Table of Contents – Bodies of **Affidavit** Only

*Re: Privacy Requests made on LSBC and EFS on July 15, 2021 for the RAM Dumps (see: passwords, lost information, et al as a result of the **Concealed RAM Deletion** and **Concealed Custodial RAM Seizure**).*

Affidavits 1 to 8 – Prior to Delivering **Affidavit** s #9 and #10 to Swiss Re

1. **Affidavit** #1, sworn on September 19, 2021; → Provided by Policy Holders
    a. Comprehensive Factum at said time – acknowledged by NST LLP on September 29, 2021
2. **Affidavit** #2, Sworn on October 6, 2021; → Provided by Policy holders
    a. Receipt of the letter on October 8, 2021 from NST LLP that Ms. Lockhart had resumed processing and the LSBC would not return the original as those were documents [sic] copied [sic] from the RAM [sic] and the LSBC would not reiterate [sic] its position
3. **Affidavit** #3, sworn on October 9, 2021;
4. **Affidavit** #4, sworn on October 24, 2021
    a. Receipt of letter from NST LLP on October 25, 2021 with **Unrequested Improperly Decoded Record** via hyperlink from NST (not LSBC) account with Sharefile and Citirx located and accessed outside of Canada
5. **Affidavit** #5, sworn on October 31, 2021;
6. **Affidavit** #6, sworn on November 7, 2021 ("**LSBC CASL Affidavit** ");
7. **Affidavit** #7, sworn on November 7, 2021 (the "**EFS PIPEDA Affidavit** ");
8. **Affidavit** #8, sworn on November 7, 2021 (the "**NST LLP PIPEDA Affidavit** ");

Delivered to SwissRe and Westport

9. **Affidavit** #9, sworn on December 8, 2021 (the "**PIPEDA Override Provision Affidavit** "); and
10. **Affidavit** #10, sworn on December 8, 2021 (the "**Underwriter PIPEDA Affidavit** ")

Appendix → Oct 25, 2021 → letter NST LLP → RAM DUMPS Jan 7 2019
Jan 15, 2022 → letter NST → LSBC
Can order destroy FC → June

TAB 3

AFF #3

AFFIDAVIT #3 OF KEVIN A. MCLEAN STATUTORY DECLARATION #3 OF KEVIN A. MCLEAN

PURSUANT TO THE *CANADA EVIDENCE ACT*

PURSUANT TO THE BC EVIDENCE ACT

PURSUANT TO FEDERAL ACTS AND ENACTMENTS

PURSUANT TO RELEVANT ACTS AND ENACTMENTS

I, **Kevin A. McLean (B.A. (MCL), J.D., CIM)**, of Toronto, Ontario Canada, Businessman and Chartered Investment Manager, **SOLEMNLY AFFIRM** THAT:

1. I am the individual above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and believe and where so stated I verily believe those matters to be true.

2. This is my third declaration herein regarding the below matters and topics where I, inter alia, seek the assistance of the LSBC et al regarding compliance with provincial and federal legislation where applicable.

3. I adopt my evidence from the following declarations:

    a. Declaration of September 19, 2021 with Exhibit "A" and enumerated pages ("Declaration #1"); and
    b. Declaration of October 6, 2021 with appendix for a total of 424 pages ("Declaration #2").

4. Where I have sworn evidence on information and belief, I provide the source of my belief which is cross-referenced to the documents.

5. I have commenced drafting this Declaration #3 on October 9, 2021.

6. I do not waive any form of privilege between myself and professional advisors (previously or currently).

7. The volumes herein are different than the tabs in Exhibit "A".

8. I adopt the definitions from my previous declaration above for ease of reference.

9. I adopt the definitions from my previous requests, demands and correspondence to the LSBC, NST LLP, Ms. Lockhart, EFS et al for ease of reference.

VOLUME 1: EXHIBIT "A"

10. Attached hereto to this my affidavit and marked as Exhibit "A" with enumerated tabs and pagination for each relevant page are copies of documents that I am further bringing to the attention of relevant persons.

11. I have provided a Table of Contents for Exhibit "A" as follows:

    a. Tab 1: Index to LSBC Defendants LOD in Damages Action where I note there is no reference to RAM Dump but only mirror imaging of hard drives of members;
    b. Tab 2: Index to LSBC Defendants LOD in Damages Action where I note the undated photographs;
    c. Tab 3: Undated photographs from the same as Tab 1 and 2;
    d. Tab 4: The EFS Forensic Preservation Report ("FPR");
    e. Tab 5: Sample pages on RAM Dump not being copies but "creations" as consistent with the FPR;
    f. Tab 6: Documents on Raw Data Files and their distinctions in not being "forensic images"
    g. Tab 7: File Extension Types that are NOT Raw Files
    h. Tab 8: Index being the same as Tab 1 and 2 regarding some of the "copies of Mirror Image Documents" (allegedly)
    i. Tab 9: MISC.

Volume 2: Timing of Declaration #3

Volume 2(A): Access to the Created RAM Raw Data File

12. On August 24, 2021, I was informed, by NST LLP, that I would receive access to the Created RAM Raw Data File on or before October 8, 2021 as the LSBC was extending the time to provide access pursuant to s. 10(1)(b) and s. 10(1(c) of FIPPA.

13. I did not receive the above noted response from the LSBC.

s. 10(1)(b) of FIPPA

14. The purported response on behalf of the LSBC was that it required more time "large number of **records** that must be **searched** to complete *this request*".

s. 10(1)(c) of FIPPA

15. The purported response for "more time was needed to consult with a *third party* because we can decide whether to give you access **to the record**".

My Position

16. I disagreed that a large number of records needed to be searched because the Created RAM Raw Data File is one record albeit created by an unidentified version of DUMPIT.

17. Further, I disagreed that any unknown third party could decide whether to give me access to the record[1].

VOLUME 3: THE PRIVATE OFFICE COMPUTER

18. The Private Office Computer was an Asus CPU. I still have possession of the ASUS CPU and I recently took photos of the same and provided them to the LSBC.

19. I compared the photos from the Forensic Preservation Report of the ASUS CPU to my then current photos of the ASUS CPU, and all of the serial numbers et al was the same.

VOLUME 4: THE HOME COMPUTER

20. My home computer was a Hewlett Packard. I never consented to the LSBC entering my home for any such investigation or otherwise.

VOLUME 5: JUNE 3, 2014

Volume 5(a): *Photographs*

21. I note the photographs in Exhibit "A" and the dates provided therein based on my belief and knowledge.

Volume 5(b): *LSBC: Intella 1.8*

22. I note that the LSBC represented that it used Intella Version 1.8.

VOLUME 6: FPR

23. I repeat, rely and adopt on my previous evidence regarding the Forensic Preservation Report regarding

VOLUME 7: ***RAM DUMP, RAM DATA DELETION, AND CUSTODIAL RAM SEIZURE***

[1]Singular

24. I repeat, rely and adopt the evidence from Declaration #1 and Declaration #2 in this regard.

25. The Forensic Preservation Report represented that on June 4, 2014 at 11:25 a.m., Cree, having already **installed** DUMPIT on my CPU, "The command prompt was accessed by selecting start, All programs and accessors, The command prompt was focused on the C: Drive which was **CHANGED** to E. Colin Cree **ran** the program **DUMPIT** and answered "Y" to **create** a raw ram dump to E:\Kevin-PC-20140604-1855.raw".

26. The Forensic Preservation Report represented that on June 4, 2014 at 11:48 a.m., "**RAM capture was complete**".

Kevin_PC-20140604-185344.raw[2]

[2]Raw files contain the most complete, uncompressed image data

VOLUME 8: THE FORENSIC CLONING (ABORTED)

27. The Forensic Preservation Report represented that on June 4, 2014 at 12:19 a.m. that it aborted the forensic cloning rather imaging and erased the same. I believe this is consistent Rule 4-43 that it only allows copying in Mirror Imaging and not cloning of a CPU.

28. Now shown to me and marked as Exhibit "A" to this my Declaration #3 is a secondary source article on the distinction between forensic cloning versus forensic copying.

Volume 9: The Forensic Copying of Hard Drive : File Type McLean WS with EO1

29. The Forensic Preservation Report represented that on June 4, 2014 at 12:19 p.m., Cree and EFS further represented, "Imaging of the Kevin McLean works station hard disk was started. The Ditto was set to image the 1 terabyte drive in E01[3] format (the "**EO1 Format**")[4] mirror into the **LSBC** Storage Disk and EFS Storage Disk with image file name as:

"McLeanWS"

Volume 10: The Forensic Copying: USB: EX01 format

30. The Forensic Preservation Report represented that on June 4, 2014 at 4:24 p.m. EFS further represented, "Connected a blue and silver USB key "SBL" to a Tableau USB writer blocker in preparation for imaging. The write blockers reports the devices iSerial number as !C(B544B. The Write blocker is attached to a forensic workstation[5]. Encase imager started and the USB device was added. Encase was configured to create an image of the device in EX01 format[6] named, "McLeanBlueUSB at C:\cases\14052801

Volume 11: The Forensic Copying: USB: E01 format

31. The Forensic Preservation Report represented that on June 4, 2014 at 5:24 p.m., "Encase imager configured to capture an image of the device in E0l format, named Lexar4GB_USB, stored at C:\ cases\ 14052801 \.

32. The Forensic Preservation Report represented that on June 4, 2014 at 5:36 p.m., "Encase imager used to create an image of this device in E0l format at C: \Cases\ 14052801 \ with the file name DT101_16GB".

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[3] https://www.whatisfileextension.com/e01/#:~:text=The%20E01%20file%20extension%20stands,storing%20the%20acquired%20digital%20data.
[4] The **E01 file extension stands for EnCase image file format used by EnCase software**. The file is used to store digital evidence including volume images, disk image. memory and logical files. Encase creates multiple E01 files of **uniform size 640 MB for storing the acquired digital data**.
[5] No particulars of the type of "forensic workstation"
[6] EXO1 format is:

VOLUME 12: PAPER FILE

33. The Forensic Preservation Report represented that on June 4, 2014 at 5:36 p.m. that all paper print outs from the Brother MFC8480DN and turned over to McCartney.

VOLUME 13: JUNE 5, 2014 – TRANSFER OF "FILES" FROM LUXIO USB TO CREE WORKSTATION DATA DRIVE UNDER CASES\ 14052801

34. The FPR represented:

> Files contained on the Luxio E-Fence USB key were copied to the CRC02 workstations DATA drive under Cases\ 14052801

VOLUME 14: JUNE 5, 2014 - CREATED AN ENCASE FILE

35. The FPR represented:

> Created an EnCase case file and added the USB drive images to it. Reviewed these images for any accounting records they may contain, as requested by Wendy HO. None found.

VOLUME 15: CA WITH LEF AND ENCASE IMAGER ON C DRIVE ON JUNE 12, 2014

36. The FPR stated;

> A USB3 storage drive was attached to the laptop and encase imager was started. The C drive was previewed in EnCase.
>
> The Easy Law data related to Mr. McLean was located at C:\esiwin\MC. This folder was selected and a Logical Evidence File (LEF) was created of its contents. The LEF was named "McLean Easylaw" and saved to the USB3 drive. The Easy Law data login is Peter Stojakovic with Password dills.
>
> LEF completed. EnCase console reports:
>
> EnCase Imager
> Status: Completed
> Start: 06/12/14 10:24:19 AM Stop: 06/12/14 10:35:33 AM Time: 0:11:14
>
> McLean EasyLaw.L01 collected earlier today from Stojakovic's computer copied from the USB3 drive to EFS598 under folder "PStovakovic records". MD5Summer used to confirm that the copy was identical to the original.

McLean EasyLaw.L0l collected earlier today from Stojakovic's computer copied from the USB3 drive to EFS597 under folder "PStovakovic records". MD5Summer used to confirm that the copy was identical to the original.

VOLUME 16: INTELLA ON JUNE 12, 2014

37. The FPR stated:

> An EFS laptop was connected to Peter Stojakovic' s network. An Intella casefile was created with a DATA folder of My Documents\ 14052801.
>
> Network issues were resolved and Stojakovic again entered his credentials. Intella presented a view of Stojakovic' s G-Mail inbox with all the user created labels appearing as folders. Stojakovic advised he had labeled the emails related to McLean as "McLean". Selected that folder and had Intella download its contents.
>
> The Intella email case captured earlier today from Stojakovic' s G-Mail account was copied from my documents\ 14052801 to EFS598 under folder PStojakovic Email. Copy was confirmed to be identical to the original using MD5Summer"

VOLUME 17: FILE TYPES FROM EFS FORENSIC PRESERVATION REPORT

38. I now distinguish between the following types of electronic "files" in the Forensic Preservation Report of EFS:

    a. RAW (.raw);
    b. E01;
    c. L01;
    d. EX01; and
    e. LEF (perhaps the same as L01).

Volume 18: June 13, 2014 – Failure of Forensic Images (Created RAW File Not a Forensic Image)

39. The FPR represented;

> Forensic Images contained on Luxio USB Key were copied to EFS597 using MDSSummer to confirm the copies are identical to the original. Copy failed.

Volume 19: RAW File

40. My FIPPA request is for the **Created RAM Raw Data File** which was in a file type known as (.raw).

Volume 20: E01

What is an E01 file?

41. Now shown to me and marked as Exhibit "A" to this my Declaration #3 is a copy of a website named, "What is File Extension" that defines an E01 File Format:

> "The **E01 file extension stands for EnCase image file format used by EnCase software**. The file is used to store digital evidence including volume images, disk image, memory and logical files. Encase creates multiple E01 files of **uniform size 640 MB for storing the acquired digital data**."

Facts

42. June 4, 2014 at 12:34 p.m., Cree and EFS further represented, "Imaging of the Kevin McLean works station hard disk was started. The Ditto was set to image the 1 terabyte drive in E01[7] format (the "EO1 Format")[8] mirror into the "**LSBC** Storage Disk" and "EFS Storage Disk" with image file name as: (my definition) (my definition)

VOLUME 21: L01

What is an L01 file?[9]

43. Now shown to me and marked as Exhibit "A" to this my Declaration #3 at Tab ___, page ___ is a copy of a website named, "What is File Extension" that defines an L01 File Format:

> "File created by EnCase forensics software; stores a collection of individual files that have been selectively copied from an EnCase evidence (**.E01**) file; allows smaller collections of digital evidence to be grouped without having to load the entire E01 evidence file to view them; used for storing noteworthy evidence."

44. Now shown to me and marked as Exhibit "A" to this my Declaration #3 at Tab ___, page ___ is a copy of a website named, "What is File Extension" that defines an E01 File Format:

---

[7] https://www.whatisfileextension.com/e01/#:~:text=The%20E01%20file%20extension%20stands,storing%20the%20acquired%20digital%20data.

[8] The **E01 file extension stands for EnCase image file format used by EnCase software**. The file is used to store digital evidence including volume images, disk image, memory and logical files. Encase creates multiple E01 files of **uniform size 640 MB for storing the acquired digital data**.

[9] https://fileinfo.com/extension/l01

> A .L01 file is an **Encase Logical Evidence file**. Through our analysis of L01 files, we **know** that one use of the format is Encase Logical Evidence. We have not yet described in detail what these files contain and what they are used for, but our team is working tirelessly through thousands of file formats. We'd love hearing from you if you have information about the format.[10]

Facts

45. On June 12, 2014 represented in the FPR, "McLean EasyLaw.L01[11] collected earlier today from CA computer copied from USB3 drive to EFSS598 under folder "PSTovaokovic records". MD5Summer used to confirm that the copy identical to the ***original***'.

Volume 22: HP Home Computer

46. I repeat and rely upon my evidence in the Declaration #1 regarding Ms. Chan knowing that my home computer was an Hewlett Packard ("HP").

Volume 23: Exhibit "A"

47. I reference the different file types in my **Exhibit "A"** regarding the LSBC's representations that it had not commenced the investigation

Volume 24: April 2017 Application signed by Ms. Lockhart

48. I repeat and rely upon Ms. Lockhart's representations to the Court regarding the actions of the LSBC (and EFS) on June 4, 2014.

49. I note the following and copy and paste with emphasis being mine:

> [24] On June 4, 2014, the investigators attended again at the plaintiff's office. The investigators took two forensic copies of the **hard drive** on the plaintiff's office computer. They also took copies of **paper files** provided by the plaintiff.
>
> [25] Nobody from the LSBC reviewed the hard drive until the conclusion of a process set out in the Rule 4-43 Order for the adjudication of the plaintiff's request certain be excluded from the review.

Volume 25: Recent Representations of the LSBC regarding the Created RAM Raw Data File

50. I repeat and rely upon the previous representation of NST LLP and Ms. Lockhart regarding the October 8, 2021 response regarding the Created RAM Raw Data File.

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[10] https://file.org/extension/l01

[11]

51. I do **not** consent to any such review, processing or resumption of the same.

VOLUME 26: DEFENDANTS LOD

52. I have reviewed the Defendants' List of Documents in the Damages Action, the index to the LOD, and the actual documents and I have not been able to locate any Raw Files.

VOLUME 27: CONCLUSION

53. I have provided a conclusion letter to the aforementioned regarding the above and my request that immediate action be taken regarding the same.

54. I reserve the right to add further evidence as it becomes known to me.

55. I view this matter as extremely urgent and request immediate compliance by the LSBC and any other persons that may receive notice regarding the same.

56. I swear this Declaration #3 under the penalty of perjury and for no improper purpose.

57. I continue to suffer loss and damage as a result of having to spend the time to continue to assert my legal rights.

58. I thank the recipient of this Declaration #3 and previous for their review and attention to the same.

59. I have provided this Declaration #3 as soon as I was able so the LSBC and others can effect compliance, provide the requisite instructions and make the necessary demands where applicable.

SOLEMNLY AFFIRMS BEFORE ME at the city of Toronto, Ontario, this 1th day of **October** **2021**

Kevin A. McLean

A ~~notary~~ or Lawyer for taking Affidavits in Ontario

THE PROVINCE COMMISSIONER
Ashley ARTOPOULO
56698N

AFF #4

AFFIDAVIT OR STATUTORY DECLARATION[1] ("AFFIDAVIT")

*Re: **Privacy Complaint** regarding: (i) Duties imposed under FIPPA that have **not** been performed; (ii) extension of time for responding to a request **not** in accordance with subsection 10(1)((b) and (10(b)(c); and (iii) **PI** has been collected by **Associate, Mr. Colin Cree ("Cree")** of **Service Provider** of **LSBC**, e-Forensic Services Inc. ("**EFS**") by way of June 4, 2014 **RAM** Dump, using unidentified Computer Software, Moonsol's **DUMPIT**; in contravention of Part 3 of FIPPA; (iv) **PI** has been used by **Local Public Body**, **LSBC**, and Associate and Employee, Mr. Megan Ritchie ("Ritchie") of **EFS** in contravention of Part 3 of FIPPA; and (v) **PI** has been Disclosed by **LSBC** and **Cree** and Ritchie of **EFS** in contravention of Part 3 of FIPPA.*[2]

*Re: Request by Mr. McLean for Privacy Commissioner to exercise his powers to ensure compliance with any provision of FIPPA and 2012 FIPPA Regulation; exercise powers under FIPPA regarding Record production ("**Notice To Produce Records**") in the custody or Control[3] of Persons which do **not** engage s. 14 or s. 22 of FIPPA; and **Require Persons** to attempt to resolve the Privacy Complaint before investigation commencement ("**Pre-Investigation Resolution**")*[4]

*Re: Issues related to **PIPEDA** for non-BC Organizations and Collection, Use or Disclosure not within BC*

I, **Kevin A. McLean (B.A. (MCL), J.D., CIM)**, of Toronto, Ontario Canada, Businessman and Chartered Investment Manager, **SOLEMNLY AFFIRM** THAT:

1. I am the **Individual** (the "**Applicant**", "Requestor" or "**Complainant**") above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and *belief* and where so stated I verily *believe* those matters to be true.

