBBEAN INTERNATIONAL BANK (BARBADOS) LTD., PRICE WATERHOUSE COOPERS (BARBADOS), ATTORNEY GENERAL OF BARBADOS, the COUNTRY OF BARBADOS, and JOHN DOES 1-25 PHILIP GREAVES, ESTATE OF VIVIAN GORDON LEE DEANS, DAVID THOMPSON, EDMUND BAYLEY, PETER SIMMONS, G.S. BROWN & ASSOCIATES LTD., GBI GOLF (BARBADOS) INC., OWEN GORDON FINLAY DEANE, CLASSIC INVESTMENTS LIMITED and LIFE OF BARBADOS LIMITED c.o.b. as LIFE OF BARBADOS HOLDINGS, LIFE OF BARBADOS LIMITED, DAVID CARMICHAEL SHOREY, PRICEWATERHOUSECOOPERS EAST CARIBBEAN FIRM, VECO CORPORATION, COMMONWEALTH CONSTRUCTION CANADA LTD and COMMONWEALTH CONSTRUCTION, INC.

Defendants

SUPPLEMENTAL MOTION RECORD (Motion Returnable January 15, 2010)

I am saluful the the 3 part lest restin 2901 in Smar Houpe 27d V Forger [2003] O.J. No. 3348 pour 53 hour hum satisfied, Mr. But has Can continued but take letter and spirit of The Count's orders. The has knowingly acted in Contrormain of the Cound reduce. I find that Mr. But is interestly contempt was of the Count orders and thereby he interded to interpre with the administration of judice. In determining the appropriate remedy I have Considered. (4) the nature of the contemporaries and (b) the for the the consumer has a divided (1) the fors the the consemnor has no tendent an gestopy to the Count ar onjung patien of conduct in rabid there are rejected brusche. (If the fow the buch occurred with Continuon and is not the result of a middle or misurdending. If the condent of the continuous schilits beginned by the content of this Court. I have also considered the descripe in Milyand beel [2016] O. J. No 3127; Boulu V Kennedy [1998] O.J. No. 1612 and Dakly Mongersung me US. 2 Bonno [2005] O.J. 180 5318 in Consuling Therefore is in the Order of this Count that Donald But he commutant to a provincial consultant institution for a period of 3 months. Warrant for Commutant to truther is in the Order of this Count this in politicism to the term of incarrending that Donald But But pay a fine of \$7,500

Mis further on order of this Count this Donald Ber may apply to purge his contempt by separating before M. Justine Shanglung, and animing quadring and making production in terms of the Orders of Justine Shanglung did Named Nov 2 2009 and December 4 200 2009, and complying

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Plaintiff

Defendants

Court File No. 07-0141

on 15/10

Mr. M. Ranking + Mr. E. Marie

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ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Barrie

SUPPLEMENTAL MOTION RECORD

FASKEN MARTINEAU DUMOULIN LLP

Barristers & Solicitors
Toronto Dominion Bank Tower
P.O. Box 20
Toronto-Dominion Centre
Toronto, Ontario
M5K 1N6

Gerald L.R. Ranking [LSUC#23855J]

Phone: 416 865 4419 Fax: 416 364 7813

Lawyers for the Defendant,
PricewaterhouseCoopers East Caribbean Firm

This is **Exhibit Y**to the affidavit of Donald Best sworn December 10, 2012



MARIJAME RUTH PERRY a Commissioner, etc., County of Sincoe, for W. ROY GORDON, Brinster and Solicitor Expure Cotaber 15, 2014 Behavioural Science Solutions Group Inc.

Behavioural Analysis
Threat Management
Science

Impoice

Date: November 7, 2009 INVOICE # 012-09

To: Fasken Martineau DuMoulin LLP Barristers & Solicitors

66 Wellington St W
Suite 4200
Toronto Dominion Bank Tower
Box 20 Toronto-Dominion Centre
Toronto ON, M5K 1N6
Canada

Mar. Gerald for niting

Jim Van Allen _		Gerald Ranking	g (Re: Donald Best)	Due on receig	ot	por e s
Travel time from Or	illia to	131 Oct 09	8.25 hrs at 80.00 an h	our		\$ 660.00
	area check	31 Oct 09	3.5 hrs at 125.00 an	hour		\$ 437.50
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Lunch-	31 Oct	09		_		\$ 7.00
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Behavioural Science Solutions Group Inc.

