

**CLASS PROCEEDING**

This is the 1st affidavit  
of Ken Chung in this case  
and was made on August 21, 2013

No. T-696-10

**FEDERAL COURT**

BETWEEN:

MARK CUZZETTO

PLAINTIFF

AND:

BUSINESS IN MOTION INTERNATIONAL CORPORATION,  
ALAN KIPPAX and ASHIF MOHAMED

DEFENDANTS

**AFFIDAVIT**

I, Ken Chung, business man, of Kelowna, British Columbia, AFFIRM THAT:

1. I was a distributor for the Defendant, Business in Motion International Corporation ("**BIM**"). As such, I have personal knowledge of the facts and matters deposed in this affidavit except where I state them to be made on information and belief, and as to those facts and matters, I believe them to be true.

**BACKGROUND**

**BIM SEMINAR POWERPOINT PRESENTATIONS AND SCRIPTS**

2. In 2008, I attended a meeting about a "business opportunity" after receiving an invitation from a friend, Morgan Davies. Mr. Davies did not give me any details about this "business opportunity", but was told it would be very profitable. This meeting turned out to be an introduction presentation to a group of approximately 150 other persons regarding BIM (the "**BIM Seminar**"). Although the BIM Seminar included a brief pitch

about a travel package product called the “**Ultra Life Club**”, the majority of the presentation, and the dominant focus of the BIM Seminar was a review of an allegedly very lucrative “business model” described as the “Time Leverage System”.

3. The BIM Seminar I attended was substantially the same as the BIM Presentations described below.

4. After the BIM Seminar, I signed up to be a member of BIM by purchasing a BIM product. I was most interested in the opportunity to become a “**BIM Distributor**” who could purchase products from BIM at a wholesale price and, more importantly, become a part of a “**BIM Corporate Ladder**”. Being a part of a BIM Corporate Ladder allowed a BIM Distributor to earn commissions for the sale of BIM products.

### **BIM TRAINING SESSIONS AND PRESENTATIONS**

5. As I became more involved in BIM, I attended various training sessions required by BIM to become qualified to deliver BIM Seminars (“**BIM Training Sessions**”).

6. As part of my training, BIM provided me with various PowerPoint files containing the slides to be displayed at BIM Seminars (the “**BIM Presentations**”). The BIM Presentations changed slightly over time, but were similar in content and in structure over the entire period I was a BIM Distributor. Copies of the following BIM Presentations are attached:

- (a) BIM Presentation from May 20, 2008 – **Exhibit “A”**;
- (b) BIM Presentation from November 17, 2008, and accompanying speaking notes – **Exhibit “B”**;
- (c) Part 1 of a BIM Presentation from January 22, 2009, and accompanying speaking notes – **Exhibit “C”**;
- (d) BIM Presentation from March 10, 2009 – **Exhibit “D”**; and
- (e) BIM Presentation from April 4, 2009 – **Exhibit “E”**.

7. Some of the BIM Presentations contain notes that participants in BIM Training Sessions were told to use as scripts for delivering BIM Seminars. The notes in the BIM Presentations included as Exhibits “B” and “C” are the notes that were included in the PowerPoint files when they were provided to me by BIM.

8. Many of the PowerPoint files contain animations or layers that cannot be displayed properly in print. These PowerPoint files are best viewed electronically. Copies of the PowerPoint files provided to me by BIM are in a folder labeled “Presentations” contained on a USB drive attached as **Exhibit “F”** (the “**USB Drive**”). Each of the BIM Presentations is titled with its exhibit name. The USB Drive also includes four sound recordings in a folder labeled “Recordings”, which are discussed in greater detail below.

9. A full script for a BIM Presentation was also provided to people trained as presenters. A full script for presentations delivered in October 2008 is attached as **Exhibit “G”**.

10. I attended many BIM Seminars and BIM Training Sessions. Many of the BIM Training Sessions were focused on teaching the participants how to deliver a BIM Seminar. Many of the BIM Training Sessions I attended were delivered by employees of BIM, with questions and comments from the people in attendance.

11. Kippax led one of the BIM Training Sessions I attended and provided instruction on delivering BIM Seminars. Kippax said to follow the BIM Presentations as closely as possible when making a BIM Presentation and to follow the script provided by the company.

12. One of the BIM Training Sessions I attended was delivered by Glen Waldner on September 1, 2008. An audio recording of the September 1, 2008 BIM Training Session is included on the USB Drive in a folder labeled “Recordings” as “Recording 2 – Glen W BIM Training.wma”.

## **BIM SEMINARS**

13. Two days later, on September 3, 2008, I attended a BIM Seminar during which Glen Waldner delivered a BIM Seminar using essentially the same script as he used during the September 1, 2008 BIM Training Session. An audio recording of the September 3, 2008 BIM Seminar is included on the USB Drive in a folder labeled "Recordings" as "Recording 2 – Glen W BIM Seminar.MP3".

14. On April 30, 2009, Kippax delivered part of a BIM Seminar to an audience in Kelowna, British Columbia. An audio recording of the April 30, 2009 BIM Seminar is included on the USB Drive in a folder labeled "Recordings" as "Recording 3 – Kippax BIM Seminar.MP3". Kippax is introduced approximately 58 minutes and 30 seconds into the recording.

15. Almost all BIM Seminars I attended followed substantially the same format and script as included in Exhibits "B", "C" and "G", and focused on the potential profitability of the BIM Corporate Ladder. The recorded BIM Seminars included on the USB Drive are representative of the BIM Seminars I have attended.

## **RESIDUAL EARNING**

16. BIM also offered additional training seminars for BIM Distributors. I attended one of these seminars that discussed what Kippax referred to as "Residuals" or the "5x7 Matrix". A copy of the PowerPoint presentation used in the Residuals training seminar is attached as **Exhibit "H"**. A copy of the PowerPoint file provided to me by BIM is included on the USB Drive in a folder labeled "Presentations".

17. A recording of Kippax delivering a Residuals training seminar on April 30, 2009 is included on the USB Drive in a folder labeled "Recordings" as "Recording 4 – Kippax Residuals.MP3".

## **BIM EXPERIENCE**

18. I received payments from BIM for the sales I made as a BIM Distributor, though the total I received was less than what I paid to BIM to purchase Perpetual Motion

Products. The "Cheque Receipts" I received from BIM were signed by Kippax, under the titles "President and CEO" and "Global Sales Director". Copies of the Cheque Receipts I received from BIM and signed by Kippax are attached as **Exhibit "I"**.

**PURPOSE**

19. I make this affidavit in support of the plaintiff's motion for default judgment.

AFFIRMED BEFORE ME at Kelowna, )  
British Columbia on August 21, 2013. )  
*Erin Hatch* )  
\_\_\_\_\_)  
A Commissioner for taking Affidavits for )  
British Columbia )



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