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I believe the forms referred to are the wire transfer instructions to transfer media buy funds from the campaign account back to the Conservative Fund Canada.

210. Mr. King advised that both of these campaigns sensed victory and no longer wished to participate in the media buy because they intended to spend close to their election limits. Mr. Donison responded that both campaigns were committed and said that if they balked, they may:

"...be hit with this as an election expense. You better read them the riot act on this."

211. On January 5, 2006 Mr. King advised Mr. Donison that Malpeque "is on board" but not Cardigan (Mr. Gillis' campaign). Mr. King asked if the media buy funds could be switched from Cardigan to the campaign in the Electoral District of Egmont instead. Mr. Donison agreed with this strategy and told Mr. King:

"If you can get Egmont instead that should work".

He went on to tell Mr. King:

"...the amounts for each of the two PEI ridings are \$7902.49 each."

212. I have examined the return filed by the candidate of the Egmont Electoral District and found no record of an "in-and-out" transaction. Given that Mr. Gillis's campaign was billed for the advertising as noted at paragraph 207 but did not participate in the media buy, I do not know who paid the invoice.

213. Each of the 15 candidates (paragraphs 38 - 46) provided, as part of their filing of additional documentation, CDs of the television and/or radio media buy advertising, which affected their electoral districts. I note, in reviewing one such ad (Appendix 9), that the official agent for Mr. Don Gillis, the Conservative Party of Canada candidate for the electoral district of Cardigan (Prince Edward Island), is mentioned in the "tag line" of the ad (the information at the end of an ad which indicates who authorized, and presumably paid for, the advertising) as having authorized media buy advertising. Mr. Gillis is not one of the 67 candidates identified as being part of the media buy. The Gillis campaign did not report to Elections Canada having financially participated in such advertising. Several official agents of a number of other campaigns in Atlantic Canada, which did report having financially participated in the media buy scheme, are also listed in the "tag line" as having authorized the ad. Appendix 9 is an image taken from a CD mentioned earlier in this paragraph which was filed (Appendix 8) in response to the Chief Electoral Officer's request for additional information (Appendix 7) by the Khosla campaign (The Conservative Party of Canada candidate in the Electoral District of Halifax West) with Elections Canada pertaining to media buy advertising in Atlantic Canada. The "tag line" lists a number of Official Agents, including the Official Agent for the Cardigan campaign, as having authorized the advertising.

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214. The e-mail from Mr. Kumpf to Mr. Miele dated December 30, 2005. (Appendix 45) indicates that radio advertising for the Conservative Party of Canada and candidates in English Canada began on January 2, 2006.
215. E-mails were subsequently exchanged (Appendix 46) between Mr. Kumpf and Alaina Comazzetto, the assistant to the Conservative Member of Parliament for the electoral district of Desnethe-Missinippi-Churchill River. The e-mails indicate that the local campaign appeared to have no knowledge of the advertising taking place in the district, although the electoral district is recorded as having participated in the media buy.
216. On January 4, 2006 Mr. Kumpf wrote to Ms. Comazzetto, with a copy to Mr. Donison and stated:
- "As per your request via the e-mail to Mike, please be informed that the radio stations purchased for the media campaign in your area are..." Mr. Kumpf then listed two radio stations, one in Meadow Lake, Saskatchewan and the other in La Ronge, Saskatchewan.*
217. Ms. Comazzetto then asked Mr. Kumpf:
- "What is the text of the ads?"*
218. Mr. Kumpf then forwarded Ms. Comazzetto's e-mail to Ms. Nicole Polivka at Yield Communications and stated:
- "I don't know what your release policy on this is but the following is a request from the assistant to the Conservative MP for this particular riding enquiring as to what the creative is..."*
- I had supplied her with the radio stations the ad is playing on as per request from Mike Donison."*
219. Based on my review of documentation provided pursuant to the Production Order, I believe Yield Communications is one of the companies which created the advertising for the campaign. I believe that the word "creative" above refers to the text of the ads, including the "tag lines" which indicate who has approved of and paid for the advertising.
220. On January 5, 2006 Mr. Donison exchanged correspondence with Mr. Bruce Hallsor, a lawyer in Victoria, British Columbia who appears to be connected to the media buy process, with respect to having the wire transfer instruction forms faxed by the campaigns to the Conservative Fund Canada. The following e-mails were exchanged (Appendix 47):
- "...Nanaimo Cowichan i sending i one for \$4,000 only. They have heard the first*

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ad running, and it is an anti liberal ad and they are really pised of, since the liberals are not a factor i any of the three idings in their area." (sic)

221. Mr. Donison forwarded the e-mail to Mr. Kumpf and copied Mr. Patrick Muttart and Mr. Miele. Mr. Muttart responded:

"The Liberals continue to poll well on Vancouver Island regardless of what we are seeing on the ground. We do have an anti-NDP ad for television that is being finalized."