Behavioural Analysis Threat Hanagement Strategies

Invoice

Date: October 24, 2009 INVOICE # 011-09

To: Fasken Martineau DuMoulin LLP Barristers & Solicitors

66 Wellington St W Suite 4200 Toronto Dominion Bank Tower Box 20 Toronto-Dominion Centre Toronto ON, M5K 1N6 Canada

de. Coreld Confing

Jim Van Allen	Ge	erald Ranking	*****	Due on receipt	
inquiries	s RE: Donald BEST 6 Hrs @ \$1	25.00 per hour		750.00	\$ 750.00
(Includes -	information checks, checks.	checks,	record checks, Telephone interview	ws	
of Unsuccessful lea	d investigation, and update m	essages to G Rai	aking and S. Kwidzinsk	d)	
Affidavit Re: Do	nald Best 3 Hrs # 125.00			375.00	\$ 375.00
Preparation of A commissioning a	.ffidavit, discussions with C R affidavit	anking and S Kw	idzinski, and		_
Charge for comm	nissioning affidavit per F. Hor	ner Law Firm, Gi	ravenhurst	35.00	\$ 35.00
Copy of F. Home	er receipt attached				
Courier deliver	of affidavit			18.43	\$ 18.43
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				Total	\$ 1178.43

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This is Exhibit Z

to the affidavit of Donald Best

sworn December 10, 2012



MARIJANE ROTH PERRY a Commissioner, cfd., County of Simbool for W. ROY GORDON Barrier and Graptor Express County of 2011.

Nelson Barbados 2010 ONSC 569 COURT FILE NO.: 07-0141 DATE: 2010/01/25

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Nelson Barbados Group Ltd.

Plaintiff

) Heidi Rubin for K. William McKenzie and Crawford, McKenzie, McLean, Anderson & Duncan L.L.P.

-and-

Richard Ivan Cox, Gerard Cox, Alan Cox, Philip Vernon Nicholis, Eric Ashby Bentham Deane, Owen Basil Keith Deane, Marjorie Ilma Knox, David Simmons, Elneth Kentish, Glyne Bannister, Glyne B. Bannister, Philip Greaves a.k.a. Philip Greaves. Gittens Clyde Turney, R.G. Mandeville & Co., Cottle, Catford & Co., Keble Worrell Ltd., Eric Iain Stewart Deane, Estate of Colin Doane, Lee Deane, Errie Deane, Kelth Deane, Malcolm Deane, Lionel Nurse, Leonard Nurse, Edward Bayley, Francis Daher, David Shorey, Owen Saymour Arthur, Mark Cummins, Graham Brown, Brian Edward Turner, G.S. Brown Associates Limited, Golf Barbados Inc., Kingsland Estates Limited, Classic Investments Limited. Thornbrook International Consultants Inc., Thornbrook International Inc., S.B.G. Development Corporation, The Barbados Agricultural Credit Trust,

Lorne S. Silver, for the Defendants, Richard Ivan Cox, Gerard Cox, Alan Cox, Gittens Clyde Turney, R.G. Mandeville & Co., Kingsland Estates Limited, Classic Investments Limited et al

Gerald L.R. Ranking and Ms. E. Morse, for the Defendant, PricewaterhouseCoopers East Caribbean Firm

Andrew Roman, for the Defendants Eric Ian Stewart Deane, Estate of Colin Ian Estwick Deane

Sarah Clarke for the Defendant First Caribbean International Bank

inix Artists Management Limited, David C. Shorey and Company, C. Shorey and Company Ltd., First Caribbean International Bank (Barbados) Ltd., Price Waterhouse Coopers (Barbados), Attorney General of Barbados, the Country of Barbados, and John Does 1-25. Philip Greaves, Estate of Vivian Gordon Lee Deane, David Thompson, Edmund Bayley, Peter Simmons, G.S. Brown and Associates Ltd., GBI Golf (Barbados) Inc., Owen Gordon Finlay Deane, Classic Investments Limited and Life of Barbados Limited c.o.b. as Life of Barbados Holdings, Life of Barbados Limited, David Carmichael Shorey, Price Waterhouse Coopers East Caribbean Firm, Veco Corporation, Commonwealth Construction Canada Ltd., and Commonwealth Construction Inc.,