2. I have structured the body of this **Affidavit**, in support of my **Privacy Complaint**, as follows:

   a. **VOLUME 1**: **Exhibit "A"**; Definitions and Overview;
   b. **VOLUME** 2: Privacy Definitions;
   c. **VOLUME** 3: General Powers of the Commissioner when a **Privacy Complaint** has been filed;
   d. **VOLUME** 4: My Belief Regarding Contraventions of Part 3 of *FIPPA* by **Local Public Body**, **Service Providers** of **LSBC** and **Associates** of **Service Providers**;
   e. **VOLUME** 5: The Rule 4-43 Order under then **LSBC** Rule 4-43 (the "**Defunct Investigatory Rule**"), the Execution of the Rule 4-43 Order and Exclusion Requests Period
   f. **VOLUME** 6: The **EFS** Activities During and After the Exclusion Requests Period
   g. **VOLUME** 7: The Crosbie Letter to Mr. Deane ("Independent Adjudicator" or "ISS") the **LSBC** Submission to Mr. Deane, the **EFS** delivery to Office Forensic Copies and the Adjudicator Decision
   h. **VOLUME** 8: After the Expiry of the Review Period of the Adjudicator Decision
   i. **VOLUME** 9: Chan to McCartney regarding **EFS** Forensic Preservation Report and McCartney Custody and Control of the Same
   j. **VOLUME** 10: The **LSBC Document Discovery Plan** and **NST LLP Memorandum** of Material Docs[5];
   k. **VOLUME** 11: Gomery Response to Request for "Return of Seized Documents";
   l. **VOLUME** 12: **Lockhart Application**; **Grauer Decision** and **Macintosh Decision**
   m. **VOLUME** 13: Decision of Adjudicator Siew
   n. **VOLUME** 14: **My 2018 Privacy Requests**
   o. **VOLUME** 15: The **Matajawa Decision** and **My July 2021 Privacy Requests**
   p. **VOLUME** 16: Types of "information" in the Created **RAM** Raw Data Native File 18544

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[1] Relevant Legislation under FIPPA, PIPA, BC Evidence Act et al

[2] *An Investigation or Audit or Inquiry under FIPPA or PIPA by the BC **Privacy Commissioner** into the LSBC's purported **Service Provider** ("**EFS**") and its Directors, Officers and Associates ("**EFS**") unauthorized installation of **Invasive Computer Programs** to perform **RAM Dumps** of Members CPU containing Members' PI and Unknown Third Party PI in contravention of FIPPA*

[3] a public body may have control over a record that is not, or has never been, in its physical possession

[4] Section 44(3.1)

[5] FIPPA, s.3; Applicant not limited by any proceeding

Introduction: My Exhibit "A"

3. Now shown to me on this date of **October 24, 2021** and attached hereto to this my **Affidavit** is **Exhibit "A"** which has been delineated with 31 **TABS** and enumerated **pages** in permanent marker:

a. **TAB 1: Ms. Marian Murray ("Murray"), paralegal of LSBC, Document Discovery Plan**[6] **(Date**: September 30, 2015; **pages**: 1-8);
b. **TAB** 2: **Murray Discovery Plan** (Clean Copy) (**Date**: *ibid*; **pages** 13-23);
c. **TAB** 3: **Murray Document Discovery** from previous sworn evidence (see: **Date**: *ibid*; **pages** 24-32);
d. **TAB** 4: *FIPPA* Request by McLean (**Date**: July 2014; **pages**: 34 to 36);
e. **TAB** 5: **LSBC** Response to my *FIPPA* Request[7] for **Created RAM Record (see: Pages 38 to 40);**
    i. *Purported* **LSBC** Response for Extension of Time under *FIPPA*, s. 10(1)(b) and (C) (see: **Date** August 23, 2014; **page** 38);
    ii. *Purported* **LSBC** Response, Claiming Lack of Clarity (see: **Date**: September 10, 2021, **page**: 39)
    iii. Purported **LSBC** Response: must review, and produce and review third party interest[8] (see: **Date** September 29, 201; **page** 40);
        a. My response to the above **noted** responses (see: **Date** September 29, 2021, **pages** 40 a to f)
        b. ***Purpose*** **LSBC** Response for October 8, 2021: "allegedly unable to advance review and processing while awaiting clarification despite **not** citing 10(1)(a);
            i. Further **LSBC** Response: "no longer a copy but capture" (see: **Date** October 18, 2021, **page** 42)
f. **TAB** 6: **Associate** of **EFS**; Access Data Group LLC ("**AD LLC**") (see: **pages** 43-49);
g. **TAB** 7: Documents involving **Guidance Software Inc.** with FTC and others documents (see: **50 to 54**);
h. **TAB** 8: Summation[9] Reviewer Manual of AD LLC, Associate of **EFS** (see: **pages** 55-70)
i. **TAB** 9: *Select **Pages*** from *Previous Declaration* of September 18, 2021 (see: **Date**: September 18, 2021 (see: **pages** 71-106 therein)
j. **TAB** 10: Emails between Ritchie of **EFS** and Ms. Chan of **LSBC** (see: **Date**: December 29, 2014, **pages** 107-128)
k. **TAB** 11: Select Documents (see: **pages** 129-133)
l. **TAB** 12: **EFS Forensic Preservation Report** (**Date**d: June 17, 2014; **pages** 137 to 167)
m. **TAB** 13: Emails between Ms. Chan of **LSBC** and Mr. McCartney of **LSBC** (date: May 56, 2015); **pages** 168)
n. **TAB** 14: Copies of **Mirror Image Copies** from McLean Hard Drive (Dropbox) (see: **pages** 169 to 173)
o. **TAB** 15: **Rule 4-43 Investigation Reports** of Ms. Chan of **LSBC** after May 5, 2015 email (see: **pages** 174 to 181)
p. **TAB** 16: Gomery response to my request for return of documents seized without consent; represented, in unsolicited fashion, that LSBC did **not** have Originals (see; **Date** October 7, 2015; **page** 182);
q. **TAB** 17: LSBC NOA (Lockhart executed) of LSBC to BC Supreme Court (see: April 2017; **pages** 183 to 184)
r. **TAB** 18: **LSBC** Defendants Trial Brief in BC Supreme Court (date: May 29, 2017; **page** 185)
s. **TAB** 19: **Binding Decision** of **Adjudicator Siew**[10] of **OIPC BC** (date: August 23, 2018; see **pages** 185 to 195)
t. **TAB** 20: Manipulated Photos by undetermined author (see: **pages** 196 to 197)
u. **TAB** 21: **RAM cannot** be copied or forensically copied (see: **page** 198)

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[6] with my annotations and part of previous separate Declaration of September 19, 2021
[7] July 2021
[8] I objected to the same; I do not believe there were any third party notices
[9] https://accessdata.com/products-services/summation ; And because Summation utilizes a single shared, forensically secure backend database, data never has to move throughout the e-discovery process, reducing risk of data loss and spoliation; Browser Briefcase: enables secured-web based access and offline
[10] 2018

v. **TAB** 22: Other *FIPPA* request (see: 199 to 2014)
w. **TAB** 23:OIPC BC *FIPPA* guide (see: **pages**: 205 to 22)
x. **TAB** 24: OIPC BC **PIPA** (see: **pages** 224 to 239)
y. **TAB** 25: *FIPPA* for **Excel Spreadsheet Tracking Evidence** (see: **pages** 240 to 251)
z. **TAB** 26: *FIPPA* and **PIPA** Glossary (see: **pages** 252 to 260)
aa. **TAB** 27: My emails with **Cree** of **EFS** and **PIPA** request (see: August and September 2021; see **pages** 261 to 265)
bb. **TAB** 28: LexisNexis Article on BSS and RSSOH (see: December 2018; **pages** 266 to 273)
cc. **TAB** 29: **LSBC** failed submission for proposal to change of definition of law enforcement with Legislature (see: Mach 2016; **pages** 274 to 276)
dd. **TAB** 30: *FIPPA* 2012 Regulation (see: **Date**: May 2021; **pages** 276 to 281)
ee. **TAB** 31: Select Documents of **LSBC** regarding approval by **Privacy Commissioner** for Mirror Imaging and Forensic ***Copying*** of Hard Drive (see: **pages** 302 to 304) and MISC.: **pages** 305 until conclusion.

The Then **LSBC** Rule 4-43 (the "**Defunct Investigator Rule**")

4. The **Defunct Investigatory Rule** was under **PART** 4 Discipline of the now repealed[11] **LSBC** Rules, authorized the **LSBC** Chair of the Discipline Committee to authorize an *investigation* (**not** examination) of the books, account and **records** of a lawyer if there was reason to believe the member may have breached **LSBC** Rules *et al*. When the member was served with the authorized investigation order, the lawyer was required to immediately produce and permit the ***copying*** of all **record** s (see: **Rule 4-43 (b)(i)**). The Rule 4-43 orders required the lawyer to **assist** the **LSBC** to access in a *comprehensible form*, **records** in the lawyer's possession or **Control** that *may contain* information related to the lawyer's practice by providing all information necessary for that *purpose* including passwords and encryption keys (see: **Rule 4-43(b)(iii)**). **LSBC** Rule 4-43 stated that when **electronic Records** have been produced *or* **copied** pursuant to a Rule 4-43 order, the lawyer concerned may request that a *specific* ***Record*** be excluded from the *investigation* on the basis that it contained **Personal Information** that was **not** relevant or privileged to the Rule 4-43 *investigation* (see: Rule 4-43, (1.1)).

BC Interpretation Act[12]

5. Pursuant to the BC *Interpretation Act*, the **LSBC** was authorized to make **copies**[13] of **Records**, which excluded **Computer Programs** and **Record Producing Mechanisms** when it had the power to demand production of records (see: *IA*, s. 27(7)).

2012 Legal Profession Amendment Act

6. The Legislature passed the *2012 Legal Profession Amendment Act* that authorized the Benchers to pass rules that allowed for the *protection* of privacy where the **LSBC** had *inadvertently* collected personal information that was contained in the *records* of the lawyer. Pursuant to the *Legislature's Explanatory Notes*[14], the **LSBC** was authorized to collect **PI** but only in accordance with *FIPPA*.

2012 FIPPA Regulation

[11] The Benchers passed an entirely new set of Rules in 2015
[12] RSBC 1996
[13] Exact reproduction
[14] See: BC Legislature website; BC Laws

7. In 2012, the Lieutenant Governor passed the *2012 FIPPA regulation* that, *inter alia*, required new requirements imposed upon **Public Bodies** regarding requirements to *obtain valid consent* of the Individual with respect to storage, access, use, disclosure and retention.

FIPPA's Paramountcy

8. The **Legislature** passed *FIPPA* in 1996 and its provisions were *paramount* to other legislative provisions when there was a conflict between a *FIPPA* provision and another legislative provision unless the word "despite" or "notwithstanding" (a "**Notwithstanding Clause**") was used by the Legislature in another Act ("***FIPPA* Paramountcy Provision**"). *FIPPA*'s definition of **Record** is paramount to the ***Interpretation Act*** which excludes **Computer Programs** and mechanism that produce Records ("**Record Producing Mechanisms**"). The LPA did not define "record".

The Defunct Investigatory Rule referenced s. 88 of the LPA

9. The **Defunct Investigatory Rule** and **Rule 4-43 Order** referenced section 88 of the *LPA* which had three provisions referencing *FIPPA*. Section 88(2) and (7) of the *LPA* has an override regarding section 14 of *FIPPA* which is authorization for the **Head**[15] of the **LSBC** to refuse to disclose a **Record** to an applicant that is subject to solicitor-client privilege. Section 88(8) of the *LPA* has an override of section 47(4) has an override with respect to the **Privacy Commissioner** reporting information to the **AGBC** regarding an offence where it is subject to solicitor-client privilege.

The Only LPA Section that Authorizes Seizure of Property without Consent

10. I am only aware of one part of the *LPA* that authorizes seizure of Property, which I believe is more expansive than the *FIPPA* **Paramount Record Definition**, which is Part 6 of LPA, Custodianships. I have never been served with an order for a Court appointed Custodian. Based upon my *FIPPA* requests, after the **Adjudicator Siew Decision**, the **LSBC**, through its **Service Provider NST LLP**, confirmed that the **LSBC** had never applied for an order under section 37 of the *LPA*.

11. I am aware, based on research, of two times the **LSBC** applied for and was granted an order of a **Custodian** which were on or around 2007 and 2009 which involved the lawyers named **Mr. Oldroyd** and **Mr. Goddard**.[16]

*The Relevant Entities for the BC **Privacy Commissioner** and Federal Privacy Commissioner in 2014 and Thereafter*

12. The Local **Public Body** was the **LSBC**. **EFS** was the **Service Provider** to the **LSBC** for investigative services under Rule 4-43 pursuant to the 2010 Information Protection Services Agreement (the "**2010 IPA**"). The **2010 IPA** did not include FIPPA's definition of **Record**. The 2010 IPA did represent that the LSBC would always be in Control of the Records. As it relates to me, I do not agree that it was at all times since June 4, 2014.

[15] Mr. Timothy McGee in 2014

[16] I have reviewed those filed court documents and they were commenced with a **Petition** and supporting **affidavit evidence** regarding the seizure of originals of Property

13. Based on information and belief, **EFS** had the following **Associates** (outside of its employees, directors and officers) with their proprietary, patented and/or trademarked **Computer Software**:
    a. Foreign Companies or Foreign Presence:
        i. **Moonsols Inc.**:
            1. The **Computer Program** known as **DUMPIT** for memory dumps of the random access memory ("**RAM**") of a CPU;
        ii. **Guidance Software Inc**. (later acquired by Opentext Corporation")
            1. The **Computer Program** knowns as *Encase* for analysis of unencrypted native files[17] from a **RAM** dumps;
        iii. Vound Colorado Ltd.[18]:[19]
            1. The **Computer Software** knowns as *Intella* was described by Chan in her Rule 4-43 Investigation Reports;

14. **Guidance Software Inc**. was subject to an order of the **Federal Trade Commission** in 2007 regarding privacy breaches. **Opentext Corporation**[20], since acquired, **Guidance Software** in 2017. **Opentext Corporation** represents itself as a *Canadian company* but it trades on domestic and foreign stock exchanges and represents its headquarters in San Francisco.

LSBC** and **NST LLP

15. Based on information and belief, the **LSBC** had a relationship with the **Service Provider** of **NST LLP** for certain services known to them.

***NST LLP** and its Associate*

16. **NST LLP** had a relationship with the **Associate**, **AD LLC**, which provided **Computer Software** knowns as **AD Summation iBlaze**. I believe that **AD Summation iBlaze** has since been rendered obsolete or futile based on being known as "*heritage product*". AD LLC was acquired by Exterro, Inc. in December 2020.[21] While it was after the FIPPA requests in June, July and August 2021, Exterro added Amazon Web Services Canada to its global cloud hosting locations.[22] The CEO of Exterro represented, "Many prefer to have their data stored within the Canadian borders. Given the **growing complexity** of data *security* and **privacy regulations** around the world, we are very pleased to accommodate these requests."

Custody[23] and Under Control

17. I believe that the **Created RAM Record** or some of the **Records**[24] therein may be in the **Custody** or under the **Control** of the **LSBC**, **EFS**, **NST LLP** or their respective **Associates** by way of transfer, adding, ***copying***, disclosing, modification or otherwise between each other.

VOLUME 1: Respectful Requests under FIPPA of the LSBC and PIPA where applicable

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[17] Native Files are unencrypted and not JPEG in 2014
[18] EULA: https://www.vound-software.com/eula
[19] Vound has certain indemnification and hold harmless clauses with its licensees
[20] Our Discovery platform provides leading forensics and unstructured data analytics for searching and investigating organizational data to manage legal obligations and risk. It has powerful machine learning capabilities to help legal and compliance teams quickly find critical information for litigation discovery, investigations, compliance, data breach response, business projects, and financial contract analysis
[21] https://www.exterro.com/blog/exterro-acquires-digital-forensics-firm-accessdata
[22] https://www.globenewswire.com/news-release/2021/09/01/2290347/0/en/Exterro-Adds-Amazon-Web-Services-Canada-to-Global-Cloud-Hosting-Locations.html
[23] Custody is about more than just physical possession of the records. A public body will only have custody if it has "some right to deal with the records and some responsibility for their care and protection." Vancouver (City) (Re), 2020 BCIPC 4: para 50;
[24] See: LSBC Purported Responses

18. Since I now believe that **EFS** and its **Associates** may have **Custody** or **Control** of the **Created RAM Record**, I respectfully request that the **Privacy Commissioner** resolve this **Privacy Complaint** on an interim basis and subject to review of the same:

a. Ordering that the **LSBC** and any its purported **Service Providers** of the **LSBC** or any **Associate** of the **Service Providers** produce the **Created RAM Raw Native Record** on a forthwith basis ; and
b. Order that the LSBC (Ms. Murray) produce the **Evidence Tracking Sheet** to the Commissioner and myself in Electronic Format in electronic format on a forthwith basis; and
c. Any other relief that furthers these requests to resolve this Privacy Complaint without delay.

VOLUME 2: Relevant Privacy Definitions under *FIPPA* and PIPA (see: Exhibit "A", TAB 26, pages 252 to 254)

19. The **OIPC BC** and Legislature have defined the following in certain parts known to them.

a. **Collect**: to gather, obtain access to, **acquire**, receive or obtain **Personal Information** either directly from an **Individual** or indirectly;
b. **Use**: secondary uses include planning, monitoring, research or disclosure as required by law
c. **Disclosure**: to release or make available **Personal Information** to a person, other than the person the information concerns;
d. **Consent**: voluntary agreement by an **Individual** to allow the collection, use or disclosure of the **Individual's Personal Information;**
e. **Control**[25]: ability to regulate and control the record throughout its life cycle;
f. **Custody**: having physical possession of a **Record** , even though the **Public Body** may **not** necessarily have responsibility for the **Record** .
g. **Data**: Pieces of information such as **Individual** facts or results
h. **Personal Information**: **Recorded** information about an identifiable **Individual** other than contact information;
i. **Privacy Breach**: occurs when there is unauthorized access to or collection, use, disclosure or disposal of **Personal Information**
j. **Record** : includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is records or stored by graphic, electronic, mechanical or other means, but does ***not*** include a Computer Prog**ram** or any other mechanism that produces **records;**
k. **Retention**: the process of holding data or information in a secure or intact manner usually for a defined period of time after which it may be permanently destroyed;
l. **Security** of **Personal Information**: security is the process of protecting **Personal Information** by assessing threats and risks to that information and implementing the procedures and systems to maintain the integrity of that information and to prevent unauthorized access, use, disclosure and disposal of that information;
m. **Service Provider** : a person retained under a contract to perform services for a **Public Body** [*FIPPA*, Schedule 1]
    i. **Associate**: means, in relation to a **Service Provider** , a subcontractor, or further sub-subcontractor, of the **Service Provider** or an affiliate of the **Service Provider**
n. **Employee**: in relation to a **Public Body**, includes a volunteer or **Service Provider** ; and
o. **Sensitivity**: security is the process of protecting **Personal Information** by assessing threats and risks to that information and implementing the procedures and systems to maintain the integrity of that information and to prevent unauthorized access, use, disclosure and disposal of that information.

[25]hese factors are whether: the record was created by an officer or employee in the course of carrying out his or her duties; the public body has statutory or contractual control over the records; the public body has possession of the records; the public body has relied on the records; the records are integrated within the public body's other records; the public body has the authority to regulate the use and disposition of the records; and whether the content of the record relates to the public body's mandate and functions

20. **PI**PA has defined ***work product information*** as means information prepared or collected by an **Individual** or group of **Individuals** as a part of the **Individual**'s or group's responsibilities or activities related to the **Individual**'s or group's employment or business but does **not** include personal information about an **Individual** who did **not** prepare or collect the personal information.

VOLUME 3: GENERAL POWERS OF THE COMMISSIONER UNDER FIPPA

VOLUME 3(A): ***Public Body***

21. The **Privacy Commissioner** has the power to *investigate* and attempt to resolve complaints where **Personal Information** has been **Collected, Used** *or* **Disclosed** in contravention of Part 3 of FIPPA by: (i) **Public Body**; (ii) employee of a **Public Body**; (iii) officer of a **Public Body**; and (iv) director of a **Public Body**.[26]

VOLUME 3(B): Service Providers

22. The **Privacy Commissioner** has the power to investigate and attempt to resolve complaints where **Personal Information** has been collected, used or disclosed in contravention of Part 3 of FIPPA by: (ii) employee of a **Service Provider** ; or (ii) Associate of a **Service Provider** .

***VOLUME** 3(C): Part 3 of FIPPA*

23. Part 3 of *FIPPA* is titled, "**Protection of Privacy**" and includes section *26 to 36.1*

***VOLUME 4: My Belief of Contraventions of Part 3 of FIPPA (Protection of Privacy by Public Bodies) by LSBC and EFS* (see: s. 26 to 31.1)**

24. I believe that the **LSBC** and employees of the **LSBC**, along with its **Directors** and **Officers** have **Collected, Used** or **Disclosed Personal Information** (mine or **Third Parties**) in contravention of various sections of Part 3 of *FIPPA* from June 2014 to present. I believe that **EFS**, and employees of **EFS Collected, Used** or **Disclosed Personal Information** (mine or **Third Parties**) in contravention of various section of Part 3 of *FIPPA* from June 2014 to present.

VOLUME 4(I): Division 1: **Collection**, Protection and Retention of **Personal Information** by **Public Bodies**[27]

***VOLUME** 4(A)(i): Section 26 of FIPPA: **Purpose** of Which PI May be Collected*

***VOLUME** 4(A)(i)(a): **Not** Expressly Authorized by an Act (see: ss. 26(a) of FIPPA)*

25. I submit, believe or affirm that since the **LSBC** admitted that consent is required, unlike a **Custodian Order** of the BC Supreme Court, to commence ***copying*** of **Records** under the **Defunct Investigatory Rule** that the **LSBC** could **not** rely upon section 26(a) of *FIPPA*. A rule, bylaw or regulation is not an Act or portion thereof (see: BC *Interpretation Act*, s. 1).

***VOLUME** 4(A)(i)(b): **Not** for the Purposes of Law Enforcement (see: ss. 26(a) of FIPPA)*

[26] For judicial interpretation of director and officer, kindly see *Skakun*
[27] Not retained by the LSBC

26. I submit, believe or affirm that since the **LSBC** relied upon a **Defunct Investigatory Rule**, it could and did **not** claim that collection or acquisition of the memory of the **RAM** by way of **RAM** Dump but only by installing and running using Moonsol's **DUMPIT** (the "**Invasive Computer Software**"[28]), it could **not** claim it was for the *purposes* of law enforcement (see: *Saanich* and *Collins v. City of Prince George*[29]). Further, since the **LSBC** failed in its attempted proposal, in 2016, to the Legislature to have it amend the definition of "law enforcement" under *FIPPA*, it could **not** then rely on it being for the *purposes* of law enforcement. Moreover, the **LSBC**, through Mr. Gomery and Lockhart, filed responsive pleadings for the **LSBC** admitting that what was at stake for was an investigation and **not** a decision in a proceeding.

***VOLUME** 4(A)(i)(c): **Not** Directly and Related to the Defunct Investigatory Rule (see: ss. 26(c) of FIPPA)*

27. Since the **LSBC** admitted, on August 22, 2014, by its submission, executed by **Bussanich** (see: **TAB** 9, **pages** 88 to 98) to Mr. **Mr. Deane, as** the **Independent Supervising Solicitor** and **Independent Adjudicator,**, Barrister and Solicitor with BLG (the "**Independent Adjudicator**" and "**Independent Supervising Solicitor**"), the ***copying*** of client and accounting records[30] of McLean were **necessary** and relevant to the **Defunct Investigation Rule**, then the **RAM** Dump and **Custodial RAM Seizures** could **not** be directly necessary and related to the **Defunct Investigatory Rule**.

VOLUME 4(B): Section 27 of *FIPPA*: How Personal Information is to be collected

28. A **Public Body** must collect **PI** directly from the **Individual** is about unless **another** method of collection is authorized by: (i) the **Individual**; (ii) the commissioner under section 42(1)(i); or (iii) **another** enactment. I did **not** authorize the *installation* and running of the Invasive Computer Software on the CPU for the **RAM** Dump. The **Defunct Investigatory Rule** only authorized ***copying*** and **Forensic *Copying*** which was **Mirror Imaging** into an *incomprehensible form* that could only be viewed by usage of computer software thereafter.

***VOLUME 4(C):* Section 27.1 of *FIPPA* (and Further Evidence)**

29. The **RAM** Dump was **not** passively received by the **LSBC** as **Cree** represented that he did so based on the advice of McCartney that I may use cloud storage (see: *Saanich*). For context purposes, I now believe that the reason that the LSBC performed the RAM Dump on June 4, 2014, was because Chan who was sitting my office chair in the afternoon on June 3, 2014[31] was the Chan of the LSBC used Intella Version 1.8 to perform a capture of my RAM and hard drive known as Intella Connect[32] which represents that it can "initiate RAM capture", "index live machines", and "search using browser with no need to install software".[33] In relation to the foregoing footnote, I attach an appendix of the Manipulated Photos, which were commingled with other photos from June 4, 2014, which I was able to discern based on the Rockstar" energy drink only being present on June 3, 2014. Lockhart has informed me that the photo is not redacted (see: Appendix) and it is the only photograph that the LSBC has in its possession. I am not making any allegation that Vound was involved in this misconduct but I believe that its software was used by the LSBC and there would be a record from June 3, 2014 in the afternoon (see: Appendix 1 and 2).