222. I believe Mr. Muttart is the Deputy Chief of Staff to the Prime Minister for Strategic Planning and a senior Conservative Party of Canada strategist. He is identified as such in various media articles I have reviewed on the internet, such as http://www.macleans.ca/article.jsp?content=20060306_122403_122403

OBSERVATIONS

223. I had never met any of the executives of Retail Media prior to our meeting, nor had I previously met any of the candidates or official agents interviewed by me or by my colleagues. In considering the reliability of the information provided, however, I have no reason to doubt the truthfulness of any of the interviewees. As noted at paragraph 64, I have confirmed that Mr. Kumpf is listed as the Authorized Agent for the purchase of broadcasting time for the Conservative Party of Canada. In terms of assessing the reliability of information provided by other persons interviewed I have, to the extent possible, aligned the information provided by them with available documentation. I know personally each of the Assistant Chief Investigators who conducted interviews referred to in this my Information, and I consider each of these Assistant Chief Investigators to be reliable and to have represented the nature of the interviews conducted by them truthfully.
224. In her letter (see paragraph 49 and Appendix 11) dated January 25, 2006 to Ms. Manon Hamel, Acting Director, Political Financing and Audit Directorate at Elections Canada, Ms. Ann O'Grady, Chief Financial Officer of the Conservative Fund Canada stated that costs of media advertising were calculated by Retail Media for individual campaigns "*based on the advertising performed and invoiced to the Conservative Candidates at the Conservative Party national office*". She goes on to say that time is of the essence in media buys, advertising time must be paid for in advance and that the Conservative Fund Canada facilitated the payment to Retail Media on behalf of the participating candidates to pay for "*their respective media buy and the associated allocation of production costs. These are the invoices that Elections Canada is being presented by the candidates' official agents to support their media buy during the writ.*"
225. I note that Ms. O'Grady mentions "*allocation of production costs*". Only the participating Quebec campaigns filed invoices or documentation with Elections Canada pertaining to campaigns for which production costs were allocated. No such allocation has

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been filed by participating campaigns outside Quebec, each of which received a media buy invoice from the Conservative Fund Canada (Appendices 8, 19 and paragraphs 93, 136, 142, 146, 148, 224, 225, 227).

226. Ms. Susan J. Kehoe, the current Interim Executive Director of the Conservative Party of Canada, in her letter to the Chief Electoral Officer (see paragraph 50 and Appendix 12) stated that candidates were invited to participate in the media buy, and affirms that the media buy supplier (Retail Media) determined the group market area and what combination of TV and radio in each market was best to target the audience for each participating candidate.

227. The statements in paragraphs 224 – 226 are at odds with the available evidence because:

- a. I was told by Mr. Andrew Kumpf of Retail Media that no contract exists between Retail Media and any candidate (paragraph 67). This is supported by Mr. Donison's letter (paragraph 48), which stated that no contract exists between Retail Media and any candidate;
- b. I was told by Mr. Kumpf and by Ms. Dixon that Retail Media conducted its billing of the Conservative Party of Canada by calculating the total of advertising costs for the time purchased and provided this amount as an invoice to the Conservative Fund Canada. The allocation of funds on an electoral district basis was predicated on instructions received by Retail Media from Ms. Susan Kehoe or other officials of the Conservative Party of Canada or the Conservative Fund Canada. I believe that any analysis or assessment conducted by Retail Media of amounts to be allocated to advertising for any given candidate was intended to place advertising funds into various campaigns based on the amount of available space between the amount spent and the election spending cap of each participating campaign to achieve a maximum amount spent. I note as well the apparent disparity in allocation of advertising costs among electoral districts which are contiguous or in the same geographic region (paragraph 74);
- c. I was told by Mr. Kumpf that Retail Media does not become involved in the production of advertising; the sole function of Retail Media is to purchase advertising air time (paragraph 65). This is contrary to Ms. O'Grady's statement that part of the cost allocated to campaigns was for production costs (Appendix 11 and paragraph 49);
- d. I was told by Ms. Dixon that the Retail Media invoice shown to her as representative of the 15 invoices filed with Elections Canada does not resemble the invoices provided to the Conservative Fund Canada by Retail Media (Appendix 19, 20 and paragraph 75). Ms. O'Grady confirms that these invoices are intended to be relied on as emanating from Retail Media when she states in her letter that:

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"These are the invoices that Elections Canada is being presented by the candidates' official agents to support their media buy during the writ."
(paragraph 49);

- e. E-mail traffic mentioned in paragraphs 170 – 222 and interviews of candidates and official agents (paragraphs 81 – 163) do not support these statements.
228. As I have noted, documentation provided by Retail Media via the Production Order indicates that Retail Media did create an invoice (#1101868-1 at Appendix 20) which contains a listing of 41 electoral districts outside Quebec involved in the media buy scheme. The invoice bearing Retail Media letterhead which was shown to Ms. Dixon (paragraph 75 and Appendix 23) appears to be similar to invoice 1101868-1 as created by Retail Media, however the invoice shown to Ms. Dixon (Appendix 23) shows only that candidate's amount, i.e. information pertaining to the other 40 candidates which appears on the version of the invoice at Appendix 20, has been blocked out. Based on the comments of Ms. Dixon of Retail Media (paragraph 75), I believe this alteration was carried out by the Conservative Fund Canada or the Conservative Party of Canada because it did not appear to conform to the appearance of the invoices issued by Retail Media to the Conservative Party of Canada or Conservative Fund Canada (Appendix 19 and paragraph 169) with respect to the purchase of media airtime during the 39th federal general election.
229. The documentation received from Retail Media supports the contentions that:
- a. The media buy plan as initially conceived and subsequently adjusted for election advertising was conceived by the Conservative Party of Canada;
 - b. Senior officials of the Conservative Party of Canada and / or the Conservative Fund Canada consciously chose not to seek a ruling from the Broadcasting Arbitrator prior to "switching" advertising expenses to the electoral districts (see paragraph "d." below);
 - c. The media buy plan for election advertising was contracted for with Retail Media and put in place before any of the Conservative Party of Canada candidates were contacted to participate;
 - d. The media buy was known to and implemented by the most senior officials of the Conservative Party of Canada and the Conservative Fund Canada. For example, Mr. Gerstein, the Chair of the Conservative Fund Canada told Mr. Campbell, the President and CEO of the media buying group that because the Conservative Party of Canada's election expense limit may be reached, it may be necessary to "switch" advertising expenses to the electoral districts (candidates) (paragraph 176, Appendix 25). Mr. Donison, (then) Executive Director of the Conservative Party of Canada and Ms. Kehoe, (then) Chief Financial Officer of the Conservative Party of Canada were also aware of the media buy planning;
 - e. Efforts were made to re-distribute media buy funds to other electoral districts when candidates declined to participate;
 - f. Payments for the media buy were made by both the Conservative Party of

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- Canada and the Conservative Fund Canada;
- g. Invoices addressed to "Official Agents for Conservative Party Candidates" were received and paid for by the Conservative Fund Canada;
 - h. The billing of candidates for media buy election advertising by the Conservative Party of Canada / Conservative Fund Canada was not based on the extent of advertising saturation of an Electoral District and the benefit or support that the advertising might generate for a particular campaign. It was based on the need to distribute advertising costs to candidates with room in their election budgets to absorb such costs within the election expenses spending limit and to create the appearance that the candidates had incurred the advertising costs;
 - i. When candidates declined to participate in the media buy plan, other electoral districts were selected by senior Conservative Party of Canada officials to participate based on the availability of room in their election budgets to absorb additional advertising costs irrespective of benefits received from the advertising.
230. Pursuant to paragraphs 81 to 163 I have participated in and am aware that investigators from Elections Canada have conducted a series of face-to-face interviews and telephone conversations with 14 persons directly involved in the media buy, ranging geographically from British Columbia to Quebec (paragraphs 81 - 163). Interviewees stated that they had no dealings whatsoever with Retail Media, nor did they authorize anyone else to contract with Retail Media on their behalf. A number of candidates / official agents said they had discussions with or on behalf of the Conservative Party of Canada concerning:
- a. Whether their campaign intended to spend to its election spending limit;
 - b. Whether they wished to contribute to national advertising by allowing space remaining
- in their campaign spending limit to be used by the Conservative Fund Canada to deposit funds into their campaign accounts, which would almost immediately be transferred back to the Conservative Fund Canada (resulting in a 60% windfall reimbursement to the campaign).
231. I have noted a consistent pattern created by the Conservative Party of Canada or the Conservative Fund Canada to deposit funds into the accounts of various campaigns, only to have the same or similar amounts transferred, always under the control of the Conservative Party of Canada or the Conservative Fund Canada, back to the Conservative Fund Canada, the chief agent of the Conservative Party of Canada.
232. My review of the Candidate's Electoral Campaign Return forms as provided by Elections Canada for the 67 campaigns involved indicates that it was only the 14 campaigns from which additional information was requested by the Chief Electoral Officer (plus the unsolicited 15th candidate) which filed with Elections Canada, in response to those requests, invoices on Retail Media letterhead (paragraphs 37 - 46). Executives of Retail Media did not recognize the one invoice shown to them (as representative of the 15 invoices) as

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coming from their company (paragraph 75). In all 15 cases referred to in paragraphs 37 - 46 the retail media invoices were addressed to "The Official Agents for Conservative Party Candidates, #1720 - 130 Albert St., Ottawa" (Appendix 8, 19). All of the 67 participating campaigns filed invoices from the Conservative Fund Canada.