Defendants

HEARD : January 15, 2010

Justice J. Bryan Shaughnessy

REASONS ON MOTION FOR CONTEMPT

- [1] The moving party Pricewaterhouse Coopers East Caribbean and the other participating defendants have brought a motion for an Order finding Donald Best to be in contempt of the orders of this court dated November 2, 2009 and December 2, 2009.
- [2] At the hearing of this application on January 15, 2010, I made a finding that Donald Best was in contempt of the orders of November 2, 2009 and December 2, 2009. I made a further finding that Donald Best had actual notice of the orders of November 2, 2009 and December 2, 2009 and that he also was on notice of this contempt application and yet he failed to attend on the return date of this matter to answer questions and make production as required and detailed in the orders of this Court.

[3] Donald Best is the President of the Plaintiff, Nelson Barbados Group Ltd. The substantive jurisdictional motion in this action was heard and Reasons were delivered dated May 4, 2009. Thereafter Counsel were invited to make submissions on the issue of costs. A cost hearing has been set for February 22, 23 and 24, 2010 at the Durham Regional Courthouse. The Defendants have put the Plaintiff and the Court on notice that they will be seeking a cost award against inter alia, K. William McKenzie and the law firm of Crawford, McKenzie, McLean, Anderson & Duncan LLP, former solicitors for the Plaintiff.

Order of November 2, 2009

- [4] The Defendants brought a motion returnable November 2, 3, and 4, 2009 seeking an award of costs to the Defendants on a full indemnity scale, or in the alternative on a substantial indemnity scale, fixed and payable forthwith by the plaintiff, the plaintiff's officer Donald Best, K. William McKenzie and Mr. McKenzie's law firm, Crawford, McKenzie, McLean, Anderson & Duncan LLP on a joint and several basis. In addition thereto the Defendants sought an order, validating service of the motion material upon Donald Best and compelling Donald Best to appear on an examination on November 17, 2009 in Toronto to answer questions:
 - (a) refused or taken under advisement at the cross-examination of John Knox (a non-party affiant produced by the Plaintiff) held on November 4, 2008 and all questions reasonably arising therefrom;
 - (b) all questions refused or taken under advisement at the Rule 39.03 examination of Donald Best held on March 20, 2009 and all questions reasonably arising therefrom;
 - (c) all questions which the Court directed to be answered at the hearing of the substantive motion on April 8, 2009 and all questions reasonably arising therefrom:
 - (d) all questions relating to Donald Best's appointment and subsequent duties/responsibilities as an officer of Nelson Barbados Group Limited; his relationship, if any, to the matters pleaded in the within action (and the related actions in Barbados), and his association and/or relationship with K. William McKenzie and/or the law firm of Crawford, McKenzie, McLean, Anderson & Duncan LLP; and
 - (e) all questions concerning the shares of Kingsland Estates limited, including without limiting the generality of the foregoing, the security over and ownership rights held by Nelson Barbados Group Ltd. in the common shares of Kingsland and all questions arising therefrom.
- [5] There was also a request for an order compelling Donald Best to deliver two weeks prior to the examination, all documents by which Nelson Barbados Group Ltd. allegedly acquired security or an ownership interest in Kingsland Estates Limited, all trust documents, the minute book, director's register, shareholder's register, banking documents (including bank account opening documents, operating agreements and bank

