

IN THE MATTER OF THE COMMISSION OF INQUIRY INTO THE SPONSORSHIP PROGRAM AND ADVERTISING ACTIVITIES, ISSUED UNDER PART 1, OF THE *INQUIRIES ACT*, R.S.C. 1985, CHAPTER 1 - 11, AS AMENDED.

AND IN THE MATTER OF AN APPLICATION FOR FUNDING ON BEHALF OF JOSEPH CHARLES GUTE, PURSUANT TO THE PROVISIONS OF RULES 10 AND 11, OF THE *RULES OF PROCEDURE AND PRACTICE*, OF THE SAID COMMISSION OF INQUIRY.

NOTICE OF APPLICATION FOR FUNDING

TAKE NOTICE that an Application will be made in writing, on behalf of Joseph Charles Gute, for funding of legal counsel, for the Commission of Inquiry into the Sponsorship Program and Advertising Activities, pursuant to Rules 10 and 11, of the *Rules Of Procedure And Practice*, of the said Commission of Inquiry, before The Honourable Justice Gomery, of the Superior Court of Justice of Quebec, Commissioner appointed by Order in Council P.C. 2004 - 110.

THE GROUNDS FOR THIS APPLICATION ARE:

1. The Applicant, Joseph Charles Gute, was granted full standing as a party, at the Commission of Inquiry into the Sponsorship Program and Advertising Activities, before The Honourable Justice Gomery, of the Superior Court of Justice of Quebec, Commissioner appointed by Order in Council P.C. 2004-110, pursuant to his *Ruling* rendered on the 5th day

of July, 2004.

2. In the said *Ruling*, The Honourable Justice Gomery, determined that the Applicant, whose reputation is at risk, has a direct interest in the issues to be dealt with by the Commission of Inquiry, which is apparent and substantial.
3. The Applicant has been generally recognized as a "central figure", with respect to the government issues perspective of the Inquiry.
4. Up until August, 1999, the Applicant was a senior public servant who was involved in aspects of government advertising, sponsorship contracts, and public opinion research.
5. The Applicant has appeared on three occasions before the Standing Committee on Public Accounts of Parliament, to testify on the issues forming a central portion of the terms of reference, including chapters 3 and 4, of the *November 2003 Report of the Auditor General of Canada*.

6. The Applicant has been made the subject of criminal allegations by way of a preferred *Indictment*, dated the 6th day of May, 2004, before the Quebec Superior Court of Justice, in Montreal. Exhibit "A", [at Tab 1], to the *Affidavit Of Joseph Charles Guite*.
7. The criminal allegations are directly related to the mandate of The Honourable Justice Gomery, and the Commission of Inquiry. There are complex, and important practical and legal issues surrounding the Applicant's participation in the Inquiry, while ensuring full protection of his legal and constitutional rights, in respect of any future criminal court proceedings, which will require the assistance and representation by legal counsel.
8. The Applicant has been subpoenaed to testify before the Commission of Inquiry, pursuant to a *Subpoena*, issued by The Honourable Justice Gomery, on the 27th day of April, 2004, in Montreal. The said *Subpoena* requires the Applicant to attend before The Honourable Justice Gomery, on the 7th day of September, 2004, at 09:30 a.m., or on such other date fixed by the Commission, to give oral evidence relevant to the ten

matters enumerated therein, to wit:

1. *the creation, purpose, objectives of the Sponsorship Program and the National Unity Reserve Fund;*
2. *the selection of communications and advertising agencies in relation to the advertising activities;*
3. *the management of the Sponsorship Program, National Unity Reserve and advertising activities by the Government of Canada;*
4. *the receipt and use of any funds or commissions disbursed in connection with the Sponsorship Program, National Unity Reserve and advertising activities by any person or organization, either internal or external to the Government of Canada;*
5. *the flow of the Sponsorship Program, National Unity Reserve and advertising activities funds within the Government, both to the point that these funds were disbursed to non-Government of Canada sources, including the return of funds or any part thereof to the Government of Canada;*
6. *any gift, contribution or payment made directly or indirectly by any recipient of the Sponsorship Program, National Unity Reserve or advertising activities funds for political purposes;*
7. *the identities of any person or organization who received Sponsorship Program, National Unity Reserve or advertising activity funds, including fees or commissions, the purpose for which those funds were disbursed to that person or organization, and the value for money received by the Government of Canada;*
8. *contractual and related documents, including tenders, contracts (including drafts), followups, analyses (pre-contract and post-contract), and all the files at issue in the Sponsorship Program and advertising activities;*
9. *documents and information produced either by the Government of Canada or yourself before the House of Commons Standing Committee on public accounts; and*
10. *any other document related to the Sponsorship Program, National*

Unity Reserve and advertising activities of the Government of Canada.

Exhibit "B", [at Tab 2], to the *Affidavit Of Joseph Charles Guite*.

9. The *Subpoena* also requires the Applicant to produce extensive documentation and information enumerated therein. Legal counsel Mr. Edelson has spoken with Associate Commission Counsel, Guy Cournoyer, with respect to establishing a protocol of response to the said *Subpoena*, in light of the Applicant's outstanding criminal charges. The Applicant will require the assistance of legal counsel on this issue.
10. The Applicant will require the representation and assistance of legal counsel to ensure that his interests are fully protected at the hearing, given the complexity of the factual and legal issues involved, and that his legal and constitutional rights are fully protected with respect to future criminal court proceedings.
11. It is the position on behalf of the Applicant that without the funding of legal counsel, he will not to be able to effectively participate in the Commission of Inquiry.

12. The Applicant does not have the alternative means of funding available to retain legal counsel.

13. The Applicant has already expended significant funds on the retaining of legal counsel, in reference to the preparation and attendance for three days, before the Standing Committee on Public Accounts of the House of Commons. By Order of the Committee, the Applicant was issued a *Summons*, by the Chair, John G. Williams, dated the 1st day of April, 2004, which compelled him to appear at Ottawa, and give evidence before the Standing Committee on Public Accounts, on matters relating to the *November 2003 Report of the Auditor General*, on the 22nd day of April, 2004, and the 23rd day of April, 2004, in the House of Commons Committee Room No. 237 - C, Centre Block, and to remain in attendance until duly discharged. Exhibit "C", [at Tab 3], to the *Affidavit Of Joseph Charles Guite*.

14. By way of correspondence dated the 25th day of June, 2002, Janice Cochrane, Public Works and Government Services Canada, Deputy Minister, Deputy Receiver General for Canada, wrote to the Applicant regarding his request for approval to retain counsel, to advise him during

the hearing before the Public Accounts Committee. Exhibit "D", [at Tab 4], to the *Affidavit Of Joseph Charles Guite*.

15. Within the said correspondence, Ms. Cochrane stated that it is a condition of the policy, that a public servant is entitled to assistance only if the public servant "acted honestly and without malice within their scope of duties or employment and met reasonable departmental expectations."
16. Ms. Cochrane further outlined the nature of the policy as follows:

"The policy requires that if at any time during the proceedings it is determined that a public servant who has received legal assistance was not acting within his or her scope of duties or employment at the time of the act or omission for which the legal assistance was provided took place, legal assistance is to cease and any assistance provided is to be recovered. The policy further requires that the public servants must be aware of, and accept this condition before the legal assistance is provided."
17. Ms. Cochrane also set out therein, the following applicable conditions:
 1. *This approval is for legal assistance with respect only to the current hearing.*
 2. *The maximum legal fee that you may claim is \$150 per hour, consistent with fees paid by the Department of Justice. If the counsel you select charges a higher hourly fee, you will be responsible for the difference.*
 3. *The maximum amount payable under the policy for legal assistance is \$25,000 and the maximum daily fee payable under the policy is*

\$1,200.