REASONABLE BELIEFS

233. Based on the entirety of the information above, I have reasonable grounds to believe that:

- a. Through its chief financial agent (the Conservative Fund Canada) the Conservative Party of Canada established the 'media buy' program to allow the Conservative Party of Canada to enhance its election advertising spending and pass the expense to candidates with spending room between their anticipated election expenses and their election spending limit;
- b. None of the regional media buy advertising time was a cost incurred by the candidates or their official agents;
- c. It is the Conservative Party of Canada and/or the Conservative Fund Canada rather than the official agents of the candidates that actually incurred and paid the expense of the media buy, through purchase arrangements with Retail Media;
- d. The Conservative Party of Canada exceeded its election expense spending limit for the 39th federal general election;
- e. 65 of the 67 candidates of the Conservative Party of Canada who participated in the media-buy program claimed expenses for advertising that they did not incur (two candidates received less than 10% of the vote and were ineligible to claim). Each of the claims was supported by an invoice provided to the candidate by the Conservative Fund Canada. These expenses were improperly claimed in their electoral campaign returns for the 39th federal general election;
- f. The purpose of the transfers of funds from the Conservative Fund Canada to the candidates and back again was to give the appearance that the expenses had been incurred by the Conservative Party of Canada on behalf of its candidates and paid for by the campaign involved;
- g. No contract existed between Retail Media and any official agent or candidate in which any official agent or candidate incurred an expense of purchasing advertising time from Retail Media for the 39th federal general election;
- h. There is no evidence that any of the involved Official Agents authorized the Conservative Party of Canada or the Conservative Fund Canada, in writing to incur candidate's electoral campaign expenses on behalf of their campaign. (as

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required by subsection 438(5) of the Canada Elections Act):

- i. Retail Media was never in contact with the candidates or their official agents, but only had dealings with Conservative Party of Canada or Conservative Fund Canada personnel;
- j. The money used to make payments from the campaigns to the Conservative Fund Canada was provided by the Conservative Fund Canada to the participating campaign accounts and the official agents and candidates exercised no control over the funds;
- k. It is the Conservative Party of Canada and/or the Conservative Fund Canada, rather than the participating candidates or their official agents, which incurred the media buy expense, accepted the legal obligation to be indebted to Retail Media and paid the media buy expense. The payments by the campaigns for the media buys were, pursuant to instructions from the Conservative Fund Canada, directed to the Conservative Fund Canada, not Retail Media. Retail Media insisted on being paid prior to any broadcasts of advertising;
- l. The statutory election expense spending limit of the Conservative Party of Canada for the 39th federal general election was \$18,278,278.64 (Appendix 2). The Conservative Party of Canada spent \$18,019,179.28, leaving it \$259,099.36 short of its maximum election expenses spending limit (Appendix 13). Had the Conservative Party of Canada included the amount of \$1,375,451.91 (Appendix 6) that it spent for the 'media buy' as a Party election expense, it would have exceeded its spending limit by \$1,116,352.55. It also improperly generated a potential reimbursement of 60% of the media buy related election expenses (obtainable by candidates who received at least 10% of the votes in the electoral district contested, as per subsection 464(1)(b) of the *Canada Elections Act*) declared by the 65 of the 67 participating campaigns (two candidates did not receive the mandatory 10% of the electoral vote to qualify for reimbursement). These media buy expenses were not incurred by the participating campaigns;
- m. \$1,375,451.91 was subsequently allocated according to available spending room, by or on behalf of the Conservative Party of Canada or the Conservative Fund Canada, to the 67 various participating candidate's campaigns;
- n. Funds were transferred by or on behalf of the Conservative Party of Canada or the Conservative Fund Canada to the campaign bank accounts of the 67 various participating candidates and within a very short span of time these funds or funds closely approximating the amounts deposited were transferred back out of those accounts. This was done under the direction of the Conservative Fund Canada and the funds were returned to the account of the Conservative Fund Canada (paragraphs 57 – 63);
- o. Media advertising costs were incurred by the Conservative Party of Canada or

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the Conservative Fund Canada and not the participating candidates;

- p. The amounts allocated by or on behalf of the Conservative Party of Canada to the 67 various participating candidate's campaigns were allocated according to the remaining amount of available spending room for expenses within the spending limits;
- q. The Conservative Party of Canada and the Conservative Fund Canada maintain records of the corporate transactions pertinent to this investigation and there are reasonable grounds to believe that these records are available at or accessible through the place to be searched and will afford evidence respecting the commission of the offences named in this Information;
- r. The offences listed above under the heading "Offences" have been committed.