- 20212 and all books of account, ledgers and financial statements from the date of incorporation of Nelson Barbados Group Ltd through to the present.
- [6] The grounds advanced for the motion is that all the Defendants were forced to incur extraordinary legal expenses to respond to unmeritorious claims and what are alleged to be obstructionist tactics of the plaintiff and its counsel, Mr. William McKenzie. It is further alleged that this action was brought by a shell corporation with a head office address of Mr. McKenzie's law firm in Orillia Ontario and the action was devoid of merit and had no connection to Ontario and which issues were or continue to be the subject of civil proceedings in Barbados. Accordingly the Defendants seek "the highest scale of costs to compensate them for hundreds of thousands of dollars of legal fees thrown away."
- [7] An Order issued from this Court on November 2, 2009 directing Donald Best to attend an examination in Toronto on November 17, 2009. A transcript of the examination indicates that Donald Best called into the special examiners office shortly before the examination was to commence. Mr. Best was placed into a conference call with the counsel present at the examiner's office. Mr. Ranking placed on the record of the examination a narrative of the conversation with Mr. Best, which is not disputed by counsel and which I accept as an accurate account. Mr. Best advised counsel that he was not going to attend the examination but he wanted the examination to take place over the telephone. It was explained to Mr. Best that this was not acceptable and was not in accordance with the order of the Court, Mr. Best asked if there was surveillance of him and he was advised that there was no surveillance. Mr. Best then made reference to blog entries concerning him and he was concerned for his own safety. Mr. Best was assured by Defense counsel present that they did not have any knowledge what he was referring to. Defense Counsel also offered to delay the examination to the afternoon of November 17/09 to which Mr. Best responded that he could not attend. Mr. Best refused to answer all inquiries as to where he resides. Counsel also offered other dates for the examination but Mr. Best refused to commit to another date. Mr. Best insisted that the examination proceed over the telephone. When Mr. Silver asked Mr. Best if he had the records of Nelson Barbados, Mr. Best refused to answer and he then asked Mr. Silver what his next question was. Counsel advised Mr. Best that this telephone conversation was not compliance with the November 2, 2009 order of the Court and the telephone call was terminated.
- [8] Notwithstanding the non-compliance with the order of November 2, 2009 and despite the fact that Mr. Best did not attend the examination of November 17, 2009, Defense counsel served on him by mail another appointment for the examination on November 25, 2009. Mr. Best did not attend on this further appointment.
- [9] Mr. Best never produced the documents detailed in the November 2, 2009 order.

Order of December 2, 2009

- [10] On November 27/09 the defense served a motion record for a December 2, 2009 contempt motion by reason of the failure of Donald Best to comply with the order of November 2/09.
- [11] On December 2/09 defense counsel attended at the Courthouse in Whitby to secure an order validating service of the November 27/09 motion record and authorizing substitutional service of the contempt motion. Donald Best did not attend the December 2, 2009 hearing although he was on notice of the same.
- [12] The order of December 2, 2009 provided that the contempt motion was to be served upon Donald Best by an alternative to personal service. The endorsement of December 2, 2009 reads:

In the usual course a motion to hold a person in contempt should be served personally. However, the circumstances in the present case are most unusual.

Mr. Donald Best, the President, director and shareholder of the Plaintiff Corporation has set up a somewhat elaborate procedure for mailings and other communications. He has a UPS post box address in Kingston which in turn forwards all correspondence to yet another UPS post box at the Cloverdale Mall in Toronto.

Further, it is apparent from correspondence sent by Mr. Best, including conversations he states he had with the Trial Coordinator at Whitby, that Mr. Best is aware of all aspects of this proceeding including my order of Nov. 2/09.

Mr. Best called the Verbatim office on the day of the scheduled examination and attempted to conduct the examination over the telephone. Mr. Best has sent material to the Trial Coordinator and me which is not in Affidavit form.

Mr. Best refuses to provide any address where he resides but suggests he is out of the country. Extensive investigations have not resulted in locating where he resides.

I find that Donald Best is deliberately avoiding personal service of the contempt motion. There are no other steps that can be taken by the defendants to locate Mr. Best.

In these unusual and unique circumstances I find that an Order for substitutional service of the contempt application is appropriate and it is so granted.

Mr. Donald Best will be substitutionally served with the motion for contempt and my endorsement at:

- 1) the UPS address in Kingston Ont. as detailed in the order of Eberhard J.
- 2) at the UPS address at the Cloverdale Mall in Toronto.

The contempt motion is now set to be heard by me on January 15, 2010 at 9:30 am at Whitby Ont.

Costs of today's attendance and costs thrown away are reserved to the January 15, 2010 date.

The cross-examination of Mr. McKenzie has been delayed pending this aspect of the proceeding. Further, 3 days for the hearing of costs have been reserved for the end of February 2010. It is therefore necessary that dates and timelines be adhered to in order that this matter can be completed in both a fair and expeditious manner.