4. *If at any time during the hearing or any subsequent proceedings, it is determined that you were not acting within the scope of your duties, you will no longer be entitled to receive legal assistance and any amounts that have been paid to you under the policy will be recovered from you.*

18. By way of correspondence dated the 13th day of May, 2004, Ellen Stensholt, Senior General Counsel, Public Works and Government Services, advised the Applicant that the approval granted to him by then Deputy Minister Janice Cochrane, in her correspondence dated the 25th day of June, 2002, was only granted for the "current hearing", and hence did not apply with respect to his appearance before the Public Accounts Committee, on the 22nd day of April, 2004, nor to any future appearance he may make before the Commission of Inquiry into the Sponsorship Program and Advertising Activities of the Government of Canada. Exhibit "E", [at Tab 5], to the *Affidavit Of Joseph Charles Guite*.

19. Within the said correspondence, Ms. Stensholt advised that a new request must be submitted in respect of each separate judicial or other process, and the eligibility criteria must be reviewed and a decision made. She also stated therein that the requirements of the Treasury Board Policy were to be met, in order for legal assistance to be provided.

The Crown servant is entitled to private counsel at the government's expense, only if there is a conflict of interest between the Crown servant and the Government of Canada.

20. By way of correspondence dated the 31st day of May, 2004, the Applicant wrote to David Marshall, Deputy Minister, Public Works and Government Services Canada, requesting approval for legal counsel for the two days of appearances, on the 22nd and 23rd days of April 2004, before the Public Accounts Committee. Exhibit "F", [at Tab 6], to the *Affidavit Of Joseph Charles Guite*.
21. By way of correspondence dated the 2nd day of June, 2004, legal counsel Mr. Edelson, wrote on behalf of the Applicant, to David Marshall, Deputy Minister, Public Works and Government Services Canada. Exhibit "G", [at Tab 7], to the *Affidavit Of Joseph Charles Guite*.
22. Within the said correspondence, Mr. Edelson advised that he had appeared with the Applicant before the Public Accounts Committee, in 2002, and that he had assisted the Applicant in preparing for his attendance and testimony at the hearing, and in attending with him as

legal counsel.

23. Mr. Edelson further indicated that he assisted the Applicant in reviewing voluminous materials, and prepared him for his attendance before the Public Accounts Committee, on the 22nd and 23rd days of April, 2004.
24. By way of correspondence dated the 9th day of June, 2004, Mr. Edelson forwarded to Mr. Marshall, a copy of the *Fifth Report*, of the Standing Committee on Public Accounts, tabled before the House of Commons, which recommended that the Government of Canada pay for the legal fees of public servants, who had been called in relation to its study of Chapters 3, 4 and 5, of the *November 2003 Report of the Auditor General of Canada*. Exhibit "H", [at Tab 8], to the *Affidavit Of Joseph Charles Guite*.
25. On the 9th day of June, 2004, Mr. Edelson received a facsimile transmission from Jeremy LeBlanc, Clerk, of the Standing Committee on Public Accounts, which forwarded the *Report* tabled by the Committee, requesting that the government pay legal fees for public servants, in relation to their appearance during their study of chapters 3, 4 and 5, of the Auditor General's November 2003 report. Mr. LeBlanc also indicated

therein that the Committee did not receive a response from the government prior to the dissolution of Parliament. Exhibit "I", [at Tab 9], to the *Affidavit Of Joseph Charles Guite*.

26. The Applicant privately retained Mr. Edelson to represent him with respect to the Standing Committee on Public Accounts. To date, the Applicant has not been reimbursed for these legal fees by the government.
27. The Applicant is also financially responsible for the payment of the difference in Mr. Edelson's rate, from that provided for by the government scale.
28. A significant portion, if not all of the Applicant's liquid assets, are being expended on the retaining of legal counsel to represent him, on the criminal charges, before the Quebec Superior Court of Justice.
29. The Applicant has privately retained Mr. Edelson, as well as legal counsel, Julio Peris, of Peris, Sutton & Dickson, in Montreal, to assist in his defence, as all disclosure to date has been in the French language. Also, a Montreal legal counsel will help minimize the legal fees for future court

appearances.

30. The *Direct Indictment* against the Applicant, alleges the commission of offences by the Applicant, contrary to section 380(1)(a) x 6, of the *Criminal Code of Canada*. Count 4 of the said *Direct Indictment* alleges the commission of the combined offences contrary to sections 465(1)(c) and 380(1)(a), of the *Criminal Code of Canada*.

31. The said *Direct Indictment* alleges the commission of the criminal offences by the Applicant as follows:
 1. Entre le 2 juillet 1996 et le 5 mai 1997, à Montréal, district de Montréal et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de plus de 340,000\$ dans le cadre d'un contrat de recherche du 2 juillet 1996 d'une valeur de 500,000\$ conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EN771-6-0065/01-ACA) relatif au « programme de Visibilité du Gouvernement du Canada », commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.

 2. Entre le 1er avril 1998 et le 31 mars 1999, à Montréal, district de Montréal et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de plus de 385,000\$ dans le cadre d'un contrat de recherche du 1er avril 1998 d'une valeur de 550,000\$ conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EN771-8-0024/01-ZCA) relatif à « l'analyse d'opportunités reliées au programme de Visibilité du Gouvernement du Canada dans les secteurs culturels et sportifs », commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.

3. *Entre le 1er mai 1999 et le 4 mai 2000, à Montréal, district de Montréal et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de plus de 432,000\$ dans le cadre d'un contrat de recherche du 1er mai 1999 d'une valeur de 575,000\$ conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EP043-9-0145/01-ZCA) relatif à « l'analyse d'opportunités reliées au programme de Visibilité du Gouvernement du Canada dans les secteurs culturels et sportifs », commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.*
 4. *Entre le 1 octobre 1996 et le 25 avril 1997, à Montréal, district de Montréal et à Ottawa, ont comploté pour frustrer le gouvernement du Canada d'une somme d'argent d'une valeur de 330,000\$ par l'octroi, le 12 décembre 1996, d'un contrat fictif de 330,000\$ à la compagnie Groupaction Marketing Inc. (portant le numéro EN771-6-0176/01-ZCA) relatif à une stratégie de communication pour la nouvelle législation sur les armes à feu du Ministère de la Justice du Canada, commettant ainsi l'acte criminel prévu aux articles 465(1)c) et 380(1)a) du Code criminel.*
 5. *Entre le 2 décembre 1996 et le 25 avril 1997, à Montréal, district de Montréal et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de 330,000\$ dans le cadre d'un contrat de recherche du 2 décembre 1996 d'une valeur de 330,000\$ conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EN771-6-0176/01-ZCA) relatif à une stratégie de communication pour la nouvelle législation sur les armes à feu du Ministère de la Justice du Canada, commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.*
 6. *Entre le 7 avril et le 14 octobre 1997, à Montréal, district de Montréal et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de 150,000\$ dans le cadre d'un contrat de recherche du 7 avril 1997 d'une valeur de 150,000\$ conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EN771-7-036ZCA) relatif à la « Surveillance et documentation de sites et de groupes d'intérêt sur les armes à feu », commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.*
32. The Applicant's personal and financial circumstances are such that he does not have the financial resources available to retain legal counsel

to represent his interests before the Commission of Inquiry.