AND FURTHER:

234. No other investigator has attempted to obtain and been refused any other Warrants to Search or judicial authorizations with respect to this investigation. I have noted above that a production order was obtained and served on Retail Media on December 14, 2007 with respect to this investigation.

AND FURTHER:

235. In the event that a claim of solicitor – client privilege arises with respect to things to be examined, copied or seized during the search, I intend to deal with the claim in a manner akin to that indicated in subsection 488.1 of the *Criminal Code*, altered as circumstances and reason require.

GROUND TO BELIEVE THE LOCATION TO BE SEARCHED IS THE SAME LOCATION NAMED IN THE WARRANT

236. I believe that the head office of the Conservative Party of Canada is located at 130 Albert St, Suite 1204, Ottawa, Ontario. This is the address registered with Elections Canada (Appendix 1) and is the address listed on the web site of the Conservative Party of Canada as its Headquarters. The Ottawa, Ontario telephone book lists 130 Albert Street as the address of the Conservative Party of Canada (no suite number is specified). The address is the same as the return address indicated in Ms. O'Grady's letter to the Chief Electoral Officer (paragraph 49). Assistant Chief Investigator R. Lincourt visited the address on March 14, 2008 and confirmed that the Conservative Party of Canada maintains offices at that location.
237. I believe the Conservative Party of Canada also maintains an office at 130 Albert Street, Suite 1720, Ottawa, Ontario. Assistant Chief Investigator R. Lincourt advised me that on

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the door of 130 Albert Street, Suite 1720, Ottawa, Ontario is a sign in both official languages indicating that any deliveries should be taken to Suite 1204 at that address. In addition, on that same date I called the main number for the Conservative Party of Canada and the female receptionist I spoke with confirmed that the Conservative Party of Canada maintains an office on the 17th floor at 130 Albert Street, Ottawa, Ontario. She did not specify Suite 1720, however I believe this address to be correct given that the sign on the door of Suite 1720 referred to in this paragraph directs deliveries to Suite 1204, which I know to be occupied by the Conservative Party of Canada (paragraph 235).

238. I have reviewed the registrations filed by the Conservative Party of Canada with Elections Canada for the years 2005 to 2007 inclusive. The address listed for the Conservative Party of Canada and the Conservative Fund Canada until the February 2007 registration is 130 Albert Street, Suite 1720, Ottawa, Ontario. As noted above (paragraph 45) this is the address (130 Albert Street, Suite 1720) to which Retail Media sent its invoices addressed to "The Official Agents for Conservative Party Candidates". Assistant Chief Investigator Lincourt advised me that to reach Suite 1720 he exited the elevator on the 17th floor at 130 Albert Street, turned left and followed the hall to a corner where he turned left again and followed the hall to the last door where a sign indicated Suite 1720.

239. The building is a multi-storey office tower. I have examined the occupant registry located in the lobby of the building and note that the building houses various businesses, embassies and other organizations. The search is to be restricted to only those parts of the building occupied or under the control of the Conservative Party of Canada or the Conservative Fund Canada.

GROUNDS TO BELIEVE THAT THE THINGS TO BE SEARCHED FOR ARE CURRENTLY AT THE LOCATION TO BE SEARCHED

240. As noted throughout the body of this Information, a considerable amount of documentation has been created and filed with Elections Canada by candidates and by the Conservative Party of Canada as required by the *Canada Elections Act*. In addition, documents received from Retail Media via a production order demonstrate that numerous e-mails and other means of correspondence have emanated from and been received by the head office of the Conservative Party of Canada.

241. Letters and e-mails emanating from senior officials at the head office of the Conservative Party of Canada, indicate the address of the places to be searched as the location at which they maintain office space. I believe that relevant documents and data are present at that location.

242. I am aware that persons named in this Information have made considerable use of e-mail as a means of exchanging information relevant to my investigation. In addition, I believe that the records and other documents I have referred to in this Information have been created using computers and that although I believe they are also stored in paper format,

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they are stored either on computer systems present at or available to computers located at the place to be searched.