- [13] The order of December 2, 2009 directed Donald Best to attend on January 15, 2010 at Whitby, Ontario to give evidence viva voce before Shaughnessy J and produce the documentation referred to in the November 2, 2009 order (and which is repeated in the December 2/09 order). The order further provides that the contempt hearing would also proceed on January 15 2010. It further provides that in the event that Donald Best fails to attend on January 15, 2010 the contempt motion will proceed in his absence.
- [14] On December 4, 2009 the defense served Donald Best by mail addressed to the 2 UPS address boxes, the December 2, 2009 order and my endorsement. On December 15, 2009 Mr. Ranking on behalf of all participating counsel forwarded correspondence to Donald Best at both UPS addresses in Kingston and Toronto enclosing the Motion Record dated November 27, 2009; the Notice of Return of the Amended Motion; a Supplemental Motion Record dated December 14, 2009 and a Notice of Examination returnable before me on January 15, 2010. Once again the request was made to Mr. Best that he produce the documentation previously requested and detailed in the Court orders and the Notice of Examination. Mr. Ranking's correspondence of December 15, 2009 states that, if Mr. Best did not attend on January 15, 2009, "I will proceed with the contempt motion in your absence and seek a warrant for your arrest." On December 23, 2009 Mr. Best was served by mail with the defendant's Factum and Book of Authorities.
- [15] Donald Best did not attend court on January 15, 2010 and he has not produced the documents that are the subject of the November 2 and December 2, 2009 orders.

Is Donald Best in contempt of the Court Orders of November 2, 2009 and December 2, 2009?

[16] I am satisfied, based on all the material filed including Mr. Best's correspondence to this court and the trial coordinator, that he has actual knowledge of these proceedings and the orders of this court. On November 16, 2009 Mr. Best wrote to the Trial Coordinator's Office:

.....the judge ordered me to appear tomorrow (Tuesday 17th) in Toronto at Victory Verbatim at 10am at 222 Bay Street to answer all questions from "sections a,b,c,d.

[17] Mr. Best did not attend on the examination of November 17/09 choosing instead to play a cat and mouse game over the phone. He also did not attend the November 25/09 date for the examination. On December 4/09 a copy of my order of December 2/09 and

my endorsement were forwarded to Mr. Best. He did not attend on January 15, 2010 as required by the December 2, 2009 order and he did not produce the documentation detailed under both court orders.

Law related to Contempt

[18] In Canada Metal Co. Ltd.v Canadian Broadcasting Corp (No.2) (1974), 4 O.R. (2d) 585 at 603(H.C.J.); aff'd (1975), 11 O.R. (2d) 167 (C.A.) Mr. Justice O'Leary stated the importance of obeying court orders:

To allow Court orders to be disobeyed would be to tread the road to anarchy. If orders of the court can be treated with disrespect, the whole administration of justice is brought into scorn. Daily, thousands of Canadians resort to our courts for relief against the wrongful acts of others. If the remedies that the courts grant to correct those wrongs can be ignored, then there will be nothing left but for each person to take the law into his own hands. Loss of respect for the Courts will quickly result in the destruction of our society.

- [19] There is a three part test for a finding of contempt:
 - (a) the person has knowledge of the nature of the terms of the Order;
 - (b) the Order is directive and not simply permissive; and
 - (c) the person's conduct is in contravention of the Order.
- [20] The principles governing contempt as detailed in Canada Metal *supra* and iTrade Finance Inc. v Webwork Inc. [2005] O.J. No.1200 (Ont. Sup.Crt.) at para. 12 can be summarized as follows:
 - (a) an order must be implicitly observed and every diligence must be exercised to observe it to the letter;
 - (b) the order must be obeyed, not only in the letter, but also in the spirit of the order; and
 - (c) knowledge of the existence of an order is sufficient to obligate persons to obey it (including non-parties if they know the substance or nature of the Order.)
- [21] I find that all of the above principles governing contempt are met in the present case. Mr. Best did not observe either order of this Court. He contravened both the letter and spirit of the orders. Donald Best had knowledge of the orders as evidenced by his November 16, 2009 correspondence to the Trial Coordinator.
- [22] Contempt must be proven beyond a reasonable doubt, but it is not necessary to establish that the alleged contemnor is intentionally contemptuous or that he intends to interfere with the administration of justice. (Re Sheppard v Sheppard, (1976), 12 O.R. (2d) 4 at 8-9 (C.A.).