33. The Applicant has a diploma in business administration. He does not have any legal training.

34. Having been granted full standing, legal counsel on behalf of the Applicant will assist the Applicant in preparing for his attendance before the Commission of Inquiry, and responding to the *Subpoena* issued to him, which requires the production of documents and information enumerated therein; be in a position to ensure that the Applicant's interests are fully protected before the Commission of Inquiry, given the outstanding criminal charges; intends to prepare for the presentation of the evidence; review all documents filed with or produced to the Commission which are relevant to the Inquiry and subject to the *Rules of Procedure and Practice*; review all statements of anticipated evidence provided in advance; will be present at the counsel table during the course of the Inquiry; will be in a position to suggest witnesses to be called by the Commission counsel, the opportunity to apply for an order that a particular witness be summoned to appear, and to provide to Commission counsel the names and addresses of witnesses whom they

feel should be heard, along with a brief description of the witness' evidence, relevant evidence and copies of all relevant documentation; to cross-examine witnesses appearing before the Commission of Inquiry, that are relevant to the Applicant; recommend the use of any expert witnesses; make closing submissions.

35. With respect to the accounting for the use of the funds, legal counsel on behalf of the Applicant will keep scrupulous dockets of all time and work expended on the matter, including preparation and attendances before the Commission of Inquiry, and provide proof for inspection as required by the Treasury Board.

IN SUPPORT OF THIS APPLICATION, THE APPLICANT RELIES UPON THE FOLLOWING:

1. The *Affidavit Of Joseph Charles Guite*, sworn on the 12th day of July, 2004.
2. Rules 10 and 11, of the *Rules Of Procedure And Practice*, of the Commission of Inquiry into the Sponsorship Program and Advertising Activities.

THE RELIEF SOUGHT IS:

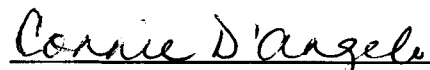
1. An Order granting the Application on behalf of Joseph Charles Guite, for

the funding of legal counsel, for the Commission of Inquiry into the Sponsorship Program and Advertising Activities, pursuant to Rules 10 and 11, of the *Rules Of Procedure And Practice*, of the said Commission of Inquiry, before The Honourable Justice Gomery, of the Superior Court of Justice of Quebec, Commissioner appointed by *Order in Council P.C. 2004 - 110*.

THE APPLICANT MAY BE SERVED WITH DOCUMENTS PERTINENT TO THIS APPLICATION:

1. By service through his Counsel, Michael D. Edelson, Edelson & Associates, Barristers and Solicitors, Suite 600, 200 Elgin Street, Ottawa, Ontario, K2P 1L5, tel. (613) 237-2290, fax (613) 237-0071.

DATED at the City of Ottawa, this 9th day of July, 2004.



For: Michael D. Edelson
Edelson & Associates
Barristers
Suite 600, 200 Elgin Street
Ottawa, ON K2P 1L5
(613) 237-2290 (tel.)
(613) 237-0071 (fax)

Counsel for Mr. Guite

TO: The Commission of Inquiry into
the Sponsorship Program and
Advertising Activities
P.O. Box 1388, Station "B"
Ottawa, ON K1P 5R4
(By Facsimile Transmission, (613) 992 - 2373)

AND TO: The Commission of Inquiry into
the Sponsorship Program and
Advertising Activities
401 - 222 Queen Street
Ottawa, ON K1P 5V9
(By Hand)

AND TO: Bernard A. Roy, Q.C.
Commission Counsel to the
Commission of Inquiry into the
Sponsorship Program and
Advertising Activities
Guy-Favreau Complex
200 Rene Levesque Blvd. West
East Tower, P.O. Box 608
Montreal, QUE H2Z 1X4
(By Facsimile Transmission, (514) 283 - 8138)

**THE COMMISSION OF INQUIRY INTO
THE SPONSORSHIP PROGRAM AND
ADVERTISING ACTIVITIES**

**NOTICE OF APPLICATION
FOR FUNDING**

EDELSON & ASSOCIATES
Barristers and Solicitors
Suite 600, 200 Elgin Street
Ottawa, Ontario K2P 1L5

Tel: (613) 237-2290
Fax: (613) 237-0071

Counsel for Mr. Guite

IN THE MATTER OF THE COMMISSION OF INQUIRY INTO THE SPONSORSHIP PROGRAM AND ADVERTISING ACTIVITIES, ISSUED UNDER PART 1, OF THE *INQUIRIES ACT*, R.S.C. 1985, CHAPTER 1 - 11, AS AMENDED.

AND IN THE MATTER OF AN APPLICATION FOR FUNDING ON BEHALF OF JOSEPH CHARLES GUTE, PURSUANT TO THE PROVISIONS OF RULES 10 AND 11, OF THE *RULES OF PROCEDURE AND PRACTICE*, OF THE SAID COMMISSION OF INQUIRY.

AFFIDAVIT OF JOSEPH CHARLES GUTE

I, Joseph Charles GUTE, of the city of Ottawa, Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. That I am the Affiant herein, and as such have personal knowledge of the matters hereinafter deposed to, save and except where based upon information and belief, and as otherwise referenced to.
2. I have instructed my legal counsel, Michael D. Edelson and Associates, to prepare an Application in writing, on my behalf, for funding of legal counsel, for the Commission of Inquiry into the Sponsorship Program and Advertising Activities, pursuant to Rules 10 and 11, of the *Rules Of Procedure And Practice*, of the said Commission of Inquiry, before The Honourable Justice Gomery, of the Superior Court of Justice of Quebec,

Commissioner appointed by *Order in Council P.C. 2004 - 110*.

3. I have been advised by my legal counsel, Mr. Edelson, that I was granted full standing as a party, at the Commission of Inquiry into the Sponsorship Program and Advertising Activities, before The Honourable Justice Gomery, of the Superior Court of Justice of Quebec, Commissioner appointed by *Order in Council P.C. 2004-110*, pursuant to his *Ruling* rendered on the 5th day of July, 2004.
4. I was further advised by Mr. Edelson, that in the said *Ruling*, The Honourable Justice Gomery, determined that my reputation is at risk, and I have a direct interest in the issues to be dealt with by the Commission of Inquiry, which is apparent and substantial.
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research.

7. I have appeared on three occasions before the Standing Committee on Public Accounts of Parliament, to testify on the issues forming a central portion of the terms of reference, including chapters 3 and 4, of the *November 2003 Report of the Auditor General of Canada*. Mr. Edelson was in attendance with me on the said three occasions.
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9. I have been informed by Mr. Edelson that the criminal allegations are directly related to the mandate of The Honourable Justice Gomery, and the Commission of Inquiry. I have also been informed by Mr. Edelson that there are complex and important practical and legal issues, surrounding my participation in the Inquiry. As well, there is a need to fully protect my legal and constitutional rights, in respect of any future criminal court proceedings, all of which, will therefore require the

assistance and representation by legal counsel.

10. I have been subpoenaed to testify before the Commission pursuant to a *Subpoena*, issued by The Honourable Justice Gomery, on the 27th day of April, 2004, in Montreal. The said *Subpoena* requires me to attend before The Honourable Justice Gomery, on the 7th day of September, 2004, at 09:30 a.m., or on such other date fixed by the Commission, to give oral evidence relevant to the ten matters enumerated therein, to wit:

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2. *the selection of communications and advertising agencies in relation to the advertising activities;*
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7. *the identities of any person or organization who received Sponsorship Program, National Unity Reserve or advertising activity funds, including fees or commissions, the purpose for which those funds were disbursed to that person or organization, and the value for money received by the Government of Canada;*
8. *contractual and related documents, including tenders, contracts (including drafts), followups, analyses (pre-contract and post-contract), and all the files at issue in the Sponsorship Program and advertising activities;*
9. *documents and information produced either by the Government of Canada or yourself before the House of Commons Standing Committee on public accounts; and*
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11. The *Subpoena* also required me to produce extensive documentation and information enumerated therein. I have been informed by Mr. Edelson that he has spoken with Associate Commission Counsel, Guy Cournoyer, with respect to establishing a protocol of response to the said *Subpoena*, in light of my outstanding criminal charges. I will require the assistance of legal counsel on this issue.
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of the factual and legal issues involved, and that my legal and constitutional rights are fully protected with respect to future criminal court proceedings.