243. I believe I will be required to use or cause to be used any computer system at the place to be searched in order to reproduce or copy the data contained in or available to those systems.
244. Given that the place to be searched is the head office of the Conservative Party of Canada and the Conservative Fund Canada, I believe it is reasonable to conclude that the documents, records and data comprising the things to be searched for are at the place to be searched and will be recovered.

GROUND TO BELIEVE THE THINGS TO BE SEARCHED FOR WILL AFFORD EVIDENCE OF THE OFFENCES NAMED

245. *Correspondence and e-mails between or among representatives of the Conservative Party of Canada (including candidates, official agents and regional organizers), the Conservative Fund Canada, Retail Media and its related companies and production companies including Yield or Yield Integrated, MIJO Corporation, Pirate Toronto, Look Communication Inc, Republik Publicite + Design Inc, Howling Dog Productions Ltd with respect to the creation, broadcast, financial arrangements or allocation of funds concerning media advertising for or on behalf of the Conservative Party of Canada during the 39th federal general election:*
- a. I believe this documentation will provide evidence of the planning, process and timeline through which the media buy was created and carried out.
246. *Invoices, purchase authorizations, work orders, receipts, accounts, records of payment, transfers of payment, directives, contracts, instructions, minutes of meetings, records of decisions authorizing work or reflecting negotiations, meetings or discussions concerning the production or purchase of media advertising by or on behalf of the Conservative Fund Canada, the Conservative Party of Canada and Conservative Party of Canada candidates or their official agents for the 39th federal general election.*
- a. I believe these records will afford evidence of payments, flow of funds, timing, contractual obligations, directions / instructions, and evidence of how and by whom the advertising costs were incurred.
- b. I believe these records will also provide evidence that the advertising was national in scope, rather than advertising promoting a specific candidate.
247. *Advertisement scripts and recordings of media advertising pertaining to the Conservative Party of Canada during the 39th federal general election.*
- a. I believe these records will afford evidence that the advertising was actually created and afford evidence of the claimed "tag line". i.e. the person or

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entity identified in the ad as having approved and paid for it.

248. *Time schedules, details of broadcast coverage, date and time of broadcast of advertisements pertaining to the Conservative Party of Canada during the 39th federal general election.*

a. I believe these records will afford evidence that the advertising was actually broadcast, the timing of the broadcasts and the geographic areas covered by the advertising.

249. *Records indicating electoral districts, locations or geographic areas which benefited from the above broadcast advertisements and any analysis or allocation of funding relating thereto.*

a. I believe these records will afford evidence of the pattern of the advertising broadcast and assist in determining the degree of benefit for a given candidate in a geographic location or region and the process and rationale through which amounts attributable to media advertising were allocated to specific candidates.

AND FURTHER:

250. Due to the nature of the searches to be conducted, it is my intention to seek assistance from peace officers of the Royal Canadian Mounted Police (RCMP) in carrying out this search. I will require assistance from the RCMP at the place to be searched to conduct:

a. The search of the offices of the Conservative Party of Canada and the Conservative Fund Canada;

b. ~~The search of the computer systems used by the Conservative Party of Canada and the Conservative Fund Canada;~~

c. Copying of data on the computer systems used by or available to the computers at the place to be searched;

d. Analysis of the data copied;

e. Conducting video taping of the place to be searched at various times during the search, including:

i. Video taping the place to be searched when control of the premises is acquired, prior to entry into the place by the majority of the persons to participate in the search;

ii. Video taping the place to be searched when the grid mapping is completed prior to the commencement of the actual search process in order to be able to identify the numbering or identifying features associated with various rooms, offices, etc and associate them with any exhibits seized;

iii. Video taping the place to be searched upon completion of the search

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immediately prior to relinquishing control of the premises.

251. I require this assistance because:

- a. I anticipate that the search will necessitate a detailed review of a large volume of files and records;
- b. In addition to myself, only three other investigators from the Office of the Commissioner of Canada Elections are available to assist me;
- c. I believe additional assistance is required to conduct the search in a reasonable amount of time;
- d. I do not, nor does anyone else in the Office of the Commissioner of Canada Elections, possess the specific skills necessary to access or search computer systems or to analyse the data once it has been copied.