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[28] Used by CASL

[29] Bylaw enforcement is not a law enforcement

[30] See: Bussanich submission on August 22, 2014

[31] See: affidavit of Ms. Diaz sworn in BC Supreme Court and Chan yelled at her, "Nothing leaves this office".

[32] https://www.vound-software.com/

[33] **Intella Connect is a web-enabled browser based review platform that allows multiple reviewers to simultaneously work on a matter. It has an intuitive workflow that helps reviewers of all levels get the job done.;** I note that the 2018 IPA between the LSBC and EFS then admits EFS is providing **Intella Connect Web Hosting Services**. I believe that Mr. McCartney was there from 3:20 to after hours, as admitted by Bussanich and pleadings filed by the BC Supreme Court, and contrary to his sworn evidence before a **Hearing Panel** on July 22, 2014. As I indicated to Mr. Bussanich, I would work from my home office CPU, which had Dropbox on it. The EFS FPR indicates that 14 files were changed since the last usage. Now based on 7.5 years approximately of research and guidance in this area, I believe this is why the LSBC performed a RAM Dump on June 4, 2014 but it had an issue in that RAM is Volatile Memory, and I had come back on Tuesday June 3, 2014 and that changed the non-sequential memory so, based on information and belief, the LSBC, through its version of Intella Version 1.8[33], had unencrypted native files being stored in the United States. Therefore, I believe that McCartney advised Cree to perform the RAM Dump on June 4, 2014 so the LSBC would not be at odds with Bussanich's admission to me that the LSBC had not commenced the investigation when it had. I believe that counsel for the LSBC couched it by representing that "they (Chan, McCartney and Ho) did not review or copy any document on this occasion and they left at the close of business". However, I now believe the use of the word "copy" may have been deliberately chosen because Intella Connect allows the "triaging" by "sharing those files without installation of Intella Connect software. I believe this is why Mr. Cree continues to copy McCartney on emails, without my initial inclusion, because RAM Dumps are not authorized by the LPA, the LSBC Rule 4-43 was for the purposes of law enforcement, and the LSBC admitted copying of "client records and accounting records" were the directly necessary and related to the **Defunct Investigatory Rule**.

***VOLUME** 4(D): Section 30: Protection of Personal Information (Reasonable Security Arrangements)*

30. A **Public Body** must protect personal information in its **Custody** or under its **Control** by making *reasonable security arrangements* against such risks as unauthorized access, collection, use, disclosure or disposal.

***VOLUME** 4(D)(i): June 4, 2014: **RAM** Dump to **Cree** Luxio USB*

31. Pursuant to the **EFS Forensic Preservation Report** (see: Exhibit "A", Tab 12), I believe that the **Created RAM Record** was **not** in the **Custody** or under the **Control** of the **LSBC** from June 4, 2014 to present when **Cree** dumped the **RAM Native Data** and **RAM Native Images** to the **Cree Luxio USB**.

***VOLUME** 4(D)(ii):* June 5, 2014: Luxio USB to **Cree** Workstations

32. Pursuant to the **EFS Forensic Preservation Report**, I believe that the Created **RAM Record** and its **Native Unencrypted Files** were transferred from the **Cree Luxio USB** to the **Cree Workstations**. I believe that **EFS** operates on the **Intella Web Hosting Server** which is based out of Colorado.

***VOLUME** 4(D)(iii):* June 5, 2014: Encase and Guidance Software Inc.

33. Pursuant to the **EFS Forensic Preservation Report** I believe that the **Created RAM Record** was **not** in the **Custody** or under the **Control** of the **LSBC** when **Cree**, based on the apparent advice of Ms. Wendy Ho, on June 5, 2014, **added** the **RAM** Native Images to an *Encase Case File* to look for accounting records and none were found.

***VOLUME** 4(D)(iv):*Inapplicable: Transfer by **EFS** to Mr. **Mr. Deane, as the Independent Supervising Solicitor and Independent Adjudicator,**, QC ("Adjudicator")

34. Based on information and belief, I do **not** believe that **EFS** transferred any of the **Created RAM Record** or **Native Files** therein to **Mr. Deane,** as the **Independent Supervising Solicitor** and **Independent Adjudicator,** so I do **not** address said aspect.

***VOLUME** 4(D)(v):* December 29, 2014 to January 6, 2015: Ritchie and Chan and **LSBC** Sealed Disk and Working Copies

35. I reaffirm the evidence above regarding Ritchie and Chan, and I believe that the **LSBC** then had **Custody** or under its **Control**, the **McLean PI** and **Third Party PI** in the **LSBC Sealed Storage Disk**.

36. I believe that **EFS**, **Cree**, Windover, and Ritchie had **Custody** and the **McLean PI** or **Third Party PI** under their **Control** on the **Cree Workstations**, **EFS** Workstations along with **Encase** and **Intella**, and the **LSBC** did **not**, subject to it having **Control** of the **Created RAM Record** make reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.

***VOLUME** 4(D)(vi):* January 6, 2015 and Thereafter: Chan on Intella Versions 1.8 (not 1.8.2)

37. I believe that Chan of the **LSBC**, did **not** make reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal regarding the **McLean PI** or **Third Party PI**. I reference and **note** the **Chan Investigation Reports** wherein she denies the same.

***VOLUME** 4(D)(vii):* August 2015 to November 20, 2015 and thereafter: Murray

38. I believe that Murray of the **LSBC** had created an Excel evidence tracking sheet (**"Excel Evidence Tracking Sheet"**) from the above dates and thereafter that tracked the **RAM Native Files**.

39. I affirm the evidence regarding the Gomery response on October 7, 2015 (see: Exhibit "A", Tab 1[illegible]).

***VOLUME** 4(D)(viii):* November 20 2015 to Present: Murray to **NST LLP**

40. I believe that **NST LLP** obtained the **RAM Raw Native Files** by **Disclosure** from the **LSBC** to **NST LLP**.

***VOLUME** 4(D)(iv):* November 20, 2015 to Present: **NST LLP** to Access Data Group Inc.[34] and Summation[35]

41. I believe that **NST LLP** then **Disclosed** the **RAM Raw Native Files** to AD LLC. in the United States by way of uploading into the evidentiary **database**[36] with **AD Summation iBlaze**. I do **not** believe the Local **Public Body**, the **LSBC**, made reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.

VOLUME 4(D)(v): Potential Demise of **AD Summation iBlaze**

42. I am still investigating the issue of the potential demise of **AD Summation iBlaze** and other matters and I will provide evidence regarding the same when applicable (see: Exhibit "A", Tab 31).

***VOLUME** 4(E): Section 30.1: Storage and Access in Canada*

43. A **Public Body** must ensure that **Personal Information** in its **Custody** or under its **Control** is stored *only* in **Canada** and accessed *only* in **Canada**. I believe, based on the sworn facts above, that the **PI** was either **not** under its **Custody** or in its **Control** at the various particularized temporal periods with the defined **Service Providers** or **Associates**, and was **not stored** or accessed only in Canada.[37]

***VOLUME** 4(E)(i): Exceptions*

44. I did **not** consent, in the prescribed manner (see: *FIPPA* 2012 Regulation, s. 9 and onwards), or at all, to any of the **PI** being stored in or accessed from the **United States** or otherwise. Since Lockhart has **not** provided me with any of the **Third Parties**, which apparently have **Third Party PI** in the **Created RAM Record** , I do **not** believe that the **LSBC** sought or obtained their consent.

VOLUME 4(E)(ii): 33.1 (1) (i.1).

[34] https://accessdata.com/legal/terms; governing law in Utah
[35] Located in Oregon
[36] See: Exhibit "A", Tabs ___;
[37] In British Columbia, the approach to outsourcing and disclosures outside Canada depends on whether the data controller is a public or private sector organization. All public bodies subject to the *Freedom of Information and Protection of Privacy Act* (FOIPA) are prohibited from the disclosure, storage or access of personal information outside Canada unless they have the consent of the individual51 or the transfer is in the context of an outsourcing relationship and is necessary for the public body to perform its duties

45. I do **not** believe that any **Disclosure** *purposes* for **another** jurisdiction.

VOLUME 4(II): Division 2: **Use and Disclosure of Personal Information by Public Bodies (section 32 to 35 of *FIPPA*)**

VOLUME 4(F): Section 32: Use of Personal Information

46. I affirm that I have still **not** identified the **PI** and I can**not,** in my view, have consented to it.

VOLUME 4(G)Disclosure of PI: Section 33

47. I am **not** aware of any disclosure of **Unidentified McLean PI** or **Unidentified Third Party PI** under the **LSBC**'s **Custody** or under its **Control.**

VOLUME 5: The Rule 4-43 Order under the **Defunct Investigatory Rule**, the Execution of the Rule 4-43 Order and Exc**lusion Requests Period**

VOLUME 5(a): May 23 to May 27, 2014: the Rule 4-43 Order

48. On May 27, 2014, Riddell approved a **Rule 4-43 Order** to the **LSBC** based on a privileged legal opinion (the "**Bussanich Legal Opinion**") of Bussanich of May 23, 2014. The Rule 4-43 Order had an attachment explaining **Forensic *Copying*** and *Exclusion Request Process* (the "**Forensic *Copying* & Exclusion Request Attachment**").

PART 5(b): **June** 3, 2014: Service of the Rule 4-43 Order

49. The **LSBC** sought to execute the **Rule 4-43 Order** on me on **June** 3, 2014 by Bussanich emailing me a copy of the Rule 4-43 Order and the **Forensic *Copying* & Exclusion Request Attachment**

PART 5(c): **June** 4, 2014: **LSBC** Complaint after McLean non-cooperation with Rule 4-43 Order

50. On **June** 4, 2014, Bussanich emailed me confirming that I did **not** cooperate with the *investigation* on June 3, 2014 and served me a **LSBC** complaint.

PART 5(d): **June** 4, 2014 at 10:01 a.m.: The ambits and limits of my cooperation with the Rule 4-43 Order

51. I then provided cooperation related to: (i) access to my private law office (the "**Private Law Office**"); (ii) computer password (password protected to powering on CPU) for the *purposes* of forensic ***copying*** of my **Hard Drive Disk** and **Dropbox**; and (iii) ***copying*** any paper files along with use of my printer and scanner (the "**Specified Cooperation**").

PART 5(e): **June** 4, 2014 at 10:02 Bussanich confirmation of my limited cooperation

52. On **June** 4, 2014, Bussanich thanked me for providing my computer password and demanded my immediate attendance at my private law office ("**Private Law Office**") for three *purposes*: (i) providing my cell phone

for forensic ***copying***; (ii) answering a questionnaire; and (iii) providing consent for the **LSBC** to access my accounting **Records** with my then **Chartered Accountant**.

53. I did **not** consent to providing the cell phone for reasons particularized to Bussanich. I did **not**, based on information and research, execute the form but provided consent for the **LSBC** to obtain specific accounting **Records** from CA. Later in the month, I did fill out the questionnaire and returned it to the **LSBC**. I refused to attend my **Private Law Office** in the presence of **LSBC** investigators because of an altercation with an investigator of the **LSBC** on **June** 2, 2014 when I attended the **LSBC** for a hearing and attempting to leave the premises. When I met with Ms. Chan, it was in the boardroom of my shared office space at 1800-999 West Hastings Street, Vancouver, BC.

PART 5(f): **June** 4, 2014 at 10:20 a.m.: Bussanich forwarded my **Limited Written Cooperation** to **LSBC** Investigators

54. Unbeknownst to me, Bussanich forwarded a copy of my email to the **LSBC** Investigators which stated "FYI".

PART 5(g): **June** 4, 2014 from 11:25 to 11:48 a.m.: **RAM Dump**

55. Unbeknownst to me, the **LSBC**, through **EFS**, performed the **RAM Dump** on **June** 4, 2014 from 11:25 a.m. to 11:48 a.m. (the "**RAM Dump Duration**") based on McCartney's representation to **Cree** that it may be required based on my usage "**Cloud Storage**". I did use **Cloud Storage** but it was **Dropbox** and I had informed the **LSBC** of the same in previous correspondence with the **LSBC** and it was synced to my **Hard Drive Disk** in near real time. **Cree** labelled the file internally for his *purposes*, and onto the **Cree Luxio USB** in part, Kevin-PC[38]-.....18544.raw (the "**Created RAM Raw Data Native File**", "**Created RAM** Record" or the "**18544 RAM File**").

PART 5(h): **June** 4, 2014 at 11:50 a.m.: **RAM** Memory Deletion

56. Unbeknownst to me, the **LSBC**, through **EFS**, turned off the **CPU** on **June** 4, 2014 at 11:50 a.m. thereby completing the **RAM Memory Deletion**.

PART 5(i): **June** 4, 2014 at 12:25 p.m.: Bussanich acquired knowledge of **RAM Dump** from McCartney (see: **page** 71)

57. Unbeknownst to me, McCartney emailed Bussanich and Caldwell (Bussanich's Supervisor) that **Cree** had *completed* the **RAM** "download". McCartney separate the RAM Dump and Forensic ***Copying*** by then representing that "**Cree** hag beg*un* the **Forensic *Copying*** of my **Hard Drive Disk**".

58. McCartney did inform Bussanich and Caldwell of a time estimate of *6 to 10* hours before finishing the **Hard Drive Disk Forensic *Copying***. McCartney further wrote that since I [he] had *access* to the office after hours that they would have to stay there until the **copy** was made and verified.

PART 5(j): **June** 4, 2014 at 1:46 p.m.: Bussanich does **not** inform me of the **RAM Dump** (see: **page** 72)

59. Unaware of the **RAM Dump** as I was **not** on the email from McCartney above, Bussanich emailed me and did **not** inform me of the **RAM Dump.** Bussanich *did inform* of the time estimate required to copy my

[38]Not Hard Drive

computer **Hard Drive Disk** and the *designated representatives* would have to remain at my office until after hours.

PART 5(k): June 4, 2014 at 4:42 p.m. (see: page 73)

60. McCartney emailed Bussanich that the office manager had offered to keep the place open until 7:30 p.m. McCartney represented to Bussanich that would give them just enough time to capture the **Hard Drive Disk** image and put the machine *back together* for the night. McCartney then represented that "Colin Cree would meet him there in the morning so that we can finish **verifying** if we got all the Cloud Files. Based on my review, I believe McCartney knew that the "Cloud Storage" and "Cloud Files" were contained on my **Hard Drive Disk**.

PART 5(l): Exclusion Requests Period: June 3 to June 10, 2014 (the "Exclusion Requests Period")

61. During the **Exclusion Requests Period**, Bussanich and I discussed the types of **records** and Personal Information that I wished to exclude based on **Forensic *Copying*** of my **Hard Drive Disk**. I was unaware of the three USBs ("**Desk Drawer USBs**")[39] being forensically copied so I did **not** discuss it with him.

62. I made my exclusion requests on June 10, 2014 (the "**Exclusion Requests**") based on review of my **Hard Drive Disk Folder** on my **Private Law Office CPU** which was my **Dropbox Folder**, when returning to the office after the **LSBC Investigators** had completed, what I thought was *only* **Forensic *Copying*** of my **Hard Drive Disk**.

VOLUME 6: The **EFS** Activities During and After the **Exclusion Requests Period**

VOLUME 6(a): June 5, 2014 at 9:30 p.m. and 9:41 p.m. **EFS** Activities

63. I did **not** receive a copy of the **EFS Forensic Preservation Report** on its date or during the year of 2014 and 2015 (see: **TAB 12, Pages 137-167**). Unbeknownst to me, on **June** 5, 2014, **Cree** represented that "Files contained on the **Luxio USB Key** were ***copied***[40] to the **CRCO2 workstations** *DATA drive* under Cases/14052801."[41]Unbeknownst to me, at 9:41 p.m., **Cree** represented that he *created* an **Encase Case file** and added the USB drive images to it, which contained the images from the **RAM 18544 Unencrypted File,** which was from the **Cree Luxio USB. Cree** represented that he reviewed these *Images* for accounting records that they may contain the same but based on the request of Ms. Wendy Ho but none were found (see: **page** 159).

VOLUME 6(B): **June** 13, 2014 at 9:30 a.m. (see: **page** 162)

64. Unbeknownst to me, **Cree** represented that the "**Forensic Images**" contained on the **Luxio USB key** were copied to an **EFS**597 storage disk (the "**LSBC Sealed Storage Disk**"[42]) using MD5Summer to confirm that the copies are identical to the original. However, **Cree** represented that the "**copy failed**".

VOLUME 6(C): **June** 14, 2014 at 4:40 p.m. (see: **page** 163)

[39]Use of Tableau: https://www.opentext.com/support/contact/guidance
[40]Does not mean that the initial dump of RAM was a copy
[41]I presume that these are workstations of **Mr. Cree** at a location known to him.
[42]My belief

65. Unbeknownst to me, **Cree** represented that the "images" contained on the **Cree Luxio USB Key** were copied to the **LSBC Sealed Storage Disk** using **MD5 Summer** to confirm the copies are identical to the original. **Cree** did **not** confirm that they were or reference any verification of the same.

VOLUME 6(D): **June** 15, 2014 at 6:10 a.m. (see: **page** 164)

66. Unbeknownst to me, **Cree** represented the "images" contained on the **Cree Luxio USB Key** were copied to the **EFS Storage Disk** using MD5 Summer to confirm the copies are identical to the original. **Cree** did **not** confirm that they were or reference any verification of the same.

VOLUME 7: Crosbie Letter to Mr. Deane; LSBC Submissions to Mr. Deane; and

PART 7(a): **June** 25, 2014: Crosbie Letter to **Mr. Deane, as the Independent Supervising Solicitor and Independent Adjudicator,** and me (see: **page** 127)

67. **Crosbie** delivered a letter to Mr. **Mr. Deane, as the Independent Supervising Solicitor and Independent Adjudicator,** for my **Exclusion Requests** wherein she represented to **Mr. Deane,** that **EFS** have *only* made a forensic copy of my **Hard Drive Disk**. Bussanich and I were copied.

68. Crosbie represented, on **LSBC** letterhead that I had selected **Mr. Deane,** as the **Independent Supervising Solicitor** and **Independent Adjudicator,** to act as the **Independent Solicitor** to adjudicate my **Exclusion Requests** related to *electronic **Records*** that I was required to produce in accordance with an **Order** made pursuant to the **Defunct Investigatory Rule** and the **Rule 4-43 Order**.

69. Crosbie further represented that the **Rule 4-43 Order** required me to produce and permit ***copying*** of all files, books and any other evidence regardless of the form in which they were kept, including any electronic **Records**.

70. Crosbie represented that in accordance with the **Rule 4-43 Order**, designated representatives of the **LSBC** from **EFS** made a **Forensic Copy** of McLean's **Electronic Records** located on my office computer **Hard Drive Disk**. Crosbie further represented that **EFS** had maintained **Custody** over the **forensic copy** and the **data** contained within. Crosbie represented the Rule 4-43 contemplates a process but which I may have requested that certain information be excluded from the **LSBC** *investigation* where the **LSBC** does **not** agree the information should be excluded.

71. Crosbie provided: (i) Rule 4-43 of the **LSBC** Rules; (ii) the Rule 4-43 Order and **noted** the **Attachment** to this **Order** contains information related to the **forensic *copying*** of the **Hard Drive Disk** and exclusion requests); (iii) My exclusions requests on **June** 10, 2014; and (iv) the **LSBC**'s response by Bussanich, on **June** 12, 2014.

72. Crosbie then represented that the submissions[43] of the **LSBC** will be provided by **Bussanich** and he was a staff lawyer employed by the **LSBC** and he was conducting the investigation of McLean in which the **Rule 4-43 Order** was made.

73. Crosbie then represented that Mr. **Mr. Deane** was entitled to review the information or **Records**, in his independent adjudicative capacity, that are in issue and that Law Society will arrange for a representative of

[43] See: August 22, 2014 LSBC Submissions to Deane

EFS to contact him so that information or **Records** he required for *purpose* of *his adjudication* can be made available to him.

VOLUME 7(B): August 22, 2014: Bussanich Submissions (see: **page** 85 to 94)

74. Bussanich delivered executed submissions on behalf of the **LSBC** on **August 22, 2014** wherein he represented the following to **Mr. Deane**, in his capacity as **Independent Adjudicator** and **ISS** with some of my paraphrasing, pronoun substitution, and titles for reference:

a. ***Purpose***: The *purpose* of the order made under Rule 4-43 (see: *FIPPA*, s. 26(b)) is to ensure swift and complete access to records that would be *necessary* to conduct a thorough *forensic accounting investigation* and the lawyer is required to comply with the terms of the Order (see: **page** 86);
b. **Imaging**: If imaging of the electronic **Records** is contemplated by an Order, such *imaging* is desirable for the *investigation* (see: *ibid*);
c. **Execution and *Copying* by LSBC**: Upon execution of the Order, the **LSBC** designated representatives made copies of: (i) **McLean Hard Drive Disk**; and (ii) **three USB thumb drives** located in my office (see: **page** 87)[44];
d. **Records in EFS Possession**: The exclusion request process *only* applies to **Records** that **EFS** has in its **possession** (see; **page** 88);
e. **Only Records Copied or Imaged**: The submission did **not** address any records or devices **not** yet **copied** or imaged[45];
f. **McLean Onus**: I had the onus. I had to identify the specific **Records** and the reason for exclusion of each **Record.** I had to justify that they records are clearly personal and irrelevant to the Rule 4-43 investigation or privileged (see: **page** 89);
g. **Relevant and Necessary to Rule 4-43**: The Order contemplates file records in addition to accounting records as they were both **necessary** and **relevant** to the *investigation*[46] ((see: **page** 90);
h. **Only Electronic Records**: The exclusion request process *only* applies to **electronic Records** (see: **page** 91)
i. **If Imaged or Copied then Applies to ISS and Independent Adjudicator**: *Only* **records** that **EFS imaged** or **copied** are subject to exclusion (see: **page** 91)
j. **Dropbox**: there is evidence to indicate that I used **Dropbox** to store and share client file **Records** and admitted the same on **June** 20, 2014 to Chan (see: **page** 92);
    i. Further, I had admitted the usage of Dropbox (Cloud Storage) to Milz in April and May 2014;
    ii. I had **not** explained which records in the **Dropbox (Hard Drive Disk)** might be subject to privilege and how that privilege might warrant *exclusion*;
        1. I had **not** identified specific records or sufficient description of those records or nature of those records and had a lack of detail;
            a. Apparently, I had made it *impossible* for the **LSBC** Investigators **and** the **Adjudicator** as to how the contents of Dropbox may be privileged;
    iii. I had misstated the legal test for exclusions under Rule 4-43 (see; **page** 92)
        1. I had **not** identified the excluded records to be both personal and clearly irrelevant;
        2. I had **not** sufficiently described the records that I thought should be excluded;
        3. I had **not** presented sufficient detail and made to impossible for Investigations and Adjudicator to understand how the records (see: **page** 93);

[44] No mention of RAM
[45] If RAM was copied or imaged, then the submission would have included the same
[46] See: FIPPA, s. 26(c)

k. The Adjudicator was entitled to review copies of records (**note**: without the Created **RAM** Record on June 4, 2014 at approximately 11:50 a.m.) to determine whether some of all of them should part of the **Working Copy** to be used in *the investigation.*

VOLUME 7(c) December 12, 2014: Mr. Deane, as the Independent Supervising Solicitor and Independent Adjudicator, Decision (the "Adjudicator Decision") (see: **page** 95 to 106)

75. **Mr. Deane** rendered his decision[47] and dismissed my **Exclusion Requests** and confirmed that he had *only* received from **EFS** the **Office Forensic Copies** which was the **Hard Drive Disk** and **Three USBS** (see: **page** 97). **Mr. Deane,** as the **Independent Supervising Solicitor** and **Independent Adjudicator,** confirmed that to facilitate the review **EFS** provide **Mr. Deane** him with copies of the records located in the **Office Forensic Copies**. **Mr. Deane,** as the **Independent Supervising Solicitor** and **Independent Adjudicator**, noted that the important of privacy interests and had some misgivings to review the **Records** in the **Office Forensic Copies** (see: **page** 98).