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Room No. 237 - C, Centre Block, and to remain in attendance until duly discharged. Exhibit "C", [at Tab 3], to the *Affidavit Of Joseph Charles Guite*.

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24. Within the said correspondence, Mr. Edelson advised that he had appeared with me before the Public Accounts Committee, in 2002, and that he had assisted me, in preparing for my attendance and testimony at the hearing, and in attending with me as legal counsel.
25. Mr. Edelson also made reference therein to the assistance he provided me, in reviewing voluminous materials, and preparing me for my attendance before the Public Accounts Committee, on the 22nd and 23rd days of April, 2004.
26. I have been advised by Mr. Edelson, that by way of correspondence dated the 9th day of June, 2004, he forwarded to Mr. Marshall, a copy of the *Fifth Report*, of the Standing Committee on Public Accounts, tabled before the House of Commons, which recommended that the Government of Canada pay for the legal fees of public servants, who have been called in relation to its study of Chapters 3, 4 and 5, of the *November 2003 Report of the Auditor General of Canada*. Exhibit "H", [at Tab 8], to the *Affidavit Of Joseph Charles Guite*.

27. I have been advised by Mr. Edelson, that on the 9th day of June, 2004, he received a facsimile transmission from Jeremy LeBlanc, Clerk, of the Standing Committee on Public Accounts, which forwarded the *Report* tabled by the Committee, requesting that the government pay legal fees for public servants, in relation to their appearance during their study of chapters 3, 4 and 5, of the Auditor General's November 2003 report. Mr. LeBlanc also indicated therein that the Committee did not receive a response from the government prior to the dissolution of Parliament. Exhibit "I", [at Tab 9], to the *Affidavit Of Joseph Charles Guite*.
28. I privately retained Mr. Edelson to represent me with respect to the Standing Committee on Public Accounts. To date, I have not been reimbursed for these legal fees by the government.
29. I am also financially responsible for the payment of the difference in Mr. Edelson's rate, from that provided for by the government scale.
30. A significant portion, if not all of my liquid assets, are being expended on the retaining of legal counsel to represent me, on the criminal charges, before the Quebec Superior Court of Justice.

31. I have privately retained Mr. Edelson, as well as legal counsel, Julio Peris, of Peris, Sutton & Dickson, in Montreal, to assist in my defence, as all disclosure to date has been in the French language. Also, a Montreal legal counsel will help minimize the legal fees for future court appearances.
32. The *Direct Indictment* against me, alleges the commission of offences by me, contrary to section 380(1)(a) x 6, of the *Criminal Code of Canada*. Count 4 of the said *Direct Indictment* alleges the commission of the combined offences contrary to sections 465(1)(c) and 380(1)(a), of the *Criminal Code of Canada*.
33. The said *Direct Indictment* alleges the commission of the criminal offences by me as follows:
 1. Entre le 2 juillet 1996 et le 5 mai 1997, à Montréal, district de Montréal et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de plus de 340,000\$ dans le cadre d'un contrat de recherche du 2 juillet 1996 d'une valeur de 500,000\$ conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EN771-6-0065/01-ACA) relatif au « programme de Visibilité du Gouvernement du Canada », commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.
 2. Entre le 1er avril 1998 et le 31 mars 1999, à Montréal, district de Montréal et à

Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de plus de 385,000\$ dans le cadre d'un contrat de recherche du 1er avril 1998 d'une valeur de 550,000\$ conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EN771-8-0024/01-ZCA) relatif à « l'analyse d'opportunités reliées au programme de Visibilité du Gouvernement du Canada dans les secteurs culturels et sportifs », commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.

3. Entre le 1er mai 1999 et le 4 mai 2000, à Montréal, district de Montréal et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de plus de 432,000\$ dans le cadre d'un contrat de recherche du 1er mai 1999 d'une valeur de 575,000\$ conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EP043-9-0145/01-ZCA) relatif à « l'analyse d'opportunités reliées au programme de Visibilité du Gouvernement du Canada dans les secteurs culturels et sportifs », commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.
4. Entre le 1 octobre 1996 et le 25 avril 1997, à Montréal, district de Montréal et à Ottawa, ont comploté pour frustrer le gouvernement du Canada d'une somme d'argent d'une valeur de 330,000\$ par l'octroi, le 12 décembre 1996, d'un contrat fictif de 330,000\$ à la compagnie Groupaction Marketing Inc. (portant le numéro EN771-6-0176/01-ZCA) relatif à une stratégie de communication pour la nouvelle législation sur les armes à feu du Ministère de la Justice du Canada, commettant ainsi l'acte criminel prévu aux articles 465(1)c) et 380(1)a) du Code criminel.
5. Entre le 2 décembre 1996 et le 25 avril 1997, à Montréal, district de Montréal et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de 330,000\$ dans le cadre d'un contrat de recherche du 2 décembre 1996 d'une valeur de 330,000\$ conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EN771-6-0176/01-ZCA) relatif à une stratégie de communication pour la nouvelle législation sur les armes à feu du Ministère de la Justice du Canada, commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.
6. Entre le 7 avril et le 14 octobre 1997, à Montréal, district de Montréal et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de 150,000\$ dans le cadre d'un contrat de recherche du 7 avril 1997 d'une valeur de 150,000\$ conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro

EN771-7-036ZCA) relatif à la « Surveillance et documentation de sites et de groupes d'intérêt sur les armes à feu », commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.

34. My personal and financial circumstances are such that I do not have the financial resources available to retain legal counsel to represent my interests before the Commission of Inquiry into the Sponsorship Program and Advertising Activities.
35. I have a diploma in business administration. I do not have any legal training.
36. I have been advised by Mr. Edelson, that having been granted full standing, legal counsel on my behalf would assist me in preparing for my attendance before the Commission of Inquiry, and responding to the *Subpoena* issued to me, which requires the production of documents and information enumerated therein; be in a position to ensure that my interests are fully protected before the Commission of Inquiry, given the outstanding criminal charges; intends to prepare for the presentation of the evidence; review all documents filed with or produced to the Commission which are relevant to the Inquiry and subject to the *Rules of Procedure and Practice*; review all statements of anticipated evidence

provided in advance; will be present at the counsel table during the course of the Inquiry; will be in a position to suggest witnesses to be called by the Commission counsel, the opportunity to apply for an order that a particular witness be summoned to appear, and to provide to Commission counsel the names and addresses of witnesses whom they feel should be heard, along with a brief description of the witness' evidence, relevant evidence and copies of all relevant documentation; will cross-examine witnesses appearing before the Commission of Inquiry, that are relevant to me; recommend the use of any expert witnesses; and make closing submissions.