252. With respect to the forensic imaging of computers or computer related equipment at the place to be searched, I believe it to be true that:

- a. The computer technician(s) to be involved has experience with computer systems, including data storage and retrieval, and has been involved in numerous searches conducted by "A" Division Integrated Technological Crime Unit, involving computerized records and documents;
- b. The computer technician(s) to be involved has experience in the planning and coordinating of computer search and seizures and also provides technical advise, guidance and training to investigators specialized in computer search and evidence recovery;
- c. The documentation and data as described in paragraph 7c of the "Things to be searched for", the computer programs as described in paragraph 7b of the "Things to be searched for" and the computer system and computer component as described in paragraph 7a of the "Things to be searched for" are required to access, make intelligible, reproduce, transfer, communicate or receive data contained in data storage media described in paragraph 6 of "Things to be searched for";
- d. RCMP protocol is that the data storage media is examined by or under the supervision of an informatics investigator of the RCMP, who has been trained in the forensic analysis of computer systems and electronic data retrieval;
- e. RCMP Integrated Technological Crime investigators take appropriate measures when seizing items as described under paragraphs 6 to 8 of "Things to be searched for" to conduct a forensic recovery, examination and disclosure of data. The investigator considers the facts and circumstances, including the properties relating to the data and media, technical and accessing limitations to determine which of the items described in paragraphs 6 to 8 of "Things to be

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searched for" are required in the circumstance;

f. Depending on the facts and circumstances, the computer system and computer components may be seized because of technological constraints and barriers, for example:

i. Data storage media may contain extraordinary amounts of data, which includes data that may be mislabelled, encrypted, stored in hidden directories, deleted or embedded in unused space. This data may require a specific environment, in order to be accessed or made intelligible, including the usage or the presence of a specific computer system, computer component or computer program. To search and process all this information at a search location may not be feasible from a technical aspect. Therefore, the recovery of data described in paragraph 6 of the "Things to be searched for" may require a meticulous analysis by an informatics investigator in a controlled environment;

g. If a computer system is seized as described in sub-paragraph f. above, the RCMP conducts the following procedures:

i. The computer system is removed from the premises, secured and transported to the RCMP secure processing centre or other secured location;

ii. The original data storage media is copied, removed from the seized computer system and placed in the evidence room of the RCMP;

h. On March 17, 2008, Staff Sergeant John Keuper of the RCMP "A" Division Integrated Technological Crime Unit advised the Office of the Commissioner of Canada Elections that he is a member of the Integrated Technological Crime Unit, which investigates computer crime and specializes in the search, seizure and analysis of computer systems and as such he is aware of the information contained in paragraphs 251 (1 to n) and paragraph 252:

i. Staff Sergeant Keuper said that members of the Integrated Technological Crime Unit could forensically analyze a computer system and retrieve a wide variety of information from it. This information includes, but is not limited to:

1.. Copies of web pages created on the computer or downloaded from the Internet;

2.. Copies of electronically created documents (e.g. letters and journals);

3.. Copies of e-mails received and sent from the computer system;

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4..Records of instant messaging and chat conversations (e.g. ICQ, IRC, MSN Messenger);

- i. The forensic analysis can retrieve data that may be hidden or previously deleted, including prior drafts of web pages, documents and e-mails. Further, it may assist in identifying when a web page or document was created or modified, when an e-mail was sent or received, or when a chat conversation occurred;
- j. Deleted files or file fragments may exist for an extended period of time on the computer system due to the design of most common computer operating systems. Files that have been deleted by the user are not physically erased. Rather, the operating system merely marks the area of the storage disk where the file was stored as available to be used in the future. If that space is not re-used prior to seizure, forensic programs can retrieve these deleted files or file fragments;
- k. Typically, the data sought is found on the hard disk drive(s) contained within the seized computer system – the primary storage device of a personal or business computer. The Integrated Technological Crime Unit will make an exact copy, called an “image”, of the entire hard disk drive, and conduct all subsequent forensic analysis on that drive. During the acquisition process and the subsequent forensic analysis, members of the Integrated Technological Crime Unit use specialized hardware and software to ensure that the original data remains intact and is not modified at any stage of the investigation. The original hard disk drive is re-installed in the computer and dealt with through s.490 of the *Criminal Code*;
- l. The analysis will include searching the entire hard disk drive and any seized storage media for the elements important to the investigation. Further, the analysis will include examining any e-mail or other forms of correspondence showing that the subject canvassed assistance from others;
- m. There are a wide variety of techniques available to even the novice computer user to resist the casual examination of data saved on a hard disk drive. These include but are not limited to:
 - Password protection
 - Encryption
 - Renaming files
 - Steganography (hiding files inside other files);
- n. Time, experience and computer resources are required to defeat these and other techniques. As such, it is necessary to examine the entire physical disk to complete a comprehensive search for electronic evidence.

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253. Members of the RCMP "A" Division Integrated Technological Crime Unit will be present at the search, and will assess, based on the aforementioned reasoning, whether it is necessary to seize peripherals or software. Items that are not required will not be seized.