- 29 1 The breach of an order is not excused because the person committing the contempt had no intention to disobey or deprecate the authority of the Court. The absence of contemptuous intent is a mitigating factor but not an exculpatory factor. It is not a defence that the breach was done reasonably, with all due care and attention, even where that belief is based on legal advice. (Canada Metal supra at 603).
- [24] Mr. Best stated his intention not to appear on the examination of November 17/09 when he called counsel the same day. He also failed to attend the examinations of November 25, 2009 and January 15, 2010 all of which I find beyond a reasonable doubt are contemptuous acts.

Remedy

- [25] In determining what sanctions should be imposed for a contempt of court the case law refers to a number of factors that should be taken into account:
 - (a) the nature of the contemptuous act: Mr. Best has flagrantly ignored the orders of this Court. He has caused the defendants to incur unnecessary costs and this Court to spend valuable resources to enforce compliance. Mr. Best's contemptuous acts strike at the heart of the administration of justice.
 - (b) whether the contemnor has admitted his breach: Mr. Best admitted his intention not to attend to be examined on November 17,2009.
 - (c) the court should also take into account whether the contemnor has tendered a formal apology to the court: Mr. Best has not tendered any apology to the Court.
 - (d) the court must consider whether the breach was a single act or part of an ongoing pattern of conduct in which there were repeated breaches:

 Donald Best is in contempt of two court orders. He also failed to attend an examination on November 25, 2009 which is indicative of a pattern of conduct that is not in keeping with the spirit of the November 2, 2009 order. Mr. Best has also refused to provide his contact information (address, e-mail, telephone number) or to provide alternative examination dates or to disclose his whereabouts all of which are actions calculated to frustrate these proceedings.
 - (e)the court should take into account whether the breach occurred with the full knowledge and understanding of the contemnor such that it was a breach rather than as a result of a mistake or misunderstanding: Donald Best knew that he was required to attend an examination on November 17, 2009. Mr. Best wrote to the Court on November 16, 2009. He confirmed in that correspondence that he knew he had to attend the examination on November 17/09 and that he would attend. Mr. Best in his correspondence has demonstrated that he is in receipt of court materials. He is also aware

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that court materials are being sent to his UPS box in Kingston (which is re-directed to his UPS box at the Cloverdale Mall in Toronto). Mr. Best has also deliberately breached the court order of December 2, 2009 by not appearing before this court on January 15, 2010. His refusal to comply with the Court orders is flagrant and deliberate.

- (f) the court must also consider the extent to which the conduct of the contemnor has displayed defiance. I find that Donald Best has been openly defiant of this Court's orders throughout these proceedings.
- (g)the court should consider whether the order was a private one affecting only the parties to the suit or whether some public benefit lays at its root. I find that this contempt strikes at the heart of the administration of justice.
- [26] In assessing the appropriate remedy the Court should consider a sanction that is commensurate to the gravity of the wrongdoing. The sentence should not reflect a marked departure from those imposed in like circumstances and the court must consider any mitigating and aggravating factors relating to the offender and the offence. However, as in the present case, the intentional violation of a Court order is an aggravating factor in the determination of an appropriate sanction.
- [27] One of the purposes in sentencing in contempt proceedings is specific and general deterrence as well as denunciation of the conduct of the contempor. I find that these principles of sentencing are of the utmost importance in the present case.
- [28] The Supreme Court of Canada in United Nurses of Alberta and Attorney General for Alberta [1992] A.J. No. 979, 1992 Carswell Alberta Reports 10 at para 75 stated that the criminal contempt power should be used sparingly and with great restraint. It follows then that the civil contempt power should be used even more sparingly and only in the clearest of circumstances where it is required to protect the rule of law. I find that this is one of those special circumstances. Donald Best has been and continues to be in defiance of the orders of this court.
- [29] The Court must consider as well all other sanctions other than imprisonment in considering an appropriate remedy. However, the willful, deliberate and defiant conduct of Donald Best in his refusal to comply with the orders of this Court and a consideration of the principles of sentencing lead me to the conclusion that the only appropriate remedy in the circumstances is a sentence of incarceration. I find that any other sanction would diminish, rather than enhance, respect for the administration of justice. Further, I find that other measures of ensuring compliance by Donald Best with the Court orders have been exhausted.
- [30] There is filed in this proceeding the affidavit of Sebastien J. Kwidzinski, an articling student at Mr. Ranking's law firm, sworn October 27, 2009. This affidavit details that a search of the case law indicates an association of Donald Best and K. William McKenzie that dates back some 13 years and which is summarized as follows:

- (a) Expressvu Inc. v NII Norsat International Inc., [1997] F.C.J. No. 276. This action involved certain parts of six affidavits filed by the plaintiffs. Mr. McKenzie represented the plaintiffs. Donald Best was one of the affiants on behalf of the plaintiffs. The Reasons note that Mr. Best's affidavit was sworn on October 30, 1996 indicating that he and Mr. McKenzie were acquainted at some point before this time.
- (b) WIC Premium Television Ltd. v. General Instrument Corp. (2000), 8 C.P.R. (4th) 1 (Alta. C.A.). This action involved an appeal brought by the defendants to appeal the dismissal of their applications to set aside service ex juris and to strike the claims brought against them by the plaintiffs. Mr. McKenzie represented the plaintiffs. Mr. McKenzie sought to introduce fresh evidence in the appeal. Part of this fresh evidence was the affidavit evidence of Donald Best.
- (c) Bell ExpressVu. Ltd. Partnership v Rex, [2002] 2 S.C.R. 559. This case involved an appeal to the Supreme Court of Canada brought by the plaintiffs relating to wording in the Radiocommunication Act. Mr. McKenzie represented the plaintiffs and he presented affidavit evidence of Mr. Best sworn November 15, 1999 and he cited Mr. Best in his factum.
- (d) Kudelski S.A. v. Love, [2002] MBQB 65. This matter involved a motion to extend service and to approve substituted service. Mr. McKenzie represented the plaintiffs as well as Mr. Best and The Nelson Group Limited. Mr. McKenzie, Mr. Best, and The Nelson Group Limited, among others, were third parties. Mr. Best had been retained to assist in the execution of an Anton Pillar order. The defendants were successful in obtaining an order for substituted service on Mr. Best and The Nelson Group Limited. The defendants were unable to locate Mr. Best. At paragraph 26 of the Reasons the presiding judge states: "Mr. McKenzie, when asked by me whether he knew where Mr. Best was, indicated that he "believed" that Mr. Best is now in Thailand, Mr. Best, according to corporate documents filed with the Companies Branch in Ontario, would appear to be the operating mind of The Nelson Group Limited." A corporate search of The Nelson Group Limited details that a "Donald Robert Best" is listed as a Director and Officer. The company was incorporated on March 15, 1993 and its last annual return was filed in 2003.
- (e) CAMT Speed-I-Com Inc. v Pace Savings & Credit Union Ltd. (2005) WL 2158674 (Ont. S.C.J.). This action involved applications by both parties for interlocutory injunctions as well as to request the appointment of a receiver. Mr. McKenzie represented the plaintiff. Mr. Best was involved in an accounting investigation on behalf of the plaintiff and he is described in the Reasons as being a retired police officer with some experience in forensic financial matters.
- (f) Love v News Datacom. Ltd., (2006) MBCA 92. This matter involved an appeal to the Manitoba Court of Appeal brought by the plaintiffs after the motions court struck a third party notice as disclosing no reasonable cause of action. On the appeal, Mr. McKenzie was a third party respondent and he also

acted as representative to the other third parties in the action, which included 2919 Donald Best and The Nelson Group Limited.

- [31] The affidavit material filed on this motion indicates that a motor vehicle license search was conducted on "Donald Robert Best" and which disclosed an address of 122-250 The East Mail, Apt. 1255 which is the address for the mailbox of the UPS store located in the Cloverdale Mall in Toronto.
- [32] The information detailed in paragraphs 30 and 31 herein do not form any basis of the finding of contempt. The information is provided as a narrative of the context in which the defendants, in part, are advancing a cost award against Mr. McKenzie, Mr. Best and Nelson Barbados Group Ltd.
- [33] However the information detailed in paragraphs 30 and 31 does lead me to the conclusion that Donald Best is a seasoned litigator and therefore is knowledgeable concerning the necessity for compliance with Court orders and likewise the consequences for non-compliance with Court orders.