37. Mr. Edelson has advised me that with respect to the accounting for the use of the funds, legal counsel will keep scrupulous dockets of all time and work expended on the matter, including preparation and attendances before the Commission of Inquiry, and provide proof for inspection as required by the Treasury Board.
38. I make this *Affidavit* in support of a *Notice Of Application*, seeking an Order granting the said Application on my behalf, for the funding of legal counsel, for the Commission of Inquiry into the Sponsorship Program and

Advertising Activities, pursuant to Rules 10 and 11, of the *Rules Of Procedure And Practice*, of the said Commission of Inquiry, before The Honourable Justice Gomery, of the Superior Court of Justice of Quebec, Commissioner appointed by *Order in Council P.C. 2004 - 110*, and for no other or improper purpose or motive.

SWORN BEFORE ME)
at the city of Ottawa,)
the 12th day of July, 2004.)


A Commissioner, etc.)

JENNIFER LYN ASHTON, a Commissioner, etc.,
City of Ottawa, for Edelson & Associates,
Barristers and Solicitors.
Expires December 29, 2006.)


Joseph Charles GUITÉ

ACTE D'ACCUSATION

INDICEMENT

Canada
PROVINCE DE QUÉBEC

Canada
PROVINCE OF QUÉBEC

COUR SUPERIEURE

SUPERIOR COURT

District de Montréal

(Chambre criminelle)

District

(Criminal Division)

Dossier 500-01-006029-042

Record

LA Reine,

The Queen ^{"A"} is Exhibited referred to in the

contre

v.

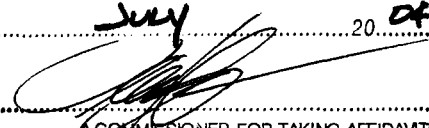
affidavit **JOSPH CHARLES GUTE**

BRAULT, Jean
(1952-09-28)

sworn before me, this **12th**

GUITÉ, Jean-Charles
(1944-04-10)

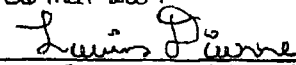
day of **JULY** 20 **04**


COMMISSIONER FOR TAKING AFFIDAVITS
JENNIFER LYN ASHTON, a Commissioner, etc.,
City of Ottawa, for Edelson & Associates,
Barristers and Solicitors.

- Entre le 2 juillet 1996 et le 5 mai 1997, à Montréal, district de Montréal, et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de plus de 340,000 \$ dans le cadre d'un contrat de recherche du 2 juillet 1996 d'une valeur de 500,000 \$ conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EN771-6-0065/01-ACA) relatif au « programme de Visibilité du Gouvernement du Canada », commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.
- Entre le 1^{er} avril 1998 et le 31 mars 1999, à Montréal, district de Montréal, et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de plus de 385,000 \$ dans le cadre d'un contrat de recherche du 1^{er} avril 1998 d'une valeur de 550,000 \$, conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EN771-8-0024/01-ZCA) relatif à « l'analyse d'opportunités reliées au programme de Visibilité du Gouvernement du Canada dans les secteurs culturels et sportifs », commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.
- Entre le 1^{er} mai 1999 et le 4 mai 2000, à Montréal, district de Montréal, et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de plus de 432,000 \$ dans le cadre d'un contrat de recherche du 1^{er} mai 1999 d'une valeur de 575,000 \$, conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EP043-9-0145/01-ZCA) relatif à « l'analyse d'opportunités reliées au programme de Visibilité du Gouvernement du Canada dans les secteurs culturels et sportifs », commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.
- Entre 1^{er} octobre 1996 et le 25 avril 1997, à Montréal, district de Montréal, et à Ottawa, ont complété pour frustrer le gouvernement du Canada d'une somme d'argent d'une valeur de 330,000 \$ par l'octroi, le 12 décembre 1996, d'un contrat fictif de 330,000 \$ à la compagnie Groupaction Marketing Inc. (portant le numéro EN771-6-0176/01-ZCA) relatif à une stratégie de communication pour la nouvelle législation sur les armes à feu du Ministère de la Justice du Canada, commettant ainsi l'acte criminel prévu aux articles 465(1)c) et 380(1)a) du Code criminel.
- Entre le 2 décembre 1996 et le 25 avril 1997, à Montréal, district de Montréal, et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de 330,000 \$ dans le cadre d'un contrat de recherche du 2 décembre 1996, d'une valeur de 330,000 \$, conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EN771-6-0176/01-ZCA) relatif à une stratégie de communication pour la nouvelle législation sur les armes à feu du Ministère de la Justice du Canada, commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.
- Entre le 7 avril 1997 et le 14 octobre 1997, à Montréal, district de Montréal, et à Ottawa, par la supercherie, le mensonge ou autre moyen dolosif, ont frustré le gouvernement du Canada d'une somme d'argent d'une valeur de 150,000 \$ dans le cadre d'un contrat de recherche du 7 avril 1997 d'une valeur de 150,000 \$, conclu avec la compagnie Groupaction Marketing Inc. (portant le numéro EN771-7-036-ZCA) relatif à la « Surveillance et documentation de sites et de groupes d'intérêt sur les armes à feu », commettant ainsi l'acte criminel prévu à l'article 380(1)a) du Code criminel.

À Québec, district de Québec

Le 06 mai 2004


Sous-procureur général du Québec

COUR

Deputy attorney General

COURT OFFICE

Commission of Inquiry into the
Sponsorship Program and
Advertising Activities



Commission d'enquête sur le
programme de commandites et
les activités publicitaires

Justice John H. Gomery
Commissioner

Juge John H. Gomery
Commissaire

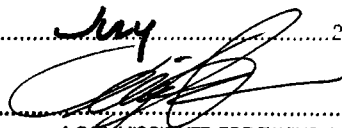
**COMMISSION OF INQUIRY INTO THE SPONSORSHIP PROGRAM
AND ADVERTISING ACTIVITIES**

SUBPÆNA

TO

CHARLES JOSEPH GUITÉ

6160 Oak Meadows Drive, Ottawa, Ontario

This is Exhibit "B" referred to in the
affidavit of **JOSEPH CHARLES GUITÉ**
sworn before me, I, **12th**
day of **July** 20**04**

A COMMISSIONER FOR TAKING AFFIDAVITS

JENNIFER LYN ASHTON, a Commissioner, etc.,
City of Ottawa, for Edelson & Associates,
Barristers and Solicitors.
Expires December 29, 2006

I - Testimony

Pursuant to the authority granted to Justice John H. Gomery by Part I of the *Inquiries Act*, section 4, this is to order you to attend at the Government Conference Centre, Main Hall (2 Rideau Street, Ottawa, Ontario) before the Commissioner, John H. Gomery on Tuesday, September 7, 2004 at 9:30 a.m., or on such other date fixed by the Commission, to give oral evidence relevant to the following matters, with definitions as appropriate set forth in Appendix A:

1. the creation, purpose, objectives of the Sponsorship Program and the National Unity Reserve Fund;
2. the selection of communications and advertising agencies in relation to the advertising activities;
3. the management of the Sponsorship Program, National Unity Reserve and advertising activities by the Government of Canada;
4. the receipt and use of any funds or commissions disbursed in connection with the Sponsorship Program, National Unity Reserve and advertising activities by any person or organization, either internal or external to the Government of Canada;

5. the flow of the Sponsorship Program, National Unity Reserve and advertising activities funds within the Government, both to the point that these funds were disbursed to non-Government of Canada sources, including the return of funds or any part thereof to the Government of Canada;
6. any gift, contribution or payment made directly or indirectly by any recipient of the Sponsorship Program, National Unity Reserve or advertising activities funds for political purposes;
7. the identities of any person or organization who received Sponsorship Program, National Unity Reserve or advertising activity funds, including fees or commissions, the purpose for which those funds were disbursed to that person or organization, and the value for money received by the Government of Canada;
8. contractual and related documents, including tenders, contracts (including drafts), follow-ups, analyses (pre-contract and post-contract), and all the files at issue in the Sponsorship Program and advertising activities;
9. documents and information produced either by the Government of Canada or yourself before the House of Commons Standing Committee on public accounts; and
10. any other document related to the Sponsorship Program, National Unity Reserve and advertising activities of the Government of Canada.