AND FURTHER:

ASSISTANCE ORDERS

GILLES ROBILLARD

254. My grounds to believe it is necessary to order Mr. Gilles Robillard, CA, pursuant to section 487.02 of the Criminal Code, to provide whatever assistance may reasonably be considered necessary to give effect to the warrant are as follows:

a. The things to be searched for include accounting and financial records including invoices, receipts, accounts, contracts, and other related documents. Neither I nor the other investigators who will be present have a background in accounting or finance and as a result we are unable to precisely identify and seize all of the relevant documentation;

b. To address this deficiency, I require the services of a person having the necessary accounting and finance background and skills who will be present during the search in order to:

i. Assist in the search of the place with respect to accounting and financial records, such as financial data, entries, payments or transfers of money, payments of accounts, payment schedules and other similar records, whether recorded on paper or as data stored on or available to a computer;

ii. Enable me to consult on a real-time basis as the search proceeds to ensure that all relevant records are identified.

255. Mr. Robillard is a Chartered Accountant and a partner with the firm RSM Richter in Montreal, Quebec. Mr. Robillard is experienced in conducting forensic accounting engagements and has been retained by Elections Canada to assist by objectively analysing financial data obtained during this investigation.

256. I believe an Assistance Order is necessary to allow Mr. Robillard to be present during the search because his accounting skills will assist investigators to focus on the relevant aspects of the search. He will assist by identifying and assessing the financial or accounting nature of the "Things to be searched for". In addition, he will provide consultative insight into the evidentiary nature of the things of a financial or accounting nature in the place to be searched and will provide investigators with information pertaining to other related and relevant evidence which may also be available at or through the place to be searched as the warrant is executed.

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DATA ADMINISTRATOR

257. My grounds to believe it is necessary to order the person responsible for data administration at the place to be searched, pursuant to section 487.02 of the Criminal Code, to provide whatever assistance may reasonably be considered necessary to give effect to the warrant are as follows:

a. The identity of the person responsible for data administration at the location to be searched is unknown to me at this time;

b. As indicated elsewhere in this Information, I have reasonable grounds to believe that many of the things I seek pursuant to this warrant relate to records produced by computer systems. I am advised by Staff Sergeant John Keuper of the RCMP "A" Division Integrated Technological Crime Unit, that upon execution of the search warrant assistance will be required from the person responsible or in control of the administration of the data system or systems at the place to be searched to identify and provide access to computers and /or servers available at or accessible to the computers at the place to be searched. Such assistance will allow the search for electronic data to be more focussed and reduce the time necessary to conduct the search.

CONDITIONS

It is requested that the search warrant grant authorization to enter the place to be searched between 7:00 o'clock AM on April _____, 2008 and 6:00 o'clock PM on April _____, 2008, and that the warrant continue in force for a period of 72 hours from the time of entry into the place.

The search will be conducted by day. During the period of the validity of the warrant, I will ensure that during night hours adequate personnel are posted to maintain security at the place to be searched in order to preserve evidence and protect the integrity of the premises.

GROUND FOR SEALING ORDER

I believe the disclosure at this time of the Search Warrant, this Information to Obtain a Search Warrant and the material filed in support of this application, would subvert the ends of justice by compromising the nature and extent of an ongoing investigation. The investigation is proceeding but a considerable amount of work remains to be completed, including interviews of numerous persons of interest to the investigation. I believe that should the information contained in my Information become public knowledge, the ability to carry out the remainder of the investigation would be compromised because:

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1. The outline of the investigation and the evidence obtained to date would be known to potential interviewees; and
2. I believe such knowledge would tend to have a chilling effect on cooperation of potential witnesses and could allow interviewees to tailor their evidence to achieve a desired result.

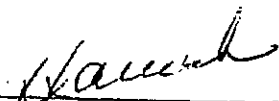
As a consequence I am requesting an order denying access to and the disclosure of any information relating to the warrant and the documentation filed in support of this application for a period of three months from the date of the execution of the warrant, for the following reasons:

1. To provide time to conduct a review of the things seized and arrange and conduct interviews;
2. To avoid compromising the nature and extent of the ongoing investigation, and;
3. I believe that the ends of justice would be subverted by the disclosure of the information. In seeking this order I rely upon the authority of section 487.3(1) of the *Criminal Code*.


WHEREFORE the Informant prays that a search warrant may be granted to search the said location for the said things.

Sworn before me this 9th day of April A.D. 2008

at Toronto, Ontario



(Signature of Informant)



(A Commissioner for Oaths in and for the Province of Ontario)

Beverly J. Wilton
Barrister & Solicitor