Imposition of a Fine

[34] The defendants also seek the imposition of a fine as yet another measure to give effect to specific and general deterrence in relation to the proven acts of contempt. However, one of the first criteria is to determine whether the contemnor has the ability to pay a fine. Donald Best on behalf of the Plaintiff had the resources to commence this action against 63 defendants for \$ 500 million and pursue it to its conclusion on an application relating to jurisdiction. In relation to other interlocutory proceedings, costs awarded to the defendants and payable by the Plaintiff of approximately \$ 250,000.00 were in fact paid. Therefore I am satisfied that there is an ability of Donald Best to pay any fine imposed by this Court. In addition to a sentence of incarceration, I also impose a fine of \$ 7,500 payable by Donald Best.

Conclusion

- [35] For the reasons provided, I impose on Donald Best a sentence of 3 months incarceration to be served in a provincial correctional institution. In addition to the sentence of incarceration I impose a fine of \$ 7,500 to be paid by Donald Best to the Treasurer of Ontario plus the statutory surcharge thereon. A warrant for committal to issue forthwith.
- [36] It is further an order of this court that Donald Best may apply to purge his contempt by appearing before me on or before February 22, 2010 and answering questions and making productions as detailed in my orders of November 2, 2009 and December 2, 2009.

- [37] I have signed an order that relates to the attendance of K. William McKenzie on an examination now set for February 3, 2010.
- [38] I have heard the submissions of defence counsel on the costs for attendances and argument of this motion for contempt. In light of my findings of a deliberate, willful and continuing contempt on the part of Donald Best, I find an award of costs on a substantial indemnity basis is appropriate. It is acknowledged by defence counsel that Mr. Ranking and his law firm did the substantial work on this application. I have considered the guidelines under the Rules of Civil Procedure and the principle of proportionality in assessing the cost award. After reviewing the bill of costs and hearing the submissions of counsel I made the following award of costs payable by Donald Best within 30 days:
 - (a) To Mr. Ranking's clients costs of \$ 50,632.90 inclusive of GST (comprised of \$ 45,000 in fees and \$ 5,632.90 in taxable disbursements).
 - (b) To Mr. Silver's clients costs of \$ 13,230 inclusive of GST
 - (c) To Mr. Roman's clients costs of \$ 5,512.50 inclusive of GST
 - (d) To Ms. Clarke's clients costs of \$ 3,500 inclusive of GST.

Dated: January 25, 2010

Justice J. Bryan Shaughnessy

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Nelson Barbados Group Ltd.

Plaintiff

-and-

Richard Ivan Cox, Gerard Cox, Alan Cox. Philip Vernon Nicholis, Eric Ashby Bentham Deane, Owen Basil Keith Deane, Marjorie Ilma Knox, David Simmons, Elneth Kentish, Giyne Bannister, Giyne B. Bannister, Philip Greaves a.k.a. Philip Greaves, Gittens Ciyde Turney, R.G. Mandeville & Co., Cottle, Catford & Co., Kebie Worrell Ltd., Eric Iain Stewart Deane, Estate of Colin Deane, Lee Deane, Errie Deane, Keith Deane, Malcolm Deane, Lionel Nurse, Leonard Nurse, Edward Bayley, Francis Deher, David Shorey, Owen Saymour Arthur, Mark Cummins, Graham Brown, Brian Edward Turner, G.S. Brown Associates Limited, Golf Barbados Inc., Kingsland Estates Limited, Classic Investments Limited, Thornbrook International Consultants Inc., Thornbrook International Inc., S.B.G. Development Corporation, The Barbados Agricultural Credit Trust. **Phoenix Artists** Management Limited, David C. Shorey and Company, C. Shorey and Company Ltd., First Caribbean International Bank (Barbados) Ltd., Price

2922 Waterhouse Coopers (Barbados), Attorney General of Barbados, the Country of Barbados, and John Does 1-25, Philip Greaves, Estate of Vivian Gordon Lee Deane, David Thompson, Edmund Bayley, Peter Simmons, G.S. Brown and Associates Ltd., GBI Golf (Barbados) Inc., Owen Gordon Finlay Deane, Classic Investments Limited and Life of Barbados Limited c.o.b. as Life of Barbados Holdings, Life of Barbados Limited, David Carmichael Shorey, Price Waterhouse Coopers East Caribbean Firm, Veco Corporation, Commonwealth Construction Canada Ltd., and Commonwealth Construction Inc.,

Defendants

REASONS FOR JUDGMENT

Justice J. Bryan Shaughnessy