II- Documents and Information

Further, pursuant to the authority granted to Justice John H. Gomery by Part I of the *Inquiries Act*, section 4, this is to order you to produce to the Commissioner, John H. Gomery at the Commission's Office at Guy-Favreau Complex East Tower, Suite 608, 200 René-Lévesque Blvd. West, in Montréal on Tuesday, June 1, 2004 at 9:30 a.m., all documents in your possession, custody or control, relevant to the matters outlined above.

Further, pursuant to the authority granted to Justice John H. Gomery by Part I of the *Inquiries Act*, section 4, this is to order you to produce to the Commissioner, John H. Gomery at the Commission's Office at Guy-Favreau Complex East Tower, Suite 608, 200 René-Lévesque Blvd. West, in Montréal on Tuesday, June 1, 2004 at 9h30 a.m., the following information:

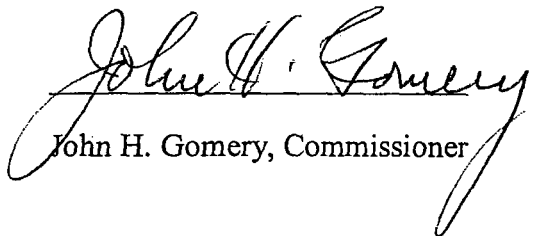
1. Provide a list of all persons, including their present and, where relevant, former position(s), together with current addresses, telephone numbers, fax numbers and e-mail addresses, who have any relevant knowledge of, or involvement in, any of the matters identified in section I. Without limiting the generality of the foregoing, the list should specifically include and identify all persons who might reasonably be considered to have relevant and material evidence as witnesses before the Commission at public hearings.

2. Provide a list of all departments and organizations in the Government of Canada, including Crown corporations and Crown agents, which have relevant documents, information and evidence in relation to any of the matters identified in section I, together with:
 - a) names, positions (present or former), addresses, telephone numbers, fax numbers and e-mail addresses of persons who are suitable contact points for information and documentation; and
 - b) organizational charts for all such departments and organizations for the period January 1, 1994 to the present, with the names, positions and contact numbers for the people holding relevant positions at relevant times.
3. Provide documents in relation to, and a person or persons to explain:
 - a) the normal or standard rules, procedures, structures, reporting lines, systems and guidelines for approvals, internal controls, implementation and administration of procurement programs and selection of service providers by the Government of Canada, including modifications thereto where relevant; and
 - b) the rules, procedures, structures, reporting lines and guidelines for the creation, approvals, internal controls, implementation and administration of the Sponsorship Program, National Unity Reserve Fund and advertising activities, and whether, how and by whom there were deviations from, or non-compliance with, the standard norms.
4. List of all the communications and advertising agencies, including subsidiaries and sub-contractors (collectively "agencies") to whom contracts were awarded or services retained by the Government of Canada between January 1, 1994 and the present. Such list should include:
 - a) name, addresses and contact numbers of agencies;
 - b) amounts paid, broken down by fees, commissions, and services (with description);
 - c) principals of agencies, including names, addresses and contact numbers; and
 - d) affiliates of agencies, and principals of the affiliates.

Further, pursuant to the authority granted to Justice John H. Gomery by Part I of the *Inquiries Act*, section 4, this is to order you to produce to the Commissioner, John H. Gomery on Tuesday, June 1, 2004 at 9:30 a.m. all documents and information establishing your financial situation between January 1, 1994 to the present, including that of your spouse and your children and any corporations or trusts in which you, or your spouse and your children have any direct or indirect interest, including, without limiting the generality of the foregoing:

Bank records including bank records inside or outside Canada, chequing and savings accounts, loan accounts, investments accounts, foreign currency accounts, pay slips, RRSP'S records, federal and provincial income tax returns, credit cards statements, telephone records (including cellular phone records), all documents and records relating to the purchase and financing of any direct or indirect interest in real estate inside or outside Canada, and any other financial and accounting records and documents.

Dated this 27th day of April, 2004, in Montreal


John H. Gomery, Commissioner

Appendix A

A. Definitions

- (a) "Advertising activities" includes the advertising activities referred to in the November 2003 Report of the Auditor General of Canada to the House of Commons with regard to the sponsorship program and advertising activities of the Government of Canada and, for greater certainty, includes these activities from January 1, 1994 to the present.
- (b) "Crown corporations and agencies" includes, without limiting the generality of the foregoing, Business Development Bank of Canada ("BDC"), Canada Mortgage and Housing Corporation ("CMHC"), Canadian Tourism Commission, Old Port of Montreal Corporation, National Arts Centre Corporation, National Capital Commission, Via Rail Canada Inc. ("VIA"), Canada Post Corporation, Royal Canadian Mounted Police ("RCMP").
- (c) "Document" includes any memorandum, data, analysis, report (including internal or other audit reports), minutes, briefing material, submission, correspondence, record (including accounting and financial records), agenda, diary, note, study, investigation, test, file, e-mail or other electronic file or communication or other communication or material in writing both internal to the Government of Canada or sent to or received from external sources), including, without limiting the generality of the foregoing, any document as defined herein that may be subject to Cabinet or Executive privilege, in your possession, custody or control. For greater certainty, this includes documents in off-site storage or which have been archived, and any electronic files, documents and communications. In the case of electronic files, documents and communications, these should not be copied or attached in any manner that might result in electronic information about it being lost or changed, and the hard drives should be preserved.
- (d) "Employee" includes any present or former employee, agent, servant, official, or contractor of the Government of Canada.
- (e) "Government of Canada" includes, without limiting the generality of the foregoing, all elected or non-elected persons, institutions, departments and organizations employed by, working within, or part of the Government of Canada. By way of illustration, this includes:
 - i) Present and former Cabinet Ministers, including Prime Ministers, and persons employed by and working in their offices, including their ministerial, constituency and other offices;
 - ii) Present and former exempt (political) staff;
 - iii) Employees of the Government of Canada;

- iv) Prime Minister's Office ("PMO");
 - v) Privy Council Office ("PCO");
 - vi) Treasury Board, including the Treasury Board Secretariat;
 - vii) Public Works and Government Services Canada ("Public Works") and its predecessors, successors and assigns; and specifically, includes Communication Canada and Communications Co-ordination Services Branch ("CCSB"), and Advertising and Public Opinion Research Sector ("APORS");
 - viii) Department of Finance;
 - ix) Department of Justice;
 - x) Tourism Canada;
 - xi) Canada Customs and Revenue Agency;
 - xii) Health Canada; and
 - xiii) Crown Corporations and agencies, and their employees.
- (f) "Minister" includes any present or former Cabinet Minister, including Prime Minister.
- (g) "Sponsorship Program" means the Sponsorship Program referred to in the November 2003 Report of the Auditor General of Canada to the House of Commons with regard to the sponsorship program and advertising activities of the Government of Canada and, for greater certainty, includes the sponsorship activities from January 1, 1994 to the present.
- (h) "National Unity Reserve" means the fund established for the purposes of Canadian national unity which was administered by the PMO and abolished in the Budget presented by Minister of Finance Ralph Goodale to the House of Commons on March 23, 2004.

