

CLASS PROCEEDING

This is the 1st affidavit
of Ulla Herlev in this case
and was made on July 31, 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, **ULLA HERLEV**, paralegal, of 1410 - 777 Hornby Street, Vancouver, British
Columbia, SWEAR THAT:

1. I am a paralegal at Branch MacMaster LLP, solicitors for the Plaintiff in the within
action (the "**Action**"). As such, I have personal knowledge of the facts and matters
deposed to 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.
2. I am the person who has been responsible for receiving and responding to
inquiries from class members with respect to the Action either by telephone, mail, email
or facsimile.
3. In order to facilitate intake of information from class members, we developed an
online Questionnaire. A copy of the blank questionnaire is attached as **Exhibit "A"** to
this Affidavit.

4. When a class member completes and submits the Questionnaire that is on the website of Branch MacMaster LLP, that completed Questionnaire is submitted to my email address. When I receive the email, I take the information provided to me in the completed Questionnaire and insert it into a database document in Word format (the “**Database**”) that I created and maintain.

5. Instead of completing and submitting the online Questionnaire, some class members asked to complete a paper copy of the Questionnaire and sent it to me by regular mail or by facsimile. Attached as **Exhibit “B”** is a true copy of the paper version of the Questionnaire distributed to those class members.

6. Attached as **Exhibit “C”** is a true copy of the Database that I have maintained, with the names and identifying personal information of all class members redacted to maintain their privacy.

7. As of the date of this Affidavit, there a total of 394 class members who contacted me and who were listed in the Database.

8. The Database tracks the place of residence of class members, where such information is provided to us. Based on the information provided to date, the residence of the 394 class members is as follows:

British Columbia	119
Alberta	57
Saskatchewan	4
Manitoba	43
Ontario	69
United States	4
Unknown (no address given)	98

9. I have also created a spreadsheet in Excel format (the “**Spreadsheet**”), in which I have kept track of any class members who in their Questionnaire response reported information on the amount they invested, what products they purchased and in what quantity, and whether they received any reimbursement or payment from the Defendant

Business In Motion International Corporation (“BIM”). Attached as **Exhibit “D”** is a true copy of the Spreadsheet with the names and identifying personal information of all class members redacted to maintain their privacy.

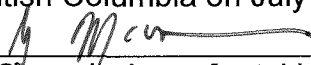
10. As of the date of this Affidavit, 278 of the 394 class members who completed the Questionnaire reported how much money they paid to BIM. The amounts paid to BIM by those 278 class members totalled \$2,050,038.30.

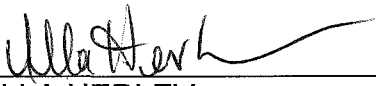
11. The smallest amount paid to BIM reported by an individual class member was \$525.00. The largest amount paid to BIM reported by an individual class member was \$64,240.00. The average amount paid to BIM by class members, based on the information reported by those class members, is \$7,374.24 (\$2,050,038.30 paid ÷ 278 class members).

12. As of the date of this Affidavit, 35 of the 394 class members who completed the Questionnaire reported that they have received some payment or reimbursement from BIM.

13. The average total payment by BIM to those 35 class members was \$3,560.22. The smallest payment from BIM to any of those 35 class members was \$35.00, and the largest was \$14,325.00. In total, \$124,607.81 was reported paid from BIM to class members.

14. I make this affidavit in support of the Plaintiff’s motion for default judgment.

SWORN BEFORE ME at Vancouver,
British Columbia on July 31, 2013.

A Commissioner for taking Affidavits for
British Columbia


ULLA HERLEV

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