VOLUME 8: After the Review Period Expired for the **Mr. Deane, as the Independent Supervising Solicitor and Independent Adjudicator,** Decision

VOLUME 8(a): *December 29, 2014: Bussanich to Investigators*

76. After the *expiry* of the review period ("**Review Period Expiry**"), Bussanich informed the investigators to "feel free to start looking at the *imaged data*" (see: **page** 107).

77. Bussanich also represented that "my argument on this [sic] exclusion requests was that he can only apply for exclusion of data that we have. **Deane agreed** with on this point."

VOLUME 8(b): December 29, 2014:

78. Unbeknownst to me, **Cree** emailed the **Chan** confirming that **Ritchie** had the *working copy* of the images captured on this matter (see: **page** 114). Ritchie then used **Intella** to index the *normal files* for the **LSBC**.

Indexing of Normal Files but now including the "Native Files" (unindexed)

79. Ritchie then represented that she was still processing and would put the data, copies and images onto the external **Hard Drive Disk** but with the **Native Files** (as well) and send out early next week.

VOLUME 8(C): January 6, 2015

80. Unbeknownst to me, on the above date, the **LSBC** received external **Hard Drive Disks** that contained: (i) the **LSBC** Sealed Storage Disk; and (ii) the **Working Copy Disk**. I believe both contained the **RAM** Raw Data Native Files, but not in in encrypted format and unindexed but the **LSBC** Sealed Disk was **not** able to be opened or read by the **LSBC**[48].

VOLUME 9: Chan to McCartney regarding **EFS** Forensic Preservation Report

[47] In my view, well-written decision without the benefit of the 30 minute dump of the memory of RAM into Native Images; I was not entitled to reopen; and review period expired
[48] Subject to that being correct

VOLUME 9(a) May 5, 2015: Chan to McCartney

81. Unbeknownst to me and recently found in the recent documents, May 5, 2015, at 9:07 a.m., Chan wrote to McCartney via email as follows with the heading, "your **notes**": "Hi Dave, I'm writing my **REPORT** on my McLean I don't have certain things written down in my **notes**....Also, I don't have Colin **Cree's REPORT** on the **mirror imaging** of McLean's computer. Do you have that? Thank you, Andrea."

VOLUME 9(b) Chan Reports: June 29, 2015

82. Unbeknownst to me, Chan then issued **LSBC Investigation Status reports** where she represented on **LSBC** letterhead in June 2015:

> Paragraph 22:....Around 10:22 a.m. Mark Bussanich, Staff Law Lawyer, Professional Conduct forwarded an email from McLean. In the email dated **June** 4, 2014 "They can copy any and all documents from my **Hard Drive Disk** and Dropbox" ....."We commenced the *investigation*" (see: June 4, 2015); and "Paragraph 71: On **June** 4, 2014, Colin **Cree**, e-Forensics attended the law office to make a **forensic image** of the *digital devices* located in McLean's office. **Cree** made a forensic image of **ONE COMPUTER HARD DRIVE DISK** and **THREE THUMB DRIVES**. "Paragraph 73: To preserve the integrity of the **mirror image**, E-Forensic provided a working copy of the data collected to the Law Society on **January 6, 2015**. We used **Intella**, a forensic search software, to search the *working copy* for *any document* that contained keywords. *Scope Limitations* Paragraph 75: **June** 4, 2014, **Cree** e-Forensic attend the law office to make a forensic image of **McLean COMPUTER HARD DRIVE DISK** and **THREE THUMB DRIVES**". Paragraph 80: ...When I returned to the Law Society (**June** 20, 2014) I **tried to log in** to McLean's Dropbox account and was **NOT** able to access his account". Paragraph 81: "McLean told me that he works on his files at home and transfers them over to Dropbox. As at date of of this **REPORT** (**June** 29, 2015), I did **not** have access to the records stored in the *Dropbox account*. **Cree** told me that Dropbox can store deleted files in the cloud that would **not** be **VISIBLE** in the **HARD DRIVE DISK STORAGE**".

VOLUME 10 **Murray Document Discovery Plan**

VOLUME 10(a): September 30, 2015 (**TABS** 1 to 3)

83. Unbeknownst to me at the time, Mr. Murray (an apparent paralegal) prepared a document discovery plan (the "**Document Discovery Plan**") wherein she represented and confirmed that there would be a preservation of information (**Legal Hold**) and the steps has been completed and referred to legal hold memo document dated August 31, 2015. I have **not** seen the latter. Murray represented that Gomery's office sent them a memorandum (note: I have not seen said memorandum but made a request for the same) under No. 9 "*Compliance Audit of McLean's Practice which included documents to both the investigatory audit, the Rule 4-43 investigation and compliance audit* ***REPORT****. The* ***entire forensic copy*** *should be* bulk listed *as one item but each* ***Individual*** *documents on the forensic copies of his* ***COMPUTER/CLOUD STORAGE***[49] *does* ***NOT*** *need to be listed".*[50]

VOLUME 11: Gomery Response to Request for Return of Seized Documents

VOLUME 11(a): October 2, 2015: **My request for Return of Documents Seized Without Consent**

[49] Emphasis is mine
[50] FIPPA, s. 3: not limited as a party to a proceeding;

84. I requested the return of documents that the **LSBC** seized without ***consent*** to streamline the matter after Justice Gerow's decision and the **LSBC**'s admission that consent was required. I also asked where the "forensic copies" were located.

85. Gomery replied to me and represented that, "The Law Society is **not** in possession of the **Original Documents** obtained from you. It is possession of copies." I relied on his representation and presumed that the LSBC only had forensically copied (Mirror Images) of records.

VOLUME 11(b) 11(b): **November 2015: NST LLP obtaining of access**

86. In November, **NST LLP** apparently obtained access to the **List of Documents** of the **LSBC**. I obtained an order of **Mr. Justice Bowden** for document production and listing in two tranches in December and January 2016.

VOLUME 11(c): December 2015 and January 2016

87. The **LSBC** list did **not** include any particulars or listing of the **RAM Native File Images** or describe the **RAM Dump**, and they could not be found with keyword search.

VOLUME 12: Spring 2017

VOLUME 12(a): Lockhart Application on behalf of **NST LLP** and **LSBC**:

88. I applied for the return or documents, and destruction of the same, that were "seized during the Rule 4-43 Order with reference to the **Forensic Copies"**. The **LSBC** cross-applied for summary trial judgment by Lockhart's application which was dismissed: [24] On **June** 4, 2014…..The investigators took two forensic copies of the ***HARD DRIVE DISK*** on the plaintiff's office computer. They also took **copies** of paper files provided by the plaintiff; and [25] Nobody from the **LSBC** reviewed the ***HARD DRIVE DISK*** until the conclusion of a process set out in the Rule 4-43 order for the adjudication of the plaintiffs request that certain documents be excluded from review."

VOLUME 12(b): **May 29, 2017: Defendants' Trial Brief**

89. At that same time, I moved the matter towards trial with a jury trial and filed a trial brief. The **LSBC** filed a trial brief on May 29, 2017 wherein it represented that "I having consented to ***copying*** of my documents for the *purpose* of an *investigation* of my practice, I was **not** entitled to withdraw my consent and demand the return of those **copies**". The **LSBC** did **not** indicate it was relying on any expert reports and did **not** include the **EFS Forensic Preservation Report.** I was unaware of the **EFS FPR** at said time.

VOLUME 12(c): July 2017: The Honorable Justice Grauer Reasons for Judgment

90. In July 2018, Justice Grauer rendered his **Reasons for Judgment** wherein he accepted the **LSBC** submissions that all the **EFS** did was take **forensic copies** of my **Hard Drive Disk** and paper copies. He found that I had a damages claim if I could set aside the order and nine other grounds in relation to the **forensic *copying*** of my **Hard Drive Disk**:

> [50] As we have seen, the ***investigation* order**, through its explanatory ***notes***, provided for an exclusion process by which Mr. McLean could request that the certain documents captured by ***the***

investigation, including documents contained in the forensic copy of **HIS COMPUTER *HARD DRIVE DISK***, be excluded from the Law Society's **review.**

VOLUME 12(d): September 2017 before The Honourable Mr. Justice Macintosh

91. I was unaware of the **RAM Dump**, I brought the judicial review, pursuant to the Order of Mr. Justice Grauer, of the Rule 4-43 Order. Without any disclosure to me, Mr. Deane, LSBC Hearing Panels, the BC Supreme Court and Court of Appeal from 2014 to present, I obtained the following order but solely in relation to forensic copies of my Hard Drive:

> "[19] Finally, before me, Mr. McLean asked for an order that the Law Society either destroy or give to him the **forensically made copy** it has of Mr. McLean's computer ***HARD DRIVE DISK*** containing his documents relevant to the disputes he has or has had with the Law Society. Mr. McLean has the original ***HARD DRIVE DISK*** in his possession. He alleges that the order pursuant to which the Law Society obtained the original ***HARD DRIVE DISK*** and made the copy is an unauthorized order."
>
> "The Law Society will continue to hold the copy of the ***HARD DRIVE DISK***. It will **not** *use* documents from the ***HARD DRIVE DISK*** in any ongoing proceeding with Mr. McLean without Mr. McLean's permission or a further order of this Court. If there comes a stage when Mr. McLean states in **Writing** that all present or further claims by him against the Law Society are at an end, and that he will **not** apply for readmission, the Law Society will destroy the copy of the ***HARD DRIVE DISK***, or return it to Mr. McLean, as he elects."

92. I was **not** aware of the **RAM Dump** and **Custodial RAM Seizure** and any disclosure, uses, or otherwise thereafter, and I confirm that I do **not** have the "original **RAM**" from that period but I have the CPU.

VOLUME 13: Adjudicator Siew: 2018

93. **Adjudicator Siew** correctly **noted** that the **LSBC** represented which I now believe were misrepresentations:

> "requested **PERSONAL INFORMATION** to records he **already received** through its discipline process and the court disclosure process.

94. The **LSBC** did **not** bring a judicial review of the same at all or within the legislated timelines under *FIPPA*.

VOLUME 14: October 2018 Privacy Requests

95. Pursuant to the **Adjudicator Siew Decision**, I made narrow privacy requests for the number of Rule 4-43 Orders and whether they had ever been dismissed. The **LSBC**, through Lockhart, confirmed that such applications had never been denied and provide me with the number per year. I made further narrow privacy requests under *FIPPA* as to whether the **LSBC** had ever applied under s. 37 of the *LPA* and the **LSBC** confirmed it had **not**.

VOLUME 15: June 2021**: The Matajawa Decision and Further *FIPPA* Requests**

96. I had been alerted to **Matajawa Decision**[51] where the **LSBC** and a lawyer were embroiled in a dispute over then **Rule 4-55** which then allowed 21 days for exclusion requests and removed the designated representatives' requirement. I *noted* that my decisions of the Hearing Panel and others were hyperlinked. I

[51] See:

was curious about the **Acknowledgement Form** referenced and I made a privacy request upon the **LSBC**. The **LSBC** provided me with the same and confirmed it was created in 2019.

VOLUME 15(a): **RAM Request**

97. On July 14, 2021, after review of the EFS FPR, I made a privacy request for the Created **RAM Record** (see: **TAB** 4).

VOLUME 15(b) Cree Discussions

98. I communicated with Mr. **Cree** for the first time regarding the same (see: **TAB** 27). He confirmed that the **LSBC** had **Control** and **Custody** of *all data* (not necessarily Records) and that I should direct all my efforts towards the **LSBC**. I then made a ***PIPA*** request upon **EFS** which was **not** responded to in compliance, in my view, with *PIPA*.

VOLUME 15(c): List and *Particulars* of all Data that was subject to the **RAM Dump** et al

99. On July 30, 2021, I made a privacy request upon **LSBC** based on **Cree**'s emails and otherwise. On September 14, 2021, the **LSBC** responded by representing that it had completed a search of the Law Society's **records** to responded to your request and **found no records** which respond to this request. I am still seeking **records** contained therein and provide this reiterated request.

VOLUME 15(d): LSBC Response to **RAM Dump** Request

100. The **LSBC** responded and extended the time pursuant to s.10(1)(b) and (c). The **LSBC** represented it would provide its response by October 8, 2021. On August 24, 2021, the **LSBC**, through **NST LLP** and its now partner Ms. Lockhart ("**Lockhart**") did **not** respond in accordance with section 8 of *FIPPA* but it unilaterally extended the time under section 10(1)(b) and 10(1)(c) of *FIPPA*.[52]

VOLUME 15(d)(i): *General Response of the* ***LSBC*** *(see: Exhibit "A",* ***TAB*** *5,* ***page*** *38)*

101. The response that I received from Lockhart, *purported*ly on behalf of the **LSBC**, "**We** [unclear] require an extension of time for responding to your request for a copy of the data[53] that was **downloaded** from the random access memory of the CPU of Kevin McLean".

VOLUME 15(d)(ii): *Section 10(1)(b) and (c) of FIPPA (see: Exhibit "A",* ***TAB*** *5,* ***page*** *38)*

102. The response continued, "Pursuant to section 10(1)(b) and 10(1)(c) of *FIPPA*, we are extending the time for responding to your request by an additional **30 business days** because of the large number of **Records** that **must** be searched to complete this request and because more time is needed to consult with a third party before we can decide whether to give you access to the **Record** . We intended to provide you with the **LSBC**'s response on or before October 8, 2021". The response noted discussing the matter before making a complaint and stated, "You may also, pursuant to section 42(b) of *FIPPA*, contact the Office of the **Information** and **Privacy Commissioner** at the contact information provided below". I to **LSBC**, through Lockhart, confirmed that I was *only* seeking the Requested **RAM** Raw Unencrypted Native File (Record)and **not** a "large number of **Records**". Further, I responded to the **LSBC** that I did **not consent** to any alleged **Third Party** consultation for them [we] to determine whether I could have access to the requested **RAM Raw**

[52]See: AD Summation iblaze and AD LLC being acquired by Exerro and Exterro to Amazon Web Services
[53]More than "data"

Unencrypted Native File. I have continued to note that I am entitled to records in the Custody or under the Control of the LSBC and not simply "data" which is merely one component of a RAM Dump.

VOLUME 15(d)(iii): September 10, 2021

103. On September 10, 2021, then represented, "I **cannot** understand if you are requesting the Original **RAM copied** from your computer or if you are asking for a copy." I believe Ms. Lockhart could understand and I note that this was six days after Exterro was not providing law firms, like NST LLP, with ability to then transfer their data from the United States to Canada with Amazon Web Services. I responded to the **LSBC** that my seeking of the return of my property was different than my access to the **Requested Records.** I affirmed that the **RAM Memory *FIPPA* Request** was as specified and particularized on July 14, 2021 (see: **page** 34). I requested that the **LSBC** provide me with the **Records** contained in the **RAW Data Dump** from my **RAM** (see: **page** 34). I used the word "**Records**" contained therein as, based on research, I understood that raw native file unencrypted images would in the **RAM Raw Unencrypted Native File**. I referenced the **Binding Decision** of **Adjudicator Siew** and the LSBC's breach of the same regarding my ability to make further narrow privacy requests under FIPPA.

VOLUME 15(e): Other *FIPPA* Requests

104. On July 21, 2021, I requested **Records** on the storage and retention of forensic **copies** and **RAM** involving other members of the **LSBC** regarding the above from 2014 to present. On August 24, 2021, the **LSBC** responded by misrepresenting that I was seeking "research or information" and **not** answers questions, and it would **not** be producing any **Records** in response to the request. On August 2, 2021, I had noted, through review, that **certain photographs** had been manipulated and made a request. On September 14, 2021, the **LSBC** responded that photographs in my possession were **not** redacted and found no **Records** which respond to this request. I note there is a white bar over the time on the right CPU monitor and I did not place said white bar over the time (see: Summation Reviewer Manual, Exhibit "A", Tab 8).

VOLUME 15(e): September 29, 2021: RAM Request (see: **Page** 40 et al)

105. On September 29, 2012, Lockhart represented that, for the first time, the **LSBC must** review the files before producing them including reviewing the **Records** contain within the copy and addressing third party concerns raised in respect of the documents. Lockhart represented if you are requesting the return of the original it was **not** a request under *FIPPA*.

VOLUME 15(e)(i): My Response

106. I responded that I was stunned to learn that there were now *third party privacy interests* concerns when I confirmed that I did **not** consent to the **LSBC** conducting any such search (see: Exhibit "A", Tab 5, **pages** 40(b) to f). I cited *FIPPA* regarding the requirements for **Third Party Notices**.

VOLUME 15(f): October 8, 2021

107. Lockhart then represented, without giving access by the **LSBC**, that **LSBC** will **not** be returning the *original **RAM** copied* [sic] from my computer. Lockhart, then for the first time, represented to me that this was consistent with the **LSBC**'s position regarding the *other documents* copied [sic] in Rule 4-43 *investigation.* Regarding access, Lockhart now represented that she was unable to advance the review and processing of his request while she allegedly waited for me to clarify whether I wished to receive a copy or the original. She

represented that she had *resumed this process now* and expected to provide in late October. I did **not** accept this noncompliance with *FIPPA* and affirmed that I did **not** consent to the same. I respectfully request that the Commissioner order Lockhart and NST LLP, along with the LSBC to stop using and disclosing the McLean **PI** and apparent Third Party **PI**

VOLUME 15(g): Further Review; Applicability of FIPPA; Applicability of **PI**PA and ***PIPEDA*** where **PI**PA is **not** applicable

108. On October 18, 2021, I remained concerned regarding destruction of the **RAM Data** and **Records** contained in the **RAM Raw Native Unencrypted File** and **not** being able to compare the same. I provided the **LSBC** and Lockhart with the **Murray Document Plan** and made a request for the **Excel Tracking Evidence Sheet.**

109. Lockhart responded within a minute, for the first time within that time frame, that the **LSBC** claims privilege over the same and asking me to destroy the same.

110. I confirmed that it was produced and had already been appended to evidence in September 2021 and I could **not** destroy sworn evidence as a matter of law.

111. Moreover, I continued to make demands upon the **LSBC Privacy Division** regarding the **Excel Evidence Tracking Sheet.**

Volume 15(H): Applicability of FIPPA

112. FIPPA applies to all **Records** in the Custody[54] or under the Control[55] of a Public Body but does **not** apply to a **Record** of a Service Provider that is **not** related to the provision of services for a Public Body.

113. I believe that *FIPPA* would apply to the Created RAM Raw Data File that is in the Custody and Control of the LSBC in the LSBC Sealed Storage Disk, albeit sealed, which is stored and retained as the LSBC's evidentiary locker on the 4th Floor at 845 Cambie Street, Vancouver BC.

114. I believe, to the extent the RAM Raw Data Native Unencrypted Files or Images are on the **Working Copies**, received by the LSBC on or around January 6th, 2015, the LSBC has Custody or the **RAM Raw File 18544** or Records contained therein are under its Control.

115. However, I do not believe that RAM Dumps, RAM Deletion, and Custodial RAM Seizure are services under the **2010 IPA**.

Volume 15(I): Applicability of **PI**PA

116. Parliament exempted **Organizations** from ***PIPEDA*** if they met a two part factual and contextual test for their business and certain collection, use and disclosure of **PI**. The Organization must be of BC and the collection, use or disclosure of **PI** must occur within BC.

[54]Did an officer or employee of the institution create the record; Does the content of the record relate to the institution's mandate and functions; Does the institution have a right to possession of the record; Does the institution have the authority to regulate the record's content, use and disposal

[55]https://www.ipc.on.ca/part-x-cyfsa/does-part-x-of-the-cyfsa-apply-to-you/what-information-does-part-x-apply-to/b-what-is-custody-or-control/ ; It is possible to have custody or control of a record that was not created by your organization. For example, if a child is referred to you by another service provider and you maintain and rely on the referral records to provide services to the child, the referral records would likely be in your custody or control even though they were authored by the other provider.

117. If the Organization is **not** of BC, then ***PIPEDA*** applies to it based on ***PIPEDA***. Further, if the collection, use or disclosure of the BC **Organization** is **not** within BC, then ***PIPEDA*** applies.

Volume 15(J): Applicability of ***PIPEDA*** (note: Copy and Paste from Federal Court cases)

118. The **CBA Article** on Transfers of Information for Processing Section 4 of ***PIPEDA***, the application provision for Part I, is silent with respect to the statute's territorial reach.

119. However, there is **no language expressly limiting** its application to Canada.

120. In the absence of clear guidance from the statute, the Court can interpret it to apply in all circumstances in which there exists a "real and substantial link" to Canada, following the Supreme Court's guidance in *Society of Composers, Authors and Music Publishers of Canada v Canadian Assn. of Internet Providers*, 2004 SCC 45, [2004] 2 SCR 427 at paras 54-63 [*SOCAN*] and the other authorities cited therein.