STANDING COMMITTEE
ON PUBLIC ACCOUNTS



COMITÉ PERMANENT
DES COMPTES PUBLICS

HOUSE OF COMMONS
CHAMBRE DES COMMUNES
OTTAWA, CANADA
K1A 0A6

Ottawa, Thursday, April 1st, 2004

Ottawa, le jeudi 1^{er} avril 2004

SUMMONS

ASSIGNATION

To: Mr. Charles Guité
C/o Mr. Michael Edelson

À M. Charles Guité
A/s Michael Edelson

Take notice that you are discharged from your obligation to appear before the Standing Committee on Public Accounts of the House of Commons on April 1st, 2004, but that you are hereby summoned and required to appear at Ottawa and give evidence before this Committee on matters relating to the November 2003 Report of the Auditor General of Canada (referred to the Committee on February 10, 2004), at 9 o'clock a.m. on Thursday, April 22, 2004, and Friday, April 23, 2004, in the House of Commons Committee Room No. 237-C, Centre Block, and to remain in attendance until duly discharged.

Avis vous est donné que vous êtes congédié de votre obligation de comparaître devant le Comité permanent des comptes publics de la Chambre des communes le 1^{er} avril 2004 mais que vous êtes par la présente assigné et astreint à comparaître à Ottawa pour rendre témoignage devant ce même Comité relativement au Rapport de novembre 2003 de la vérificatrice générale du Canada (renvoyé au Comité le 10 février 2004), à 9h00 les jeudi 22 avril 2004 et vendredi 23 avril 2004, dans la salle de comité n° 237-C, Édifice du Centre, et à vous tenir en disponibilité jusqu'à ce que vous soyez dûment congédié.

"C"
is Exhibit..... referred to in the
davit of..... **JOSEPH CHARLES GUITÉ**
orn before me, this **12TH**
/ of..... **July**..... 20 **04**

PAR ORDRE DU COMITÉ

Le président
John G. Williams
Chair

A COMMISSIONER FOR TAKING AFFIDAVITS
JENNIFER LYN ASHTON, a Commissioner, etc.,
City of Ottawa, for Edelson & Associates,
Barristers and Solicitors.
Expires December 29, 2006.

Immediately upon your arrival in Ottawa, please contact Mr. Jeremy LeBlanc, Co-Clerk of the Committee, at phone number: (613) 996-1664. Please bring this summons with you.

Nota: Veuillez contacter M. Jeremy LeBlanc, cogreffier du comité, au numéro de téléphone suivant : (613) 996-1664. Veuillez apporter cette assignation.

rec'd Apr 21 04
MS



Travaux publics et
Services gouvernementaux
Canada

Public Works and
Government Services
Canada

Sous-ministre

Deputy Minister

Sous-receveure générale
du Canada

Deputy Receiver General
for Canada

JUN 25 2002

Mr. J. Charles Guité
2185 Auburn Ridge Drive 6160 OAK MEADOWS
Ottawa, Ontario OTTAWA ONTARIO
K1W 1H8 K1C 7G8

Dear Mr. Guité:

You have informed me that you were asked to appear before the Public Accounts Committee with regards to the inquiry currently conducted into certain contracts issued under the sponsorship program.

You have asked for my approval to retain counsel to advise you during the hearing.

It is a condition of the policy that a public servant is entitled to assistance only if the public servant "acted honestly and without malice within their scope of duties or employment and met reasonable departmental expectations." The policy requires that if at any time during the proceedings it is determined that a public servant who has received legal assistance was not acting within his or her scope of duties or employment at the time of the act or omission for which the legal assistance was provided took place, legal assistance is to cease and any assistance provided is to be recovered. The policy further requires that the public servants must be aware of, and accept, this condition before the legal assistance is provided. The policy, which I have attached a copy for your convenience, also contains conditions concerning the maximum amounts payable.

This is Exhibit "D" referred to in the
affidavit of JOSEPH CHARLES GUTE
sworn before me, this 12TH
day of JULY 20 02
.....
A COMMISSIONER FOR TAKING AFFIDAVITS

JENNIFER LYN ASHTON, a Commissioner, etc.,
City of Ottawa, for Edelson & Associates,
Barristers and Solicitors.
Expires December 29, 2006.

I am approving your request, subject to the terms and conditions of the policy. In particular, the following conditions apply:

1. This approval is for legal assistance with respect only to the current hearing.
2. The maximum legal fee that you may claim is \$150 per hour, consistent with fees paid by the Department of Justice. If the counsel you select charges a higher hourly fee, you will be responsible for the difference.
3. The maximum amount payable under the policy for legal assistance is \$25,000 and the maximum daily fee payable under the policy is \$1,200.
4. If at any time during the hearing or any subsequent proceedings, it is determined that you were not acting within the scope of your duties, you will no longer be entitled to receive legal assistance and any amounts that have been paid to you under the policy will be recovered from you.

Would you please sign and return one copy of this letter in order to indicate that you accept these conditions.

Yours sincerely,



Janice Cochrane

Attachment

I accept the conditions

J. Charles Guité



✓

Public Works and Government Services, Legal Services
Place du Portage, Phase III, 1C2
11 Laurier Street, Gatineau, Quebec K1A 0S5

Telephone: (819) 956-0993
Facsimile: (819) 953-3974

PERSONAL AND CONFIDENTIAL
Solicitor-Client Privilege

Mr. J. Charles Guité
2185 Auburn Ridge Drive
Ottawa, Ontario
K1W 1H8

Re : Legal Assistance to Former Public Servants

Dear Mr. Guité:

The purpose of my letter is to advise you of the procedures that exist when former public servants seek to have legal assistance for purposes of legal proceedings. This is particularly necessary in light of the comments you made during your attendance at the Public Accounts Committee on April 22, 2004.


Current and former public servants can seek legal assistance under the *Treasury Board Policy on the Indemnification of and Legal Assistance for Crown Servants* [the "Treasury Board Policy"] if they are required to appear before or be interviewed by a judicial or other type of investigative inquiry. Provided the requirements of the Treasury Board Policy are met, legal assistance is normally provided by counsel from the Department of Justice, unless there is a conflict of interest between the *Crown servant* and the government of Canada. If a conflict exists, the *Crown servant* is entitled to private counsel at government's expense. If the requirements of the Treasury Board Policy are not met, no legal assistance is provided.

I am aware that you previously contacted the Deputy Minister of Public Works and Government Services and requested approval to retain private counsel to advise you in respect of your appearance before the Public Accounts Committee in July, 2002. By letter dated June 25, 2002 your request was approved by the then Deputy Minister, Janice Cochrane. The approval was granted for the "current hearing". Accordingly, that approval does not apply in respect of your appearance before the Public Accounts Committee on Thursday April 22, 2004. Likewise that approval does not apply in respect of any future appearance which you may make before the Commission of Inquiry into the Sponsorship and Advertising programs of the Government of Canada. A new request must be submitted in respect of each separate judicial or other process and the eligibility criteria must be reviewed and a decision made.

If it is your intention to seek legal assistance under the *Treasury Board Policy* in respect of any judicial proceeding in which you are involved, please advise me as soon as possible so that the necessary arrangements can be made for the appropriate review of your request.

May 13, 2004

This is Exhibit "E" referred to in the affidavit of **JOSPH CHARLES GUITÉ** sworn before me, the **12TH** day of **July**, 20**04**.


A COMMISSIONER FOR TAKING AFFIDAVITS
JENNIFER LYN ASHTON, a Commissioner, etc.,
City of Ottawa, for Edelson & Associates,
Barristers and Solicitors.

that exist when former public servants seek to have legal assistance for purposes of legal proceedings.

Please feel free to contact me or have your lawyer contact me if you have any questions concerning this matter.