121. This Court has applied ***PIPEDA*** to a foreign-based organization where there was evidence of a sufficient connection between the organization's activities and Canada: *Lawson v Accusearch Inc (cob Abika.com),* 2007 FC 125, [2007] FCJ No 164 at paras 38-43 [*Lawson*].

122. The relevant connecting factors include (1) the location of the target audience of the website, (2) the source of the content on the website, (3) the location of the website operator, and (4) the location of the host server: *SOCAN,* above, at paras 59 and 61.

123. "I accept the submission of the OPCC that the principle of comity is **not** offended where an activity takes place abroad but has unlawful consequences here: *Libman,* above, at p 209".

124. "In the case (24HGlobe) at bar, since Romanian authorities have cooperated with the OPCC investigation and taken action to curtail the respondent's activities, the legitimate judicial acts of this Court will **not** be seen as offending the principle of comity".

125. The respondent was fined for contravening Romanian data protection laws by, among other things, charging a fee for the removal of personal information from Globe24h.com[56].

126. The respondent has appealed this fine to a Romanian court. Given the involvement of the Romanian counterpart to the OPCC, this Court's findings would complement rather than offend any action that may be taken in a Romanian court.

127. As **noted** by the British Columbia Court of Appeal in *Equustek,* above, at paragraph 85, "[o]nce it is accepted that a court has in personam jurisdiction over a person, the fact that its order may affect activities in other jurisdictions is **not** a bar to it making an order."

128. Further, in the context of Internet abuses, courts of many other jurisdictions have found orders that have international effects to be necessary.

129. I refer to *Equustek,* above, at para 95, citing *APC v Auchan Telecom,* 11/60013, Judgment (28 November 2013) (Tribunal de Grand Instance de Paris); *McKeogh v Doe* (Irish High Court, case no. 20121254P); *Mosley v Google,* 11/07970, Judgment (6 November 2013) (Tribunal de Grand Instance de Paris); and *ECJ Google*

[56]Guidance Software above under FTC; see Exhibit "A", Tab 7

Spain SL, Google Inc v Agencia Espanola de Protecciób de Datos, Mario Costeja González, C-131/12 [2014], CURIA.

130. Parliament, under ***PIPEDA***, access means to program, to execute programs on, to communicate with, to store data in, to retrieve data from, or to otherwise make use of any resources, including data or programs on a computer system or a computer network.

131. ***PIPEDA*** references the definitions of Computer Program and Computer System under the Criminal Code.

132. The *Criminal Code* distinguishes between certain types of **Property** like passwords[57], computer programs (**"Computer Programs"**)[58], computer service (the **"Computer Services"**)[59], computer system (the **"Computer Systems"**)[60] and Computer **Data** (**"Computer Data"**)[61].

133. I have included my summary of the Schedule I Principles under ***PIPEDA*** that every Organization shall comply (see: ***PIPEDA***, s. 5).

134. An organization may collect, use or disclose personal information only for purposes that a reasonable person would consider are appropriate in the circumstances (see: ***PIPEDA***, s. 5(3)).

135. For the purposes of clause 4.3 of Schedule 1, the consent of an individual is only valid if it is reasonable to expect that an individual to whom the organization's activities are directed would understand the nature, purpose and consequences of the collection, use or disclosure of the personal information to which they are consenting (see: 6.1 of ***PIPEDA***).

136. While there are exceptions to the ***PIPEDA*** Consent Principles, they do not to Accessing a Computer System to collection Personal Information and Use of Personal Information that was collected in a manner described in paragraph 7.1(3)(a).

137. Telecommunication is defined as any transmission, emission or reception of signs, signals, writing or images by any nature of wire, radio, visual, or other electromagnetic system. **Cree** and EFS, based on the advice of McCartney, collected **PI**, as now admitted by the LSBC, through a means of telecommunication by Accessing my **Computer System** using a **Computer Program** known as DUM**PIT**.

138. RAM is Hardware which contains: (i) Apps; (ii) Computer Programs; (iii) Computer Passwords; (iv) Computer Systems; and (v) see below.

139. I have reasonable grounds to believe that there has been a loss of, unauthorized access to, or unauthorized disclosure of personal information resulting from a breach of Organizations safeguards or from failing to establish those safeguards (see: ***PIPEDA***, s. 2(1), BSS). I believe that the sensitivity of the **PI** involve in the alleged breaches is high due to the information contained in RAM like Computer Passwords, Internet Usage, Personal Preference, et al.

[57] means any computer data by which a computer service or computer system is capable of being obtained or used
[58] means computer data representing instructions or statements that, when executed in a computer system, causes the computer system to perform a function;
[59] includes data processing and the storage or retrieval of computer data
[60] means a device that, or a group of intercommected or related devices one or more of which
[61] means representations, including signs, signals or symbols, that are in a form suitable for processing in a computer system

Volume 16: Types of "information" in the Created RAM Raw Data Native File 18544 (expecting to see and review by Commissioner and I in Electronic Format

140. I would expect that the Privacy Commissioner and I would see some of the following in the RAM File 18544 when it is produced to him and myself in electronic format:

a. Running processes;
b. User names and passwords;
c. Loaded Dynamically Linked Libraries (DLL);
d. Contents of an open window from the Internet;
e. System information (i.e.: time since last reboot)
f. Task Manger;
g. **Data** *never written* to the hard disk drive
h. Rootkits;
i. Registry Information;
j. Memory resident malware (fileless malware)[6];
k. Encryption keys;
l. **Personal Information;**
m. Highly Sensitive **PERSONAL INFORMATION;** and
n. Biographical Core Information;

141. I swear this affidavit for no improper purpose and for the purpose of compliance with FIPPA and PIPA. I reserve the right to add evidence to another declaration and augment or add privacy complaint as they become known to me and obtain access to the above.

142. I continue to believe that some of my PI and Third Party PI has been, is being or will be misused. At this stage and without the intervention of the Privacy Commissioner, I simply do not trust the NST LLP or Lockhart to perform any form of review, processing or otherwise involving PI.

143. I kindly request the Privacy Commissioner to intervene regarding the same due to the sensitivity of Personal Information, Computer Programs, Computer Software, Apps et al which is customarily, in my view and based on the above, found in a RAM.

144. I remain committed to a resolution of the Privacy Complaint but only if the RAM Raw File is preserved and the Privacy Commissioner has reviewed the same in its form on June 4, 2014 and compared against the Excel Evidence Tracking Sheet of Ms. Murray.

SOLEMNLY AFFIRMS BEFORE ME at the city of Toronto, Ontario, this 25th day of October 2021

A **Commissioner** for taking **Affidavits** in Ontario

Commissioner: Ashley ARTOPOULOS

LSO #: 56695N

Kevin A. McLean

[6]Leaves no footprint on Hard Drive

AFF #5

AHS, Oct 31, 2021

AFFIDAVIT OR STATUTORY DECLARATION[1] ("AFFIDAVIT")
DATE: OCTOBER 31, 2021

UNDER THE RELEVANT LEGISLATION AND REGULATIONS UNDER FIPPA, PIPA AND PIPEDA (WHERE APPLICABLE)

Re: ***Privacy Complaint*** *against the LSBC; Re: Complaint File Number*
Re: Privacy Complaint against EFS under PIPA: Re: Complaint File Number
Note: this Affidavit covers any breaches of PIPA with respect to collection, use or disclosure within BC by a BC organization
Further note: this Affidavit covers any collection, use or disclosure by a BC organization that was not within BC
Final Note: this Affidavit covers any collection, use or disclosure by a non BC organization that not within BC i.e. cross-border outside of BC or internationally (see: ***Exhibit "A", pages 74 to 80 et al)***

I, **Kevin A. McLean (B.A. (MCL), J.D., CIM)**, of Toronto, Ontario Canada, Businessman and Chartered Investment Manager, **SOLEMNLY AFFIRM** THAT:

1. I am the **Individual** (the "**Applicant**", "**Requestor**" or "**Complainant**") above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and *belief* and where so stated I verily *believe* those matters to be true.

2. In relation to a matter on information on belief, I rely on secondary sources, other documents and sources of my belief to assert the belief.

3. To the extent that any person or entity wishes to challenge my belief, I respectfully challenge them to do so.

4. I repeat and rely upon my previous evidence provided to the **BC Privacy Commissioner's office** and his delegates, where applicable, and I adopt the same herein where I have sworn a fact.

5. I adopt the definitions from previous sworn evidence and correspondence by direct delivery or inference, and where so defined, it has the same meaning unless I have stated so directly or a different intention so appears.

6. To the extent that any matters involve *PIPEDA*, I reserve the right to rely upon this affidavit for said purposes with respect to RRSOH, access requests to Personal Information, and any such relief or remedies thereunder.

7. I will continue to do, in my view, my best to obtain and work with the LSBC, EFS and others persons or entities that are domestic organizations ("Domestic Organizations") or foreign organizations ("Foreign Organizations") to obtain requisite information to provide to the **BC Privacy Commissioner** or any relevant privacy commissioner within Canada's provinces or federally (the "**PCC**"). Where I have added emphasis, the emphasis is mine unless otherwise stated.

8. After another weekend of research and review, I note the following:

[1]Relevant Legislation under FIPPA, PIPA, BC Evidence Act et al

a. I requested the following record from the **EFS *Forensic* Preservation Report**:

   i. which was from the "raw dump" that *completed* on June 4, 2014 at 11:48 a.m. PST (the "**EFS RAM Dump**") with a file name of "**Kevin[2]-PC-20140604-18544.raw** (the "**11:48 Kevin 18544 Raw Native File**"); but

b. I did not receive the **11:48 Kevin 18544 Raw Native File**;
   i. but instead received an unrequested record with the following different characteristics:
      1. *modification date*: apparently modified on the date of 6/4/2014 at 11:32 a.m.
      2. **Type of file**: Adobe Acrobat Document (note: should have been raw and denoted as raw);
      3. **Size**: 522,240 KB;
      4. **Compressed**: 1,250,130 KB
      5. **Method**: Deflated 64 (see: Exhibit "A", page 80 to 129);
      6. **CRC-32**: 759AF1BC
      7. **File name**:
         a. KEVIN[***sic***]-PC-20140604-1852[***sic***]44.raw
      8. **Location**: Citrix Systems Inc. under "Sharefile";
      9. **Last Modified**: Kimm Otto[3] on October 25, 2021 at 12:25 p.m.
      10. **Cyclic Redundancy Check**: (see: error-detecting code used to detect data corruption) and CRC-32 (see: algorithm itself converts a variable-length string into an 8-character string) :
         a. Input: 759AF18C
         b. Output: 350b0cf3

(the "**Unrequested Overwritten Record**" or "**Unrequested Deflated RAM Record**").

(see: Exhibit "A", pages 1 and 2).

9. I continue to request the **11:48 Kevin 18544 Raw Native File** and I have not received the same as of the date of this affidavit. I am deeply troubled that there is misuse of my Personal Information and Third Party Personal Information.

Exhibit "A":" Screenshot and Information from the Produced Raw File which was <u>not</u> the Created Requested Record:

10. Now shown to me and attached hereto to this my affidavit, of October 31, 2021, is **Exhibit "A"** with pages that are numbered from page one and onwards. I cross-reference the name by footnotes and parenthetical cross-references

Volume 1: MY PREVIOUS BELIEF AND EVIDENCE

[2]Note: the capital on K and not on the "evin"
[3]Appears to be a legal assistant at NST LLP

11. I believed that **RAM Dump** would produce some of the following **Personal Information** (**"Personal Information"** or "PI") and **Highly Sensitive Personal Information (**"**HSPI**"**)** along the **Computer Programs**, **Applications** *et al* such due to the following reviews of educational and legal texts:

    a. **RAM Memory**: is **Random PERSONAL INFORMATION Memory** is a form of memory that can be read and changed in any order.
    b. **Two Types of Internal Memory (Not Storage)**: The internal memory of the computer is of two types, RAM and ROM. RAM is volatile memory. When the power is turned off whatever has been placed in RAM is **erased**.
    c. **The implication of a RAM DUMP**: RAM includes processes and programs running on the system, network connections, evidence of malware intrusion, registry hives, usernames and passwords, decrypted files and keys, and evidence of activity **not** typically stored on the local hard disk;
    d. **Memory *Forensic*s** (sometimes referred to as memory analysis) refers to the analysis of volatile **Data** in a computer's memory dump.
        a. Information security professionals conduct memory ***forensic***s to investigate and identify attacks or malicious behaviors that do **not** leave easily detectable tracks on **HARD DRIVE Data**
    e. A **memory dump** (also known as a core dump or system dump) is a snapshot capture of computer memory **Data** from a specific instant. (note: I believe that
    f. Phy***sic***al memory artifacts include the following:
        i. **Usernames and Passwords**: Information users input to **PERSONAL INFORMATION** their accounts can be stored on your system's phy***sic***al memory;
    ii. **Decrypted Programs**: Any encrypted malicious file that gets executed will have to decrypt itself in order to run. This threat intelligence is valuable for identifying and attributing threats;
    iii. **Open Clipboard or Window Contents**: This *may* include information that has been copied or pasted, instant messenger or chat sessions, form field entries, and email contents; and
    iv. Others.

(collectively, the "**Unencrypted Non-Records**" (where applicable) and "**Unencrypted Information**")

Volume 3: Definitions:

12. Federal legislation like *PIPEDA* distinguishes between certain types of **Property** like passwords[4], computer programs ("**Computer Programs**")[5], computer service (the

[4]means any computer data by which a computer service or computer system is capable of being obtained or used
[5]means computer data representing instructions or statements that, when executed in a computer system, causes the computer system to perform a function;

"**Computer Services**")[6], computer system (the "**Computer Systems**")[7] and computer **Data** ("**Computer Data**")[8].

Volume 4: Exact Copies from HXD Hex Editor ("HXD") from the October 25, 2021 Produced "Record" in Archive Root Directory stored in Citrix System

13. I could not open said **Unrequested Overwritten Record** by opening the same because it returned an input that stated that it was improperly decoded or not properly coded ("**Decoding Error**"). However, I was able to open it into a format by using the installed version of HXD 2.4.0.0 which is now 2.5.0.0 ("HXD") (see: **paginated documents therein**).

14. I have not modified or overwritten any of the language, characters *et al* in HXD but saved it in various copied versions and I can provide clean copies upon request.

Volume 5: FIPPA Definition of Record

15. While I do not dispute that the **Unrequested Overwritten Record** is a **Record** under *FIPPA*, I did not authorize said collection or preparation and continued to request the **11:48 Kevin 18544 Raw Native File.**

16. I am deeply troubled by receipt of the Unrequested Overwritten Record which I believe has had had information, PI, HSPI of myself and others, that has been copied, deleted, modified, impaired, corrupted or otherwise destroyed.

Volume 6: Unfiltered and Third Party PI

17. I note and affirm that the LSBC[9] represented to me that that the **11:48 Kevin 18544 Raw Native File** or information contained from the known and unknown RAM dumps *contained third party personal information.*

18. The LSBC has recently represented that the **Unrequested Deflated RAM Record** was the only RAM image ever made. I do not believe that to be the case.

Volume 7: Mr. Robert Deane, Barrister and Solicitor (ISS and Independent Adjudicator Response to Request)

19. The ISS confirmed on Friday, October 29, 2021 that EFS and the LSBC did not provide the image or records that were created by the RAM Dump and the decision was self-evident. I was appreciative of the ISS to take the time to check offsite storage and confirm that no such personal information or records were provided to him or his office under the Exclusion Request Process under the **Defunct Investigatory Rule**.

Volume 8: *Context*

[6]includes data processing and the storage or retrieval of computer data
[7]means a device that, or a group of interconnected or related devices one or more of which
[8]means representations, including signs, signals or symbols, that are in a form suitable for processing in a computer system
[9]Throughout this affidavit, I reference the LSBC responding but the responses were, in fact, on NST LLP letterhead r from

20. For context, I note that since the Foreign Organizations are not located in BC, and they have separate terms and conditions with each of their licensees or customers, they were likely unaware of any of the facts in the previous declaration of October 24, 2021.

21. However, I will continue to work with them independently to ensure that my PI and Third Party PI is not or will not be misused, in my view, any further.

22. I believe that I will be able to determine some of the Third Parties that used my CPU for access, in a private manner, to various aspect of my CPU without knowledge to myself until reviewing the **11:48 Kevin 18544 Raw Native File**

***Volume** 9: LSBC's Now Admission (October 8, 2021) that the **RAM DUMP** was Part of Rule 4-43*

23. Since the LSBC and EFS have represented that all of the copied (sic) documents were part of the Defunct Investigatory Rule process but the ISS did not receive them, then I have focused my analysis on FIPPA, PIPA and PIPEDA where applicable.

Volume 10: FIPPA 212 Regulation

24. I note the *2012 FIPPA Regulation* and cross-referenced the same regarding consent to storage, access, use, retention, disclosure and disposal.

25. I now hereby affirm that since much of the Personal Information appears to have deleted or replaced with a "symbol" by Deflate 64 in the Unrequested Altered Record that I am having various tech people determine if they can "inflate" or "decompress the same" to the actual size of approximately nine million KB (see: **Exhibit "A", page 1**).

Volume 11: The Actual Requested Record: 11:48 Kevin 18544 Raw Native File

26. The **Record** at issue was a created **Record** in the form of the **11:48 Kevin 18544 Raw Native File** by a purported **Service Provider** of the LSBC, e-***Forensic*** Services Inc. ("**EFS**"), by installation and running of a **Computer Program**, created by a technology company Moonsols'[10], DumpIt[11] ("**DumpIt**"). I note the following references to **Suiche**, **DumpIt** and **Moonsols** from HXD under "search" and the relevant hits that were returned.

27. On July 14, 2021, I made a *FIPPA* Access Request upon the LSBC[12] wherein I requested access to a **Record**[13] that I believed was in the **Custody** or under the **Control** of the LSBC and believed contained **Personal Information** about me. The record at issue is defined below as **11:48 Kevin 18544 Raw Native File.**

Volume 12: The Invasive Computer Software to dump the RAM of me (collectively, "Memory *Forensics*")

[10] Later Comae
[11] https://zeltser.com/memory-acquisition-with-dumpit-for-dfir-2/
[12] Local Public Body:
[13] Record under FIPPA: books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records

28. **DumpIt** was represented as a free tool (downloadable by any person), written by Mr. Matthieu Suiche ("**Suiche**"), as a *convenient* way of **obtaining memory images** of the random access memory ("**RAM**") of an individual's RAM within their (host) CPU.

29. After the installation of **DumpIt** on the host CPU, the investigator (informal or formal) is directed to move away from the Hard Drive ("**C Drive**") and answer "yes" to create a *raw ram data dump*.

30. Upon entering "y", DumpIt creates a downloadable file of the memory of the host RAM into raw native file, which is unencrypted, which is stored onto a universal serial bus ("**USB**").

Volume 13: What is RAM? What "Information" is contained in a RAM Dump and where did the Information contained therein disclosed to and from since June 3 and/or 4, 2014

Volume 13(a): **Memory (Not Storage)**[14]

31. Based on review, I believe RAM is the memory of a **CPU** and it is **Hardware** in a **Computing Device** where the following reside: (i) operating system ("OS"); (i) application programs ("Apps"); and (iii) **Computer Data**, that are in use so they can be quickly reached by the device's **Processor**.

Volume 13(b): **Not Magnetic**

32. RAM is not magnetic but rather it is composed of semiconductors of microchips.

Volume 13(c): **Volatile**

33. RAM is considered live[15] and *volatile* which means it is constantly changing. When the CPU is turned off, the memory from the time the CPU was last turned off to then preceding power off is **lost** (the "Lost Information").

Volume 13(d): RAM cannot be copied

34. RAM cannot be copied but only "captured" or "dumped" (see: **Declaration of October 24, 2021, Exhibit "A"**).

Volume 13(e): Native Images from RAM Dumps are not ***Forensic*ally** Verifiable

35. The information and images, in unencrypted form, are not verifiable ***forensic***ally with certain algorithms. In fact, the **EFS *Forensic* Preservation Report** confirmed that the only data, which it collected per se but as an alleged service to the LSBC, that was collected and ***forensic***ally verified were from my Hard Drive and Three USBs.

Volume 13(f): **What images will be viewable after the RAM dump?**

[14] https://searchstorage.techtarget.com/definition/RAM-random-access-memory
[15] For case on live feed see: ___

36. Depending on the host CPU and host RAM, the raw native file images will often include images of: (i) Applications ("Apps"); (ii) Computer Programs; (iii) Loaded Dynamically Linked Libraries ("DLL"); (iv) contents of open window; (iv) system information; (v) data never written to a hard drive; (vi) rootkits; (vii) malware; (viii) encryption keys; (iv) decrypted programs; (x) clipboard contents. Based upon my review of *FIPPA*, I do not believe that the following would be categorized as "records" under FIPPA: (i) OS; (ii) Apps; (iii) DLL; and (iv) System Information, (v) rootkits; (vi) malware and others.

Volume 13(g): **RAM versus Storage**

37. The **Hard Drive Disk** storage which is the hard drive disk (**"HDD"**) which is similar to a vinyl record or compact disc (**"CD"**) or magnetic tape.

Volume 13(f): The Created Requested Record which **11:48 18544 Raw File**

38. The **11:48 Kevin 18544 Raw Native File** was identified and specified in a document dated June 17, 2014, titled EFS ***Forensic*** Preservation Report (the "***Forensic*** **Preservation Report**"), as "**Kevin-PC-20140604-18544**" after EFS completed the processes of:
    i. Installation of DumpIt at 11:25 a.m. (the "**DumpIt Installation**");
    ii. The running of DumpIt thereafter between 11:25 a.m. and 11:32 a.m. (the "**DumpIt Running**")
    iii. Completing of the RAM at 11:48 a.m. (the "DumpIt Completion") (the "**11:48 18544 Raw Native File**").

39. EFS then temporarily stored the **11:48 18544 Raw File** on a **Luxio USB,** which contained DumpIt (the "**EFS Luxio USB**") but only after powering off the CPU which deleted any access that I may have to the memory images, data, or above noted **Computer Programs** from the "ram raw dump".

40. EFS represented that **11:48 18544 Raw File** was taken with **Cree** when left my private law office (the "**McLean Private Law Office**") on June 4, 2014 at approximately 7:30 p.m.

41. My **Access Request** to the **11:48 Kevin 18544 Raw Native File** identified and specified by the LSBC and/or EFS and referenced the ***Forensic*** **Preservation Report**.

42. **I** wrote further to the binding decision of **2018 BCIPC** 37 (the "**Binding Decision**" and/or "**Unreviewed Decision**") and the LSBC's requirements under the *FIPPA*.

43. **I** made the request pursuant to FOIPPA, s. 4 wherein I affirmed I had right to access any record in the custody or **control** of the LSBC, including any information from **Raw Data Dump** in the **11:48 18544 Raw Native File** that included myself.

44. **I** requested that I receive the same by electronic format (see: s. 9(2.1) of *FIPPA*).

45. **I** referenced section 25 of *FIPPA* in making it an expedited request and to inform the public based on public interest. **I** also further particularized my request for access to any and all copies that the LSBC had in its custody.

46. **I** confirmed that since the LSBC had never informed: (i) me; (ii) Mr. Deane ("ISS"); (iii) BC Supreme Court; (iv) BC Court of Appeal, and the ***Forensic*** Preservation Report not being

listed in a Defendants Trial Brief in May 2017, I had recently read the ***Forensic*** **Preservation Report**, and it was irrelevant to the McLean Proceedings. Moreover, I reaffirm the above regarding EFS, based on whatever advice it received from Mr. McCartney (see: **EFS Forensic Preservation Report**), not providing any copies or records from any RAM Dumps to the **ISS** and **Independent Adjudicator**.

47. **I** also referenced section 3(2) of *FIPPA* that did not limit **me** from any **information** available by law to a party to a proceeding.

48. **I** also referenced subsection 5(1)(a) of *FIPPA* in affirming I had provided sufficient detail to enable an experienced **Employee** (includes a **Service Provider**[16] in relation to the LSBC) of the LSBC, with *reasonable effort*, to identify the **Records** sought. By the usage of the word "Records", I reaffirm my reference to any all copies of the same.

49. In summary, **I** requested access **11:48 18544 Raw Native File** and any copies that the LSBC had in its Custody or under its **Control**. The LSBC failed to provide access the **Requested Created Record** which was the 11:48 **Kevin 18544 Raw Native File.**

Volume 14: The LSBC's Initial Response to the 11:48 18544 Raw Native File Record Access Request

50. On August 24, 2021, the LSBC responded to the **11:48 18544 Raw Native File Record Access Request** by representing that it was unilaterally "extending the time limit for responding" under two specific *FIPPA* sections: 10(1) (b)[17] and 10(1)(c).

51. The Legislature authorized **Mr. Avison, QC** to extend the time for responding to **me** for up to **30 business days** if either the above applied (see: s. 10(1) of *FIPPA*).

Reasons for Extension

52. The LSBC's ss. 10(1) (b) response was that a "large number of **records *MUST*** be **searched** by the LSBC to complete *this request*". I now affirm that since the LSBC represented that the **Unrequested Overwritten Record** or Unrequested Modified Record was the only one ever made, and it was last modified on June 4, 2014 at 11:32 a.m., I do not agree that the LSBC would have record more time to search a large number of records. I now affirm, based on belief, that the DumpIt Running was likely at 11:32 a.m. and whoever modified the **11:48 Kevin 18544 Raw Native File** likely input the date of the DumpIt Running as opposed to the DumpIt Completion. Based on my now knowledge of the same, I believe that the modifications that took place by **Deflate 64** would have taken days to complete of a nine million KB raw file.

53. The LSBC's ss. 10(1) (c) response was that "more time was needed to consult with a ***Third Party*** because **we** can decide whether to give your **PERSONAL INFORMATION** to **the record".** If the LSBC intended that "we" meant it and NST LLP, then I believe the **Third Party** was NST LLP.

Note about subsection 10(1)(b)

[16]FIPPA, s. 1: "Service Provider": person retained under a contract to perform services for a public body

[17]a large number of records are requested or must be searched and meeting the time limit would unreasonably interfere with the operations of the public body; and more time is needed to consult with a third party or other public body before the head can decide whether or not to give the applicant access to a requested record

54. Since the LSBC was using a **Service Provider** in NST LLP, the LSBC did **not** reference the section of "meeting the time limit would unreasonably interfere with the operations of the public body". Subsection 10(1) (b) is conjunctive, in my view, and the LSBC only relied upon the first conjunctive part of the test. I do not believe that said subsection would then be relevant and I do not have any correspondence that reference said subsection again.

Note about subsection 10(1)(c)

55. The LSBC did not reference "other public body" before **Mr. Avison, QC** could allegedly decide whether to give **me** access to the **11:48 Kevin 18544 Raw Native File** and any copies thereunder.

56. The LSBC also, in my view and belief, misstated the legislative section in relying upon its reasons thereunder by representing its alleged **Third Party Consultation** was based on whether "to give **me** [his] **Personal Information** to [***sic***] the record".

57. The legislative requirement, in my view, is whether more time is needed to consult with a **Third Party** [singular] before the **Head** can decide to give an **Applicant** access to a *requested Record*; not the "**Personal Information to the record**".

58. It appears now to me that the LSBC did as it represented in later correspondence (see: infra), and overwrote or deleted personal information contained therein when my request was for the **11:48 Kevin 18544 Raw Native File.**

59. I firmly believe, based on my review over October 29 to 31, 2021, that the **Unrequested Overwritten Record** or **Unrequested Deflated Record** was not last modified on June 4, 2014 at 11:32 a.m. but it was last modified by NST LLP and, perhaps, Kimm Otto on October 25, 2021.

Subsection 10(1)(3) of FIPPA

60. Mr. Avison was required to tell **me** three things under subsection 10(1)(3) of *FIPPA*: (i) extension reasons; (ii) expected response time; and (iii) applicant's complaint rights.

61. Mr. Avison did not rely upon subsection 10(1)(a) of *FIPPA* so there was no dispute on the clarity of the **11:48 18544 Raw Native File Record.**

62. Mr. Avison was only allowed to extend for a period of up to **30 business days** but he extended it to October 8, 2021 which was more than 30 business days from August 24, 2021.

63. Mr. Avison did provide me with complaint rights under subsection 42(2)(b) of *FIPPA* which states, "Without limiting subsection (1), the commissioner *may investigate* and attempt to resolve complaints that: (b) an extension of time for responding to a request is not in accordance with section 10 (1)". If, in fact, the Unrequested Overwritten Record was last modified on June 4, 2014 at 11:32 a.m., which would have been before the RAM Dump was actually completed (see: 11:48 a.m. on June 4, 2014), then the LSBC could have provided it to me on July 14, 2021.

64. On September 10, 2021, the LSBC responded the following, "I [Lockhart] cannot understand if you are requesting the **original** RAM copied [***sic***] from your computer" (see: **McLean Declaration, October 24, 2021, Exhibit "A", Tab 5, page 39**).

65. The LSBC did not rely upon subsection 10(1)(a) of FIPPA on August 24, 2021.

66. **I** confirmed I was seeking access under *FIPPA* and was asking for the return of the original under common law and equitable principles (see: for example, Grosz v. Guo; reference to "equity"; note: I believe that the BC Privacy Commissioner can order not only access to a requested record but return of Personal Information with reference to *Saanich*; I believe the LSBC or EFS should have notified me in accordance with the principles in *BC Health Authority Management*).

The LSBC's New Position

67. On September 29, 2021, the LSBC represented that "If you are requesting a **copy** under the *FIPPA*, the Law Society must review the files [***sic***] before producing them , including reviewing the records contained with the **copy** and addressing any **Third Party** privacy concerns raised in respect of those documents (see: **McLean Declaration, October 24, 2021, Exhibit "A", Tab 5, page 40**).

68. On September 29, 2021, **I** responded to Mr. Avison et al, and confirmed that I did not consent to the LSBC reviewing the files before producing them. **I** confirmed that I was seeking immediate access to the **11:48 Kevin 18544 Raw Native File** which was, in my view, long outstanding. **I** noted that the LSBC's previous position was that it was consulting with a **Third Party** before give me access. **I** affirmed that I was separating the same.

69. **I** raised concerns with Mr. Avison that Ms. Lockhart was not, in my view, properly engaged. **I** also noted that the LSBC would have had to provide a **Third Party** with notice (the "**Third Party Notice**") under *FIPPA*, s. 23 which states in part, "If the head of a public body intends to give access to a record that the head has reason to believe contains information that might be **excepted** from disclosure under section 21 or 22, the head must give the **Third Party** a written notice under subsection (3) (see: s. 23(1).

70. Mr. Avison would have, in my view, been required in the **Third Party Notice** that contained the following: (i) state that a request has been made by an applicant [which was me] for access to a record containing information the disclosure of which may affect the *interests* or invade the personal privacy of the **Third Party**; (b) describe the contents of the record [which I believe was the **11:48 Kevin 18544 Raw Native File**]:; and (c) state that, within 20 days after the notice is given, the **Third Party** may, in writing, consent to the disclosure or may make written representations to the public body explaining why the information should not be disclosed (see: s. 23(3) of *FIPPA*). I do not believe that the LSBC did any of the above or did not comply as required by FIPPA and the interpretative decisions in this regard by **Adjudicators** under FIPPA

71. Mr. Avison would have been required to provide me with: (a) the record requested by the applicant contains information the disclosure of which may affect the interests or invade the

personal privacy of a **Third Party**; (b) the **Third Party** is being given an opportunity to make representations concerning disclosure; and (c) a decision will be made within 30 days about whether or not to give the applicant access to the record (see: s. 23(3) of *FIPPA*).

72. **I** did not receive any such notice under the aforementioned legislative sections or subsections.

Volume 16: Hyperlink no longer available (October 28, 2021)

73. On October 28, 2021, **I** attempted to open the hyperlink and it stated that it was no longer available. The link also allowed me to click on back to sign in which took him to a page with the NST LLP logo for sign in with a privacy policy for Citrix (see: Exhibit "A", page 56).[18]

74. Citrix represented that it may collect, use or disclose other personal information to obtain through their Offerings and may be stored outside of the United States (see: **Exhibit "A", commencing at page 57).**

Volume 17: Distinctions between the Created Requested Record of 11:48 Kevin 18544 RAM Native File and Unrequested Modified Record (see: allegedly June 4, 2014 at 11:32 a.m.)

October 25, 2021: The failure to the LSBC to provide access to the Created Requested Record

75. On October 25, 2021, the LSBC responded, on NST LLP letterhead, and provided the following response, "We are writing to respond to the request you confirmed on October 8, 2021 under the Freedom of Information and Protection of Privacy Act ("*FIPPA*") on the Law Society of British Columbia."

76. **I** did not confirm on October 8, 2021 but rather the LSBC wrote to me regarding the same.

77. The LSBC further stated, "Further to that request for a **copy** of the **RAM capture *made*** from **your computer** in June 2014, I enclose a link to download that file." I do not believe the **Unrequested Modified Record** was made from my computer but I believe it was made from another computer with Deflate 64 and other compression, removal and deletion algorithms and software at a date not in June 2014.

78. I continue to request the *exact date* in June 2014 that was "made" but note that the last modification (allegedly) was June 4, 2014 at 11:32 a.m. With the vast amounts, in my view, of

79. LSBC responded on October 26, "We have provided you a **copy** of the **only RAM image that was made**. It was provided to you via our firm's Citrix…" I am not asking for a record that was overwritten, modified, deleted or otherwise manipulated by the "raw ram data" from the ***Forensic*** Preservation Report.

80. I did not consent to the **Unrequested Overwritten Record** being stored or modified on **Citrix** at any time or on the date contained therein.

[18] https://nathansonschachterthompsonllp.sharefile.com/_Auth/PrivacyPolicy/en.html

100. April 8, 2011, Munro wrote, "There are reputational risks that need to be managed. It is also important to note that the approval we received from the Office of the Privacy Commissioner related to the *process as created*. They are **not bound** by that approval and we need to run our final past them so if you are going to change it, we would it document as to why and receive their input. It would not look to solicit feedback form the privacy commission and the have change a process that the Bencher adopted an opinion, part on the comfort of the privacy commissioner's office."

101. Mr. Munro wrote, "With respect to retention, it was assumed that once appeal dates had passed, we would get back *the copies* and have them to destroy or provide or the member on request within the time frame or preserve in appropriate circumstances".

Volume 19: CONTEXT: BSS AND RRSOH

102. I note the following regarding a **BSS** from *PIPEDA* and I note that PIPA only applies to EFS and other Organizations wherein a BC Organization has collected, used or disclosed PI within BC:

Los or theft: unlawful taking

Unauthorized Access: disclosure of **PERSONAL INFORMATION** by the provision of access to **PERSONAL INFORMATION**;

Unauthorized Disclosure: to release or make available **PERSONAL INFORMATION** to a person, *other than the person* the information concerns

Unauthorized copying: exact reproduction;

Unauthorized Use:

a. **Primary**: the use of **PERSONAL INFORMATION** for the purpose of providing individual care and administrative functions directly related to that care;
b. **Secondary**: the use of **PERSONAL INFORMATION** for purposes other than direct individual care and administrative functions directly related to that care. Secondary uses include planning, monitoring, research or disclosure as required by law

Unauthorized Modification or Alteration: the changing of the same:

c. Regardless of the format in which it is held by:
    i. Failing to protect;
    ii. Limited access
    iii. Security clearances
    iv. Passwords
    v. Encryption;
    vi. Employee failure;

a. loss and theft of HSPI,
b. Unauthorized access of HSPI;

c. Unauthorized Disclosure;
d. Unauthorized Use
e. Unauthorized Copying
f. Unauthorized Alteration

103. I note the following from PIPEDA with respect to its enabling act (and amendments) and the regulations (and amendments):

An **Organization**, which has **PI Control**, is required to provide **NOTIFICATION** to the **Commissioner** and **Affected Individual** of **HSPI** if:

a. it is reasonable in the circumstances to believe;
b. that the **BREACH** creates a RRSOH to the Affected Individual ("AI").

104. I note the following regarding **RRSOH** from PIPEDA's website:

a. ***Circumstances:***
  i. What happened?
  ii. When did it happen?
  iii. How did it happen?
  iv. Who committed the breaches?
b. ***Probability of Harm****: how likely is that someone would be harmed by the* ***BREACH****?*[21]
c. ***PERSONAL INFORMATION*** ***Accessed****:* Who actually **Accessed** or could have **PERSONAL INFORMATION** the PI or **HSPI**?[22]
d. ***Duration of*** PI or ***HSPI BREACH****: How long has the* ***PERSONAL INFORMATION*** *been exposed?*
e. ***Malicious Intent****: Is there evidence of malicious intent (e.g., theft, hacking)?*
f. ***Quantum of*** PI or ***HSPI Pieces****: Were a number of pieces of* ***PERSONAL INFORMATION*** ***Breached****, thus raising the risk of misuse?*
g. ***Recipient Organizations or Recipient Individuals Risk****: Is the* ***Breached*** *of* PI or *HSPI in the hands of an* ***Individual****/entity that represents a reputation risk to the* ***Individual****(s) in and of itself?*
h. ***Commitment to Destruction and Deletion by Outsourcing Organizations or Recipient Organizations:*** *Was the information exposed to limited/known entities who have committed to destroy and* ***not*** *disclose the* ***Data****?*
i. ***Types of Recipient Organizations or Individuals****: Was the information exposed to* ***Individuals****/entities who have a high likelihood of sharing the information in a way that would cause harm?*
j. ***The Network of the Recipient Organizations or Individuals****: Was the information exposed to* ***Individuals****/entities who are unknown or to a large number of* ***Individuals****, where certain* ***Individuals*** *might use or share the information in a way that would cause harm?*
k. ***Nefarious Individuals and Organizations****: Is the information known to be exposed to entities/****Individuals*** *who are likely to attempt to cause harm with it?*
l. ***Harm Materialization****: Has harm materialized (demonstration of misuse)?*
m. ***Lost Applications*** *with HSPI: Was the information lost, inappropriately* ***Accessed*** *or stolen?*[23]

[21] Mr. McLean continues to be harmed

n. ***Lack of Recovery of Application, Contracts or*** PI or ***HSPI****: Has the* ***PERSONAL INFORMATION*** *been recovered?*[24]*; and*
o. ***Lack of Encryption****: Is the* ***PERSONAL INFORMATION*** *adequately encrypted, anonymized or otherwise* ***not*** *easily* ***PERSONAL INFORMATION****?*

Volumes 20 and 21: **Notification**

105. I note the following under PIPEDA and the BSS Regulation and the potential changes to BC legislation under FIPPA
a. Cause and Particulars;
b. Temporal Period;
c. Which PI was **BREACH**ED;
d. How many other affected individuals;
e. Risk Reduction;
f. Notify Affected Individuals; and
g. Contact Information of a person who can answer questions of AI.

Volume 22: **As Soon as Feasible**

106. I note the following regarding the LexisNexis article in this vein:

> ***Timing of Reporting and NOTIFICATION***
>
> Although we do not yet have examples under ***PIPEDA***, the term "as soon as feasible" likely means that organizations are required to **move promptly** to make the **REPORTS** and **Notifications**.
>
> *Not Specific Deadline:*
>
> Although organizations are not under a specific deadline, they will need to be prepared to explain delays. For example, there may be appropriate delays for notifying individuals in order to gather the information that is relevant to the **BREACH NOTIFICATION** and to arrange for **credit monitoring** or **identity theft insurance**.

Volume 23: Service Providers

107. I note the following from the LexisNexis article:

> ***Are Service Providers have to provide notice of a BREACH to both the Office of the Privacy Commissioner of Canada (OPC) and their client? Is the OBLIGATION of the Service Provider to REPORT Breaches limited to a contractual duty?***
>
> Whether a **Service Provider MUST REPORT** a **BREACH** to the OPC as well as their client depends on whether the **Service Provider** has "control" over the **PERSONAL INFORMATION**. Legal advice should be sought to determine whether the **Service Provider** has control. If the **Service Provider** has no discretion regarding the purposes

[24]

for which the **PERSONAL INFORMATION** is collected, used, retained or disclosed, then it is unlikely that the **Service Provider** has "control" over the **PERSONAL INFORMATION**.

By contrast, if the **Service Provider** is permitted to use the information for its own use, then it likely has "control" over the **PERSONAL INFORMATION**. Keep in mind that *more than one organization* can have control over **PERSONAL INFORMATION**

If the **Service Provider** does not have any control over the **PERSONAL INFORMATION**, the **Service Provider's OBLIGATION** to **REPORT** to their client should be contained in a contractual **Report**ing requirement. However, even if there is no express contractual provision, the **Service Provider** may have a **Report**ing **OBLIGATION** under another legal principle depending on the facts of the case.

Volume 24: Foreign Organizations or Recipient Organizations

108. The following are the **Foreign Organizations** which have been helpful in responding and I intended to keep confidential and under seal *per se*:

a. Opentext (Guidance Software)[25] with **EFS** under the laws of Delaware, USA;
b. Vound with **EFS** (and potentially LSBC) under laws of Delaware, USA;
c. Exterro[26] (AD Inc.[27]) with **NST LLP** under the laws of Utah; and
d. Citrix[28] with **NST LLP** under the laws of Florida, USA; and
e. Amazon and Exterro with NST LLP under the laws of known to them.

Volume 25: My Belief on Locations on Unauthorized Disclosure of Personal Information since June 3, 2014

109. My belief on locations, where the **McLean PI** and **Third Party PI** has been used, stored, retained, accessed, or disclosed internally or disclosed externally are:

a. LSBC and Intella from **June 3, 2014 Intella RAM Dump** at the McLean Private Office to present (the "**LSBC Intella June 3 2014 Raw File**") (note: from BC to Colorado);
b. **EFS** and Cree Workstations on June 5, 2014 from the **18544 File** ("**EFS Cree Raw File**" or "**11:48 Kevin 18544 Raw Native File**") (note: from Vancouver, BC to Surrey, BC)
c. **EFS** and Encase from June 5, 2014 (**added** from Cree Workstation to Encase) to present ("**EFS Encase June 5 2014 Raw File**") (from Vancouver, BC, Canada to California, USA);
d. **EFS** and Intella Version 1.8.2 from December 29, 2014 to present from indexing by Ritchie of **EFS** (the "**Ritchie Intella December 29 2014 Raw File**") (note: from Surrey, BC to Colorado, USA);
e. LSBC and Intella Version 1.8 from receipt of Working Copy (the "**LSBC January 6 2015 Working Copy Intella RAW File**") (note: from Surrey, BC to Vancouver, BC);

[25] https://www.opentext.com/about/copyright-information/opentext-agreement-templates-and-schedules/easylink-master-terms-conditions
[26] https://www.sec.gov/Archives/edgar/data/0001854587/000121390021026630/ff42021_cellebritedi.htm
[27] https://accessdata.com/legal/terms
[28] https://www.citrix.com/buy/licensing/agreements.html; https://www.citrix.com/buy/licensing/citrix-providing-entities.html

f. LSBC sealed storage disk (the "**LSBC Sealed January 6 2015 Storage Raw File**") note: from Surrey, BC to Vancouver, BC);
g. LSBC to NST LLP to Summation Software evidentiary database copy (the "**NST AD November 2015 Summation Raw File**"); (from Vancouver, BC to Vancouver, BC to Utah, USA)
h. Opentext acquisition of Guidance Software (Encase) in September 2017 (the "**Opentext Guidance September 2017 Raw File**") (note: from Delaware to California);
i. Exterro acquisition of Access Data (Summation) in December 2020 (the "**Exterro AD December 2020 Raw File**") (note: from Utah, USA to Oregon USA);
j. Cree transfer to the LSBC from Cree and **EFS** Workstations that were linked to Encase and Vound (the "**LSBC Cree Workstations August 2021 Raw File**") (note: from USA to Surrey, BC to Vancouver, BC);
k. Exterro adds Amazon (AWS) in September 2021 (the "**Exterro Amazon September 2021 Raw File**") (note: from Oregon, USA to Canada); and
l. NST LLP and Citrix file (the "**NST Citrix October 2021 Raw File**") (from Vancouver, BC to Boston, MA, USA) (note: may be previous to October 2021 and likely through summer 2021 in my view).

VOLUME 26: THE ANALYSIS OF UNREQUESTED CREATED RECORD (see: HXD, pages 3 to 55)

Volume 26(a): Usage of the server with "192.168. (and thereafter) – Potentially Usage of Intella

110. I believe that the LSBC, particularly used, Ms. Chan, utilized Vound Software or Intella on June 3, 2014.

Volume 26(b): Beginning Dump of Phy***sic***al Memory

111. I note the following reference to beginning dump of phy***sic***al memory, dumping phy***sic***al memory to disk. Phy***sic***al memory complete.

Volume 26(c): Video Debug

112. I note the use of the following language above .

Volume 26(d): Multi-Processor Kernel

113. I note the following usage of the language of "multi-processor kernel".

Volume 26(e): **DumpIt**

114. I note that the **LSBC RAM Dump** contained some 21,283 hits for the search term "www". I note that there are references to **Matthieu Suiche** and the website of www.msuiche.net. I had never used DumpIt until 2021 (Summer) when I attempted to run test runs on a test computer. I did so purely and solely to improve my knowledge and understanding I further affirm and swear that I had never used DumpIt in 2014 and never had it on my CPU as a computer program that I installed or ran prior to the Summer of 2021.

115. I hereby affirm that I never knew what **DumpIt** was and did not consent to any installation or running of computer programs such as Dump it on my CPU to dump the memory of RAM.

After typing the name of **Suiche**, I get 18 hits. The last time that **Suiche** was input was approximately 80 percent down the page of the file provided to me by NST LLP from Citrix I believe that means that the document was overwritten thereafter or the sequence and order of that which was dumped may have been rearranged in the **Unrequested Modified Record**.

Volume 26(f): **The Word "Dump"**

116. The word "Dump" returns 21 hits. I note there are many response for memory dump files.

Volume 26(g): The word "Complete"

117. The word "complete" returned 2424 hits.

Volume 26(H): **The Word "**Blocker"

118. The word blocker or unblocked returns 22 this

Volume 26(i): **The Phrase or Search Term, "**Core Device Install"

119. I note the following **Core Device Install where** it states words to the effect of Core Device Install and *Installation* of device is "blocked by policy". I note the language of "force-install". I note the language of selected drive does not match this device and running under driver servicing mode.

Volume 26(j to k): **Websites that are Unknown to Me and Third Party P**

120. I note the following website (note: unsecured with http:) www.msuichet.net and www.moonsols.net.

Volume 26(l): **Banking Websites**

121. I note the hyperlink for Royal Bank was included under www.rbcroyalbank.com. Based upon a search on October 31, 2021, Hex editor, with the LSBC RAM Citrix Dump, provided 369 hits which some relates to websites and some to "trust accounting".

Volume 26(m): Emails

122. I note there are emails login email information as well under google I note the references to Yahoo emails. I note there are references to Go Daddy emails and references to passwords.

Volume 26(n): Dropbox

123. I note the references to Dropbox including computer password along with other references to credit card associated with Dropbox.

Volume 26(o): Skype

124. I note that there a reference to Skype.

Volume 26(p): Passwords

125. I note that are references to passwords and changing accounts along with proxy passwords and proxy servers. I note that there are references to membership passwords.

Volume 26(q): Usernames

126. I note that there are references to passwords.

Volume 26(r): The Word, "Encryptions

127. I note that there are references to passwords.

Volume 26(s): Cardholder

128. I note the reference to cardholder's name or cardholder's names.

Volume 26(t): Python

129. I had never used or known a company called Python and it has returned 812 hits.

Volume 26(u): Verifying Signature References

130. I note that there are references to "verifying signatures"

Volume 26(v): AuthIdentity

131. I note that there are references to "auth identity".

Volume 26(z): BitLocker

132. I note the reference to BitLocker and BitBlocker.

Volume 27: My Further Research (see: https://www.youtube.com/watch?v=1XK86to03-Q

133. This YouTube video represents that the **RAM Dump RAW File** must have a MD5Hash at the outset and then archived accordingly.

134. I reference and affirm the EFS ***Forensic*** Preservation Report in this regard. I note that the video represents words to the effect that if an investigator does not MD5Hash from the outset that the investigator will "Never be able get the same data again". I note that it represents that "The hash value must remain the same" from the outset I note and rely on the following from the link regarding Encase (see: https://www.youtube.com/watch?v=t-z9ds0RKIs)

135. I note and rely on the following from the above link (https://volatility-labs.blogspot.com/2013/10/sampling-ram-across-encase-enterprise.html).

136. I swear this affidavit in further support for my privacy complaints regarding access and breaches and to have the assistance of the relevant privacy commissioner(s) where applicable.

137. I now view this matter as more urgent than previously and would be most grateful for any assistance from the above to protect privacy rights and promote transparency.

SOLEMNLY AFFIRMS BEFORE ME at the city of Toronto, Ontario, this 23rd day of **October** **2021**

A **Commissioner** for taking **Affidavits** in Ontario

Kevin A. McLean

Commissioner: Ashley Argopulo
LSO #: 56695N

AFF #6

AFFIDAVIT OR STATUTORY DECLARATION OF KEVIN A. MCLEAN

DATE: NOVEMBER 7, 2021

RE: THE LAW SOCIETY OF BRITISH COLUMBIA ("LSBC") (AND/OR EFS E-FORENSIC SERVICES INC. ("EFS")) INSTALLATION AND RUNNING OF DUMPIT INVASIVE COMPUTER PROGRAMS, MALWARE ET AL UPON THE CPU OF MR. MCLEAN AND REFUSAL TO ASSIST IN THE REMOVAL OF THE SAME.

RE: Under *An Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act, SC 2010, c 23* ("CASL")

I, **Kevin A. McLean (B.A. (MCL), J.D., CIM)**, of Toronto, Ontario Canada, Businessman and Chartered Investment Manager, **SOLEMNLY AFFIRM** THAT:

1. I am the **Individual** (the "**Applicant**", "**Requestor**" or "**Complainant**") above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and *belief* and where so stated I verily *believe* those matters to be true.

2. I swear the following evidence to seek the assistance from the relevant federal government persons to assist with the above and below.

Exhibit "A": The RAM Dump as Represented in the EFS Forensic Preservation Report without annotations

3. Attached hereto to this my affidavit and marked as **Exhibit "A"** is a copy of a Forensic Preservation Report. The first time that I ever read this Forensic Preservation Report was in late June 2021 or early July 2021.

Exhibit "B": Email between Chan and McCartney

4. Attached hereto to this my affidavit and marked as **Exhibit "B"** is a copy of an email between Ms. Andrea Chan, who represented herself as a CGA and forensic accountant with the LSBC, and Mr. David McCartney, who represented himself as an investigator with the LSBC, regarding the Forensic Preservation Report.

Exhibit "C":" The RAM Dump as Represented in the EFS Forensic Preservation Report with my annotations

5. Attached hereto to this my affidavit and marked as **Exhibit "C"** is a copy of a Forensic Preservation Report with my annotations. My annotations to this Forensic Preservation Report were completed in November 2021. I did so as I realized that there were, in my view, inconsistencies in language between EFS's inputs and those that I believe were done by Mr. McCartney.

Exhibit "D": My Custody, Control and Possession of the CPU

6. Attached hereto to this my affidavit and marked as **Exhibit "D"** are copies of pictures form the Summer of 2021 wherein I provided evidence to the LSBC that I have the same CPU and wish to use the same without any computer programs contained therein or malware by the installation or running of the same.

Exhibit "E": Secondary Source Articles regarding CASL and Misc. Documents

7. Attached hereto to this my affidavit and marked as **Exhibit "E"** are copies of secondary source articles regarding CASL and its implication for the installation of computer software or programs on CPU's without consent and the transitionary period from 2014 to 2017. I affirm that I remain concerned that the LSBC or EFS has not assisted me with any removal of "Invasive Computer Programs" on my CPU along with never seeking consent at the time of installation or running or thereafter.

Conclusion

8. During communications between myself and EFS, Mr. Cree, a director of EFS, represented to me for the first time, in part,

> Kevin,
>
> .....
>
> EFS does not have any of your data to provide to you. It is all held by LSBC.
>
> EFS did not install anything on your computer
>
> YOU are not a client of EFS and are not entitled to any assistance from EFS. In fact assisting you would be a conflict. If LSBC instructs us to assist you then we will.

9. I wrote in reply:

> Hello Colin,
>
> Thank you for your response. However, I do not agree that you do not have any of my data as the record that was provided to me demonstrated that "EFS" deflated the record on October 6, 2021. It is a matter of simple analysis of the code and where it appears in that deflating of the requested record. I am entitled to responses under PIPA and PIPEDA so I disagree with your assertion on every level. However, since you are refusing to provide what I requested I will have to exercise my rights with other third parties that may have that data ("my data"). EFS is not a public body so it is subject to PIPA and PIPEDA and I continue to believe that you hold personal information and are required to assist me.
>
> It is a shame that I have to waste such resources but appreciate that your position is that the LSBC must instruct you to do so. I will ask the LSBC accordingly to do so.

Thank you.

10. Cree then replied:

> Kevin
>
> When you requested the RAM image, LSBC sent the storage drive to us. We extracted the RAM image and sent the storage drive and the image back to LSBC.

11. I now have reason to believe, based on the above, that the Forensic Preservation Report, as further discussed between myself and Cree, is inauthentic and was manipulated by McCartney or the LSBC (see: Exhibit "B") and the LSBC, in fact, installed the Computer Program of DumpIt on my CPU on June 4, 2014.

12. I have continued to seek assistance from the LSBC regarding assistance with any of the above and it has not responded.

13. I believe that the CASL is relevant to the LSBC as it is an Organization and it is not involved in any federal law enforcement but rather was engaged in rule enforcement with its LSBC Rules; specifically, the now defunct LSBC Rule 4-43 (the "Defunct Investigatory Rule").

14. I wish to make clear that I have delineated between my now requests upon EFS as an Organization within BC regarding its use and disclosure within BC under PIPA and its uses and disclosures outside of BC under PIPEDA.

15. My affidavit herein solely addresses the CASL regarding the LSBC.

16. I swear this affidavit for no improper purpose and solely to exercise my rights hereunder, and provide notice to the LSBC et al that I am having to spend resources to protect my rights and seeking their assistance.

17. To the extent I reach a resolution with the LSBC that does not require government intervention or assistance, I shall promptly notify the relevant governmental bodies and persons of the same to not waste their, in my view, valuable resources.

18. I reserve the right to provide further and swear evidence as it becomes known to me.

Solemnly Affirms before Me At the
City of Toronto, Ontario, this 7th Day of November
In the Year of 2021

A Commissioner for taking Affidavits
In Ontario

Kevin A. McLean

Commissioner: Ashley Artpanlo
LSO #: 56695N

AFF #7

AFFIDAVIT OR STATUTORY DECLARATION OF KEVIN A. MCLEAN

DATE: NOVEMBER 7, 2021

RE: PIPEDA WITH RESPECT TO EFS, ITS SERVICE PROVIDERS AND ITS ASSOCIATES REGARDING USE AND DISCLOSURE OUTSIDE OF BC AND/OR BY SERVICE PROVIDERS AND ASSOCIATES OUTSIDE OF BC

b. Opentext Corporation (Encase);
c. Vound Colorado Ltd.
d. PKWARE; and
e. Others referenced in the exhibits.

6. As it relates to EFS, its service providers, associates, contractors, and subcontractors, I believe the personal information contained in the extracted RAM record in October 2021 and previously added to Encase and Intella in 2014 and 2015 represents a **RRSOH** to me and other third parties. I would be most grateful if any or all could provide me with what has been requested or whatever is in their control with respect to my personal information without further request. To the extent they (some or all) refuse to provide the same, I reserve the right to bring this affidavit and any other evidence, documents or records to the attention of any person with respect to my legal rights under any legislation, regulation, common law or equitable principle. I will keep the above in the strictest of confidence and only provide where it is necessary to do so and to exercise my legal rights.

7. I make no allegation against any entity that has not responded to an access request at this stage within the time allotted to each under PIPEDA and will continue to work in cooperation with them to avoid any unnecessary wasted resources.

8. I reserve the right to provide further and swear evidence as it becomes known to me.

Solemnly Affirms before Me At the
City of Toronto, Ontario, this 7th Day of November
In the Year of 2021

A Commissioner for taking Affidavits
In Ontario

Kevin A. McLean

Commissioner: Ashley Antopoulos
LSO #: 56695N

AF #9

AFFIDAVIT OR STATUTORY DECLARATION OF KEVIN A. MCLEAN

DATE: NOVEMBER 7, 2021

RE: PIPEDA WITH RESPECT TO NST LLP, ITS SERVICE PROVIDERS AND ITS ASSOCIATES REGARDING USE AND DISCLOSURE OUTSIDE OF BC AND/OR BY SERVICE PROVIDERS AND ASSOCIATES OUTSIDE OF BC[1]

[1]Affidavit adopts the definitions and capitalizes the same from the relevant federal legislation

Kevin A. cLean (B.A. (MCL), J.D., CIM), of Toronto, Ontario Canada, Businessman and Chartered nvestment anager, **SOLEMNLY AFFIRM** THAT:

1 I am the **Individual** (the "**Applicant**", "**Requestor**" or "**Complainant**") above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and *belief* and where so stated I verily *believe* those matters to be true.

2 I swear the following evidence to seek the assistance from the relevant federal government persons to assist with the above and below.

Exhibits

3 Attached hereto to this my affidavit and marked as **Exhibit "A"** are copies of documents, *inter alia*, with respect to displaying of properties of the purported copy of the "only RAM image ever made" (see: **Ms. Lockhart and NST LLP's representation**). I do not believe that I received a copy of the only "RAM image ever made" which was dumped from my RAM on June 3 and/or June 4, 2014 based upon the attached pages to this **Exhibit "A"** and the below exhibits

4 Attached hereto to this my affidavit and marked as **Exhibit "B"** is a copy of an email, partially redacted from Mr. Colin Cree of EFS wherein he represented to me, on November 4, 2021 of the actions he took with respect to purported extraction of the RAM from a "storage drive". I believe the "storage drive" was the **LSBC Sealed Disk** which only EFS could open and read.

5 Attached hereto to this my affidavit and marked as **Exhibit "C"** are copies of emails to NST LLP, including but not limited to, Mr. Peter Senkipel, partner at NST LLP, and the named assistant of Ms. Kimm Otto, displayed in the "properties" of the Citrix "link". I note that Ms. Otto is not the assistant to Ms. Lockhart and I believe that NST LLP retained or used the services, absent my consent, of Mr. Jeremiah Senkpiel or a representative at "Eaze". Alternatively, I believe that NST LLP retained the services of an individual or an **Organization** with such skillset to compress approximately 85 to 90 percent of the information contained in the requested record which was dumped from my RAM.

6 Attached hereto to this my affidavit and marked as **Exhibit "D"** are copies of documents that provide further evidence, in my view, that I did not receive a copy of the **requested record** from the LSBC but rather non-public bodies, like NST LLP, **Service Providers**, **Associates** and **Third Party Organizations**, known and unknown to me, may have used, accessed, retained, stored or disclosed **Personal Information** contained therein. I have made requests upon **Third Party Organizations** and await their responses within the legislated and regulated time limits contained therein of *30 calendar days*. I do believe and affirm that NST LLP and the aforementioned have personal information within their control.

7 Attached hereto to this my affidavit and marked as **Exhibit "E"** is a copy of the current **Master Policy** for covered parties with the **BCLIA** for the administrator of the LSBC and its manager, the **Lawyers Indemnity Fund**, and I have provided a copy of this sworn evidence and other sworn evidence as a courtesy to them. Where it is

not relevant to any governmental bodies, I have redacted this paragraph and will not provide that evidence but have done so in the spirit of urgency.

8 Attached hereto to this my affidavit and marked as **Exhibit "F"** are copies of my summaries of when there is an RRSOH regarding personal information and other documents evidencing the work and resources I have expended since June 2021 to arrive at this stage.

9 I remain gravely, in my view, concerned that my **Personal Information** and **Third Party Personal Information** was misused and I have provided this evidence on an expedited basis to ensure that I am doing all that I can to prevent any current or future misuse.

10 10. I do not believe that Ms. Lockhart's representation was true to me regarding the only "**RAM image ever made**" based upon, *inter alia*, my letter to NST LLP wherein I have provided articulations regarding **Deflate 64** with respect to **LZ277** and **Huffman coding**.

11 11. I believe, without knowing at this stage, that a person with the skillset of Mr. Jeremiah Senkpiel utilized an open source API integration to engage in similar type compression, as particularized in one of his presentations at a conference, wherein it removed that which I requested and **Personal Information**.

12 12. With respect to **RRSOH**, I believe that I have met all fourteen factors for a *probability* that highly sensitive personal information ("**HSPI**") has been, is being, or will be misused. The enumerated summary that I have created was based upon secondary source material from the PCC and others.

13 13. To the extent that I receive a copy of all of the **Personal Information** contained therein and the requested record without any alterations, I am content to revisit whether I need to move forward with such a complaint.

14 14. At this stage, I believe the law firm, without knowing if it is receiving instructions or advise from others, is misleading with knowledge or reckless, in my view, conduct.

15 15. I repeat and rely upon **PIPEDA** and the relevant clauses contained therein and with reference to the LexisNexis article regarding the requirement to provide notice to an affected individuals regarding the same along with the relevant regulations regarding **Breach of Security Safeguards ("BSS")**.

16 16. I believe there have been, are currently or there will continue to be breach of security safeguards considering the **14 factors** listen therein with particular reference to the disclosures inside and outside of BC and Canada and the recent issues that Citrix had with hackers over a sustained period of time.

1 I am not making any allegation per se against Citrix but I am deeply, in my view concerned, that Ms. Otto, a non-lawyer, modified the document on October 25, 2021 when I objected to any such conduct since July 2021 when I brought to the attention of the LSBC.

1 I have included a table of contents for the exhibits herein for ease of reference and reading and it is marked as "page zero" and may be detached for readability and cross-reference purposes.

1 To the extent that Mr. Jeremiah Senkpiel was not involved in this process, I extend my apologies to him personally and professionally but I rely on his materials for context purposes regarding the same.

Conclusion

2 I continue to suffer loss and damage by having to engage in all of the steps regarding the same from, but not limited to, from late June and July 2021 to present. I believe that my personal information and property was stolen from me and continues to be withheld from me without consent. Further, I continue to assert and affirm that my records and personal information, including but not limited to confidential information, was dumped from my CPU and RAM, absent my consent, and I continue to suffer direct and indirect loss.

2 I reserve the right to provide further and swear evidence as it becomes known to me.

Solemnly Affirms before Me At the
City of Toronto, Ontario, this 7th Day of November
In the Year of 2021

A Commissioner for taking Affidavits
In Ontario
A. ARTOPOLLO

Commissioner: Ashley ARTOPOLLO
LSO #: 56695N

Kevin A. McLean

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(5)

AFFIDAVIT OR STATUTORY DECLARATION OF KEVIN A. MCLEAN

STRICTLY PRIVATE AND CONFIDENTIAL

DATE: DECEMBER 8, 2021

RE: SOLELY FOR THE PURPOSE OF *PIPEDA*

(6)

RE: BENEFIT OF THE ORGANIZATIONS IN FACILITATING RESPONSES TO ACCESS REQUESTS AND STATUTORILY AND PRESCRIBED REQUIREMENTS FOR NOTIFICATION UNDER *PIPEDA ET SEQ*

Kevin A. McLean (B.A. (MCL), J.D., CIM), of Toronto, Ontario, Canada, Businessman and Chartered Investment Manager, **SOLEMNLY AFFIRM** THAT:

1. I am the **Individual** (the "**Mr. McLean**", "**McLean**" "**Applicant**", "**Requestor**" "**Potential Complainant**") above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and *belief* and where so stated I verily *believe* those matters to be true. I adopt the definitions from previously delivered correspondence to the **Organizations** for ease of reference. Where words, terms or phrases have been bolded, they are defined accordingly. Where there are hyperlinks, I have sent a copy of the uncommissioned affidavit for ease of reference for the reader in PDF form.

Volume 1: Exhibit "A"

2. Attached hereto to this my affidavit and marked as **Exhibit "A"** is a copy of the purported **e-Forensic Services Inc.** ("EFS") Forensic Preservation Report (the "**Forensic Preservation Report**") (see: pages 1 to 31). Since I never consented to the Purported June 4 2014 RAM Dump, I do not know whom disclosed my Personal Information ("McLean **PI**") or other persons' **PI** from the Summer of 2021 to present. I do hereby affirm and reaffirm that I made a request for the record identified in the Forensic Preservation Report, which was "*Kevin-PC-20140604-18544.raw*" (the "**Requested Record**") but I still have not received the **Requested Record**. As opposed to receiving the Requested Record, I received a document entitled the following, "KEVIN[sic]-PC-20140604-18**2[sic]**544.zip [sic]" (the "**Unrequested Altered Record**"). Since the LSBC or **EFS** have not been able to produce and provide access to the Requested Record, I have since focused, from the date of October 25, 2021, on the Foreign Organizations that are named in the **Unrequested Altered Record** whether by **Inflated Code** or **Compressed Code**.

3. I note that, at all material times, under FIPPA, the LSBC (the "**Local Public Body**") are prohibited from storing or accessing personal information outside of Canada (see: section 30.1 of FIPPA). Since NST LLP represented that what I received was a copy of a RAM dump made from my computer in June 2014, although I note that was not correct after forensic analysis, I never consented to the collection, I could not identify the **PI** and did not consent to any storage or access outside of Canada in the prescribed manner (see: FIPPA Regulation for general requirements of consent; see: subsection 11(2)(b) of FIPPA Regulation for the specific requirements which were effective from June 2012 which require: (i) who may store

or access the **PI**; (ii) the jurisdiction **PI** may be stored or from the **PI** may be accessed; and (iii) the purpose of storage of or access to the **PI**. As such, I need not waste, in my view, any further time with organizations that do not have custody or control of my **PI** and cannot respond to access requests regarding collection, use or disclosure outside of BC and Canada.

Volume 2: Citrix Sharefile Not from LSBC but NST LLP and "creator" of an assistant in Ms. Otto

4. With that segue, attached hereto to this my affidavit and marked as **Exhibit "B"** is a copy of the *document properties* associated with the **Unrequested Altered Record** that Ms. Creamore emailed me with Ms. Lockhart copied, with an attachment and a hyperlink to the platform known as **Citrix Sharefile**. The hyperlink was corrupted, broken and unoperable with Adobe PDF despite it referencing Adobe. I affirm that I was able to place it into various computer software programs and used various types of hardware and software only into a form that was **Decoded Text** which was not, in my view, readable English. I was then able to have the purported **Compressed Code** inflated using a variety of computer software, programs et al to determine and uncover the roles of the **Foreign Organizations**.

Volume 3: Ethereum

5. Attached hereto to this my affidavit and marked as **Exhibit "C"** is a copy of the chart that I have prepared with the following names of **Organizations** associated with collection, access or disclosure of my **PI** at various junctures onto the **Ethereum Blockchain** which are: (i) **Nanopool**; (ii) **Supranova 2**; (iii) **Dwarfpool**; (iv) **Ethpool**; (v) **Coinotron**; (collectively, "**Miners**" who were paid for their mining on Blockchain of my PI); (vi) Orcalize; (vii) Polniex; (viii) Bitrex; (ix) Shapeshift; (x) Cryptsy; and (xi) ("vi through x", solely in their capacities as "Transferors" or "Recipients" of McLean PI) ("i" to "x" collectively defined as "**Ethereum Platform Facilitators**" or "**Ethereum Public Blockchain Participants**". The jurisdictions of the **Ethereum Platform Disclosers** are listed with hyperlinks contained therein. Within each of the 45 blocks, there are internal and external transactions regarding the same but I note that Ethereum Blockchain is immutable. Since the LSBC represented to me in the Fall of 2015 that it did not possess any original records, such as a RAM Dump after powering off my computer, I now presume that it was transferred to the Ethereum Blockchain in those months but I do not know by whom. I now believe that various Organizations were required to access or disclose my Personal Information via extraction, removal, upload, et al

with Privacy Keys in order to recreate the **Unrequested Altered Record** based on receiving either notice of a data breach or notice of circumstances. Surrounding the names of those **Ethereum Public Blockchain Participants** are names of certain unsecured website that appear to be financial institutions or banks that I believe received funding from the transfers where a value of **Ether** was ascribed to the **Mining** or **Transactions**.

Volume 4: Inflated Code

6. Attached hereto to this my affidavit and marked as **Exhibit "D"** is a copy of some of the documentation and screenshots that I have been able to procure through the **Inflated Code**.

Volume 5: Bitfly and Chart

7. Attached hereto to this my affidavit and marked as **Exhibit "E"** are copies of documents that I have obtained involving "**Ethereum Light**" which is associated with **Bitfly** which has its URL with www.ethpool.org. I also have included in this **Exhibit "E"**, copies of the privacy policy of **Bitfly** from 2021 which references **Cloudflare** (see: clause 5.2 of the **Bitfly** 2021 Privacy Policy; see: **page 165**). **Bitfly** represents its jurisdiction as being **Austria** (see: page **166**) along with the "**Rights of the Data Subject**" (see: **Clause 2; page 164**). I note Bitfly's definition of "***processing***" which means: "any operation or set of operations performed on personal data, such as, but not excluded to recording, organization, storage, alteration and transmission of personal data. It further represents that "Any information allowing **Us** or third parties to potentially identify you in person can be considered personal data."

8. Attached hereto to this my affidavit and marked as **Exhibit "F"** is a copy of a chart that I have compiled involving, in my view, the relevant case law (see: AIQ and others); and secondary source materials (see: **Mr. Noah Walters Article**; and **CBA Submission** on **Cross-Border Transfers**). I have currently counted some **58 Foreign Organizations** (note: in addition to the **Ethereum Platform Disclosers)** , some with offices in Canada, that had their *strings* identified in the **Inflated Code** with respect to responding to, as known to them, after on or around **August 25, 2021** to on or around **September 30, 2021** or shortly thereafter. I note that their names are and were approximately 98 to 99 percent less in the **Compressed Code**.

9. Attached hereto to this my affidavit and marked as **Exhibit "G"** are copies of documents from the **OPCC** relating to the requirements of **Organizations**, including **Foreign**

Organizations, regarding the following regarding **Access Requests** made by an individual, like myself: (i) **Procedures**; (ii) **Rights of Access**; (iii) **Control**; (iv) **Responding to Access Requests**; (v) **Form**; (vi) **Time Limit**; (vii) **Retention**; (viii) **PI Third Party**; (ix) **Information** protected by solicitor-client privilege; (x) Information protected by confidential commercial information; and (xi) information protected in the course of a **formal** dispute resolution process; and (xii) corrections. I affirm that I have made privacy access requests on all **Foreign Organization** and **Ethereum Platform Transferors** except for Crypsty because it is bankrupt and subject to a class action in the United States.

10. Attached hereto to this my affidavit and marked as **Exhibit "H"** are copies of **Citrix's Notice of Data Breach** letters to others and I include the same by way of reference. Attached hereto to this my affidavit and marked as **Exhibit "I"** are copies of documents from the website of **SentinelOne** and its partners. Attached hereto to this my affidavit and marked as **Exhibit "J"** are copies of documents from *PIPEDA* and various regulations thereunder along with miscellaneous documents. I focus the rest of this my affidavit on *PIPEDA* and its regulations along with how my health, life and/or security are being threatened as a result of my **Personal Information** having been, currently being or will be collected, accessed or disclosed without my consent. Exhibits "K" and "L" contain miscellaneous documents for context.

11. Prior to focusing the remainder of my affidavit on the aforementioned in paragraph 4, I formally and hereby adopt my **Affidavit #1** which was sworn on the same date but prior to this affidavit herein which can tendered to any **Organization** that is so entitled or **OPCC** if I and the **Organization**, in part or whole, cannot reach a resolution on the privacy issues with reference to *PIPEDA* or any other federal legislation. When I reference resolution, I include, but do no limit, a binding, private and confidential settlement agreement that addresses our mutual concerns.

Volume 6: Total Computation of PI in Inflated Code and File

12. I have counted some 800,000 pieces of PI in the **Inflated Code**.

13. I believe that in order for the Code Compression to have occurred between the Duration Period, the Foreign Organizations, some or all, would have had to have accessed or disclose my Personal Information in the form of some or all of the following:

(i) Data Cleaning[1] or Data Cleansing;
(ii) Compression;

Total Computation of Files

14. I have counted some 88795 files some of which involve solicitor-client privilege from the practice of law.

Commercial Activity

15. I believe all of the Organizations were involved in **Commercial Activities** as they were paid for their services of providing to the Disclosing Organization or Authorizing Organization to engage in such activities.

Volume 7: Written Requests

16. I have made the relevant written requests as particularized in my correspondence to each but I shall keep the same private and confidential as per PIPEDA unless any of the organizations authorizes me to disclose the same to another Organization. Unless an Organization has included another Organization on the email thread or individual, I have not included them but for one exception which was when there was an Organization where there a domain and subdomain and both were claiming that they did not own the domain. I do not believe that neither Organization could "own the domain".

17. Some of the Organizations are past the 30 calendar days (see: section 8 of PIPEDA). Since none of the Organizations are law firms, with respect to this affidavit material, then I do not believe that any of the grounds for solicitor-client privilege could be invoked (see: section 9(3) of PIPEDA.

18. As it relates to litigation privilege, Ms. Forbes of the BCLIA represented on November 15, 2021 to me via letter on LIF letterhead that no such claim was even considered under the cyber policy. I have not even filed a Complaint under PIPEDA out of respect for those Organizations that have responded because I realize, in my view, that any such filing of one complaint under PIPEDA could have, in my view, the proverbial "domino effect" in effecting Organizations that are being compliant with PIPEDA. I do not wish to saddle any Organization with such an investigation when I believe this can be resolved without having to

[1] ata cleansing or data cleaning is the process of detecting and correcting (or removing) corrupt or inaccurate records from a record set, table, or database. It refers to identifying mplete, incorrect, inaccurate, or irrelevant parts of the data and then replacing, modifying, or deleting the dirty or coarse data (Wu, S. (2013), "A review on coarse warranty data and lysis," Reliability Engineering and System, 114: 1–11). Data cleansing also refers to the practice of standardizing input fields (e.g. that postal codes be written in all caps, with a space, or ensuring that "road" is always abbreviated "Rd."), and generally ensuring that disparate datasets take the same form and order of variables within the dataset.

make a complaint. Based on my research, it is my belief that many of the Organizations act in a partnership type model, "coalition" or "syndicate" and one complaint could cause lengthy investigations for some or all along with negative publicity. I particularly realize that said negative publicity can be particularly damming or prejudicial for a public company on any global stock exchange whether singularly or dual listed. I am not seeking any form of confidential commercial information from any of the Organizations (see: section 9(3)(b) of PIPEDA).I am not seeking access any information that could threaten the life or security of an individual as I am only making access requests upon Organizations which are bodies corporate, partnerships of organizations or artificial entities.

19. In relation to paragraph 7(1)(b), the "collections" were by unknown entities to me but NST LLP represented, albeit inconsistently but more deliberately in October 2021, that it was pursuant to then LSBC Rule 4-43. The LSBC admitted, through then counsel Mr. Gomery, QC (now Justice Gomery of the BC Supreme Court) that consent is required by the individual, in that matter myself, before the LSBC could even commence an investigation regarding the same. As noted, there are collections therein from 2014, 2015, 2016, 2017 and later all of which are unknown in the "collector". I also note that if the collector of these RAM Dumps, albeit not copies as a matter of , in my view, basic technological understanding, could not be copied but rather dumped. Since my CPU was apparently turned off on multiple dates along with surreptitious seizures from remote places unknown to me, then the Unrequested Altered Record would not, in my view, fall under the exemption of 7(1)(b)[2]. To further affirm and swear under the penalty of perjury, I had never even canvassed these issues prior to the Summer of 2021 and not once was PIPEDA even pleaded in the underlying cases or FIPPA for that matter. The information, whenever it was collected and by whom, was not under a formal dispute resolution process as I have never been in any "formal dispute resolution process" with any of the collectors at said times. Ergo, I believe it was not "generated in the course of a formal dispute resolution process". Since all of the unknown collections occurred in BC with reference to provincial legislation, the federal legislation would not have been applicable (see: section 9(3)(e) of PIPEDA).

Volume 8(A): The Override Provision

[2] is reasonable to expect that the collection with the knowledge or consent of the individual would compromise the availability or the accuracy of the information and the collection is reasonable for purposes related to investigating a breach of an agreement or a contravention of the laws of Canada or a province

20. To the extent that any of those sections were relied upon, which they have not been but for one organization relying on "confidential commercial information exemption" but without explanation or one Organization referencing "attorney-client privilege" without confirming if they had collected, used or disclose any PI of mine, I am swearing under oath and the penalty of perjury that I need the information for any of the following reasons:

a. My life;

b. My health; or

c. My security

Are threatened.

Volume 8(B): ***Quasi-Constitutional Status of PIPEDA***

21. While none of the Organizations are government bodies but rather Commercial Organizations involved a variety of business sphere like data breach responses, data mining, forensic incident response, cyber risk, insurance and others, I rely on the following secondary source from the Charterpedia regarding the words of section 7 of the Charter Everyone has the right to life, liberty and security of the person. While the PIPEDA section references health and not liberty, I have substituted the relevant defections and articulations from the case law in that hyperlink. Where the reference was to a government body, I have substituted the same in this evidence with the Organizations without any allegation as I remain at the access request stage and potentially notification stage from the Organizations that had any of my personal information under their control, at any stage, where there has been a BSS that creates RRSOH.

Life

22. The right to life is engaged where the law or state action imposes death or an increased risk of death, either directly or indirectly (*Carter v. Canada (Attorney General)*, [2015] 1 S.C.R. 331 at paragraph 62; *Chaoulli* at paragraphs 112-124 and 200). Concerns about autonomy and quality of life are properly treated as liberty and security interests (*Carter* at paragraph 62). I swear under oath and under the penalty of perjury that having to have spent the time since October 25, 2021 on any of the above has caused me, in my view, increased risk of death as I am suffering, without any waiver of privilege but can be the subject of medical legal report if necessary, from a variety of injuries, ailments, et al from a physical, mental and emotional standpoint. I am struggling to sleep more than four hours an evening as my mind is

constantly turning, cogitating and ruminating about how my Personal Information was handled from July 14, 2021 to present. I fear that if I spend more time on this matter that I am going to suffer permanent or fatal loss. I have had days where I have considered whether it was worth living and how I could have had my personal information accessed or disclosed on the Ethereum Blockchain and how certain Organizations could have not considered my privacy interests. The fact that certain Organizations are not responding or even in my view being rude or stonewalling me is exacerbating the issues for me. I find it particularly difficult and stressful to the point of considering suicide, along with having to take prescription medication with increased dosages, by doctoral authorization, to merely get through the day and night. I hereby affirm that I had never had any interactions with any of the Foreign Organizations but for IBM and Samsung by way of purchasing products.

23. Out of respect for the Foreign Organizations and their reputation and those employees and contractors that work for them, I have not contacted a close friend of mine for close to eight years who entered this "space", whose initials are XX, and had a role with the Ontario Securities Commission, along with private enterprise, and has represented that he wrote some of the first "crypto regs" to keep crypto safe. When he was entering this line of work, albeit I do not believe in the exact space as this matter, I gifted him funds to allow him to live because he had a dream to work in this space. I remember him explaining the space to me and it sounded like a foreign language and not something that I could comprehend at all. However, I was supportive of him as a friend and his dream and he now has roles with the OECD and others. Instead of seeking his guidance on this matter and explaining the same to me, I taught myself to the best of my ability through reading and putting life, business and relationships on a nearly, in my view, permanent stay, because I had such an incredible learning curve. I do not purport to be an expert but I believe that I have a reasonable working knowledge to be able to swear this affidavit and now understand the severity of what has transpired since July 2021 to present and the amount that I still have to learn. In fact and for context I had a family member ask me about Bitcoin and cryptocurrency in the Spring of 2021 and I reiterated that it was too difficult for my brain to understand and reserved for people far smarter than I. I also noted that I could never see myself taking risk like that because I did not understand how any aspects were tangible.

Security

24. Security of the person is generally given a broad interpretation and has both a physical and psychological aspect (see: https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-

ccdl/check/art7.html). Security of the person includes a person's right to control his/her own bodily integrity. It will be engaged where the state interferes with personal autonomy and a person's ability to control his or her own physical or psychological integrity. Security of the person will be engaged where state action has the likely effect of seriously impairing a person's physical or mental health (*R. v. Monney*, [1999] 1 S.C.R. 652 at paragraph 55; *Chaoulli, supra* at paragraphs 111-124 and 200; *R. v. Parker*, 49 O.R. (3d) 481 (C.A.)).

25. In addition, the right is engaged when state action causes severe psychological harm to the individual (*G.(J.), supra* at paragraph 59; *Blencoe, supra* at paragraph 58; *K.L.W., supra*, at paragraphs 85-87). To constitute a breach of one's psychological security of the person, the impugned action must have a serious and profound effect on the person's psychological integrity and the harm must result from the state action (*Blencoe, supra* at paragraphs 60-61; *G.(J.), supra; K.L.W., supra*. The psychological harm need not necessarily rise to the level of nervous shock or psychiatric illness, but it must be greater than ordinary stress or anxiety.

26. From a context standpoint, I believe that I have handled ordinary stress or anxiety reasonably well in a variety of sphere. For example, I represented my country in tennis on the international stage in under sixteen and under eighteen events like the world recognized largest junior tennis tournament in The Orange Bowl in Miami, Florida. I attended The Ohio State University on a tennis scholarship and I obtained a law degree and a designation a Chartered Investment Manager with the **Canadian Securities Institute**. I believe that I was one of the few lawyers in Canada that held both of those designations. Additionally, I believe I still hold the fastest time for the Canadian Bar Association 5 KM (approximately 3 miles) race of 15:05.

27. For perspective, when I had entered a new field after law, I had a false criminal complaint filed against me by a lawyer in 2017 who was opposing counsel, who then quit thereafter, and I was arrested but the charges were never formally approved due to lack of evidence (which I note is exceptionally rare) and I did not find that to be even nearly as stressful as learning that my personal information had been access or disclosed over the summer of 2021 and present, and having to follow up with the various Organizations. I can name other examples wherein I had been nearly killed in car crashes or being hit by a bike (as a runner) at nearly 50km/hr to not be as stressful. I do not fault the **Organizations** per se but I do believe that I am entitled

to notice of the BSS and the circumstances that transpired along with the prescribed elements thereunder.

Health

28. As it relates to health and the above, I am not looking to play the "victim" but when I see the words like "pwned" and that other organizations made money on Ethereum on what was my personal information from an undisclosed RAM Dump and other undisclosed seizures that were not even under legislation but a "rule" which is now defunct, I vomited and dry heaved thinking of the same. I note that this was exactly after I had been successful in multiple hearings against the LSBC and LSBC Defendants with a counsel that is now a judge and junior counsel while I was self-represented, which, in my view, is trite that it has never been before the BC Supreme Court or BC Court Appeal. I did communicate with the AGBC regarding this matter and sought his intervention but his counsel informed me that it had no role in this matter because it is not a "provincial one" and not within his jurisdiction. I am hopeful that this sworn evidence will continue to assist in resolving this matters in accordance with the law and without further detriment to myself or any organization so that we can all focus on our respective lives. However, I believe, in my view, the ironic element is that requires consent for that which was unconsensual.

29. I thank those that receive a copy of the same and I will await their response on resolution of those privacy issues in an manner consistent with the law. For the Foreign Organizations to further comprehend what they are dealing with if they have dealt with NST LLP or the LSBC, I note the following sentence from a filed document with the Court in April 2017 wherein Ms. Lockhart executed said document for NST LLP and the LSBC, as an officer of the Court that the LSBC investigators did not inspect or copy any records on June 3, 2014. I have since learned that was false by the Inflated Code but I operated under and relied upon the representation that was correct. I believe it is trite that an concealed RAM Dump or any form of seizure is without my consent. I also note that Ms. Lockhart represented in that same filed Notice of Application that all that the investigators did was "took two forensic copies of the hard drive of plaintiff's office computer". I now know that to be false as per the Inflated Code but I still do not know who collected the same as EFS has informed me that they did not install any memory dump software so my initial privacy request was apparently, according to Mr. Cree of EFS, predicated on a false document.

30. I reserve the right to provide further and swear evidence as it becomes known to me.

Solemnly Affirms before Me At the
City of Toronto, Ontario, this 8th Day of December
In the Year of 2021

A Commissioner for taking Affidavits
In Ontario

Kevin A. McLean

Commissioner: Ashley Arapoulo
LSO #: 56695N

AFF #10

(1)

(1)

AFFIDAVIT OR STATUTORY DECLARATION OF KEVIN A. MCLEAN

STRICTLY PRIVATE AND CONFIDENTIAL

DATE: DECEMBER 8, 2021

RE: SOLELY FOR THE PURPOSES OF PIPEDA

SCANNED COPY

(2)

Kevin A. McLean (B.A. (MCL), J.D., CIM), of Toronto, Ontario, Canada, Businessman and Chartered Investment Manager, **SOLEMNLY AFFIRM** THAT:

1. I am the **Individual** (the "**Mr. McLean**", "**McLean**" "**Applicant**", "**Requestor**" "**Potential Complainant**") above and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be on information and *belief* and where so stated I verily *believe* those matters to be true.

2. I adopt the definitions from the previous correspondence for ease of reference. Where there are annotations on documents, they are mine to demonstrate my review of the same et al.

Volume 1: Exhibits

3. Attached hereto to this my affidavit and marked as **Exhibit "A"** is a copy of a document regarding, inter alia, my proposed resolution regarding my privacy requests upon the Organizations and respectful, in my view, demand for notification under PIPEDA.

4. Attached hereto to this my affidavit and marked as **Exhibit "B"** are copies of the documents **particularized** in the table of contents to this my affidavit is a copy of chart regarding Ethereum and Blockchain with reference to Ethereum Scan.

5. Attached hereto to this my affidavit and marked as **Exhibit "C"** is a copy of a document regarding, inter alia, Westport Insurance Corporation which is an entity that I have directed this affidavit based upon my research of entities and individuals it may have underwritten for insurance purposes. I also note the relevant federal legislation in this regarding federal insurance companies like Westport and SwissRe.

6. Attached hereto to this my affidavit and marked as **Exhibit "D"** is a copy of documents regarding Coalition panel's providers for cyber breaches et al along with other miscellaneous documents.

7. Attached hereto to this my affidavit and marked as **Exhibit "E"** are copies of documents referencing a company named Epiq et al.

8. Attached hereto to this my affidavit and marked as **Exhibit "F"** are copies of documents involving Vmware partners for Incident Response.

9. Attached hereto to this my affidavit and marked as **Exhibit "G"** are copies of documents involving Vmware partners for Managed Security Service Providers.

10. Attached hereto to this my affidavit and marked as **Exhibit "H"** are copies of documents involving Cloudflare's ZTNA partners.

11. Attached hereto to this my affidavit and marked as **Exhibit "I"** is a copy of a document regarding privacy implications with Blockchain and personal data.

12. Attached hereto to this my affidavit and marked as **Exhibit "J"** is a copy of a document regarding Report on Data Privacy Regulations.

13. Attached hereto to this my affidavit and marked as **Exhibit "K"** is a copy of document from Dentons Data on privacy.

14. Attached hereto to this my affidavit and marked as **Exhibit "L "** is a copy of a document regarding the privacy implications of blockchain in insurance.

15. Attached hereto to this my affidavit and marked as **Exhibit "M "** is a copy of a document named "Privacy Is the Biggest Challenging DeFi Lift-Off".

16. Attached hereto to this my affidavit and marked as **Exhibit "N"** is a copy of document from Identify Force regarding data breaches for PII and VPN issues et al.

17. Attached hereto to this my affidavit and marked as **Exhibit "O"** is a copy of a document from LexisNexis et al.

18. Attached hereto to this my affidavit and marked as **Exhibit "P"** is a copy of a decision from the BC and Federal Privacy Commissioner regarding AIQ and GitLab.

19. Attached hereto to this my affidavit and marked as **Exhibit "Q "** is a copy of asubmission from the CBA on whether a cross-border transfer is a Disclosure or a Use.

20. Attached hereto to this my affidavit and marked as **Exhibit "R "** is a copy of an article on how Blockchain public chains breach all ten principles of PIPEDA.

21.

22. Attached hereto to this my affidavit and marked as **Exhibit "S "** is a copy of an article that is titled, "Careless Users Are Ruining Ethereum's Privacy".

23. Attached hereto to this my affidavit and marked as **Exhibit "T "** is a copy of an article about how "Ethereum Had a Rough September" along with a list of public domains implicated in the Inflated Code.

24. Attached hereto to this my affidavit and marked as **Exhibit "U "** is a copy of an article from Atlantic.Net regarding hosting under PIPEDA along with other documents including Smart Cards, Citrix, Evolve Partners and secondary source issues

25. Attached hereto to this my affidavit and marked as **Exhibit "W"** is a copy an article from Citrix on Smart Cards and one of the public companies that issues the same known as Xpay, SMKG and Xpay. The public company is SMKG. There are other miscellaneous documents that I believe have contextual and referential importance.

26. Attached hereto to this my affidavit and marked as **Exhibit "V"** are copies of documents involving the requirement to provide an affected individual like myself and others so

implicated in the Compressed Code and Inflated Code of the Unrequested Altered Record with notification.

Volume 2: Conclusion

27. I reserve the right to provide further and swear evidence as it becomes known to me.

Solemnly Affirms before Me At the
City of Toronto, Ontario, this 8th Day of December
In the Year of 2021

A Commissioner for taking Affidavits
In Ontario

Kevin A. McLean

Commissioner: Ashley Mapuro
LSO #: 56695N