Yours truly,

A handwritten signature in cursive script, appearing to read "Ellen Stensholt".

Ellen Stensholt
Senior General Counsel
Public Works and Government Services

✓ c.c. Michael Edelson

RECEIVED MAY 25 2004

May 31, 2004

Mr. David Marshall
Deputy Minister
Public Works and Government Services Canada
11 Laurier Street
Place du Portage
Phase III, Room 1701
Gatineau, QC
K1A 0S5

Dear Mr. Marshall:

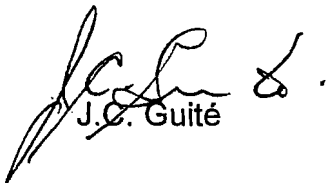
RE: Public Accounts Committee Inquiry on Sponsorship Program

As per copy of the attached letter, I was in the process of submitting invoices for my legal counsel in regards to my appearance before the Public Accounts Committee in June 2002 and April 2004.

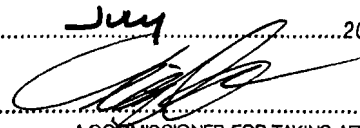
I have been advised that I have to make a separate request for the hearings that took place in April 2004.

Therefore, I request approval for the fee for legal counsel I have received for the April 2004 appearance before the Public Accounts Committee. Once approval has been granted, I will submit both invoices.

Sincerely,


J.C. Guité

cc. Michael D. Edelson & Associates

This is Exhibit..... " F "referred to in the
affidavit of..... JOSEPH CHARLES GUITÉ
sworn before me, this..... 12TH.....
day of..... July20⁰⁴.....

.....
A COMMISSIONER FOR TAKING AFFIDAVITS

JENNIFER LYN ASHTON, a Commissioner, etc.,
City of Ottawa, for Edelson & Associates,
Barristers and Solicitors.
Sworn December 29, 2006.

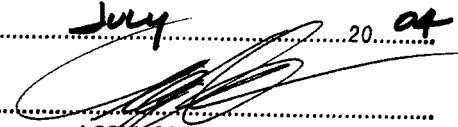
June 09, 2004

Via Courier

Mr. David Marshall
Deputy Minister
Public Works and Government Services Canada
11 Laurier Street
Place du Portage
Phase III, Room 1701
Gatineau, Quebec K1A 0S5

Dear Mr. Marshall:

Re: Joseph Charles Guité

This is Exhibit..... " H "referred to in the
affidavit of..... JOSEPH CHARLES GUITÉ
sworn before me, this..... 12th
day of..... July20..... 04

.....
A COMMISSIONER FOR TAKING AFFIDAVITS
JEM HUTTON, a Commissioner, etc.,
City of Ottawa, for Edelson & Associates,
Barristers and Solicitors.
Expires December 29, 2006.

Further to our request dated June 2, 2004 please find enclosed the report of the Public Accounts Committee tabled before the House recommending that the Government pay legal fees in reference to Court Appearances by public servants.

Yours very truly,

Michael D. Edelson

MDE/mak
Enclosures



**HOUSE OF COMMONS
CHAMBRE DES COMMUNES
OTTAWA, CANADA**

37th Parliament, 3rd Session

37^e Législature, 3^e Session

The Standing Committee on Public Accounts has the honour to present its

Le Comité permanent des comptes publics a l'honneur de présenter son

FIFTH REPORT

CINQUIÈME RAPPORT

On Tuesday, April 20, 2004, the Standing Committee on Public Accounts adopted a motion recommending that the Government pay for the legal fees of public servants who have been called in relation to its study of Chapters 3, 4 and 5 of the November 2003 Report of the Auditor General of Canada.

Le mardi 20 avril 2004, le Comité permanent des comptes publics a adopté une motion recommandant au gouvernement de régler les honoraires légaux des fonctionnaires appelés à témoigner dans le cadre de son étude sur les chapitres 3, 4 et 5 du Rapport de la vérificatrice générale de novembre 2003.

Even if the Government could provide legal assistance to its employees, the Committee considers useful, for transparency and impartiality, to give them permission to use legal services other than those provided by their employer and to ask the Government to indemnify its employees.

Même si le gouvernement met des conseillers juridiques à la disposition de ses employés, le Comité croit utile pour les fonctionnaires, par soucis de transparence et d'impartialité, de leur permettre d'utiliser des services juridiques autres que ceux fournis par leur employeur et de demander à celui-ci d'indemniser ses employés.

The officials who are called before the Committee as part of their responsibilities as public servants are required to be accountable. Legal fees could cost them money they cannot afford to pay. The Committee believes that it has an obligation to inform the House of this situation, noting that financial difficulties could result for these officials.

Ces fonctionnaires sont appelés à témoigner en raison des responsabilités inhérentes à leur travail dans la fonction publique et ils ont l'obligation de rendre compte de ses responsabilités devant votre Comité. Ils n'ont pas forcément la capacité de payer ces frais légaux. Le Comité croit qu'il a le devoir de faire part à la Chambre de la situation financière précaire pouvant en résulter pour ces fonctionnaires.

Therefore, the Committee recommends:

Le Comité recommande donc:

That the Government pay for the legal fees of public servants who have been called before the Standing Committee on Public Accounts in relation to its study of Chapters 3, 4 and 5 of the November 2003 Report of the Auditor General of Canada.

Que le gouvernement règle les honoraires légaux des fonctionnaires appelés à témoigner devant le comité des comptes publics dans le cadre de son étude sur les chapitres 3, 4 et 5 du rapport de la vérificatrice générale de novembre 2003.

Notwithstanding Standing Order 109, the Committee requests that the Government table a response to this report as soon as possible.

Nonobstant l'article 109 du Règlement, le Comité demande que le gouvernement dépose une réponse au présent rapport le plus tôt possible.

A copy of the relevant *Minutes of Proceedings* (Meetings Nos. 27 and 28) is tabled.

Un exemplaire des *Procès-verbaux* pertinents (réunions nos 27 et 28) est déposé.

Respectfully submitted,

Respectueusement soumis,

Le président,

JOHN WILLIAMS
Chair

**STANDING COMMITTEE ON PUBLIC
ACCOUNTS**

**COMITÉ PERMANENT DES COMPTES
PUBLICS**

This is Exhibit "I" referred to in the

affidavit of **JOSEPH CHARLES GUTE**

sworn before me, this **12TH**

day of **July** 20 **04**

A COMMISSIONER FOR TAKING AFFIDAVITS

JENNIFER LYN ASHTON, a Commissioner, etc.,
City of Ottawa, for Edelson & Associates,
Registers and Solicitors.
Expires December 29, 2006.

F A X



DATE: June 9, 2004

Number of pages including this one:

3

Nombre de pages incluant celle-ci:

**To / à: Michael D. Edelson
Edelson and Associates**

Phone / téléphone: (613) 237-2290

Fax: (613) 237-0071

**From / de: Jeremy LeBlanc, greffier/Clerk
Comité permanent des comptes publics
Standing Committee on Public Accounts
Pièce/Room 608 - 180 Wellington Bldg
House of Commons /
Chambre des communes
Ottawa, Ontario K1A 0A6
Email/courriel : pacc@parl.gc.ca**

**Phone / téléphone: (613) 995-0745
(613) 996-1664**

Fax: (613) 996-1626

COMMENTS / COMMENTAIRES

As discussed, here is the report the Committee tabled requesting that the government pay legal fees for public servants in relation to their appearance during our study of chapters 3, 4 and 5 of the Auditor General's November 2003 report. The Committee did not receive a response from the government prior to the dissolution of Parliament.

If pages are missing or if you have any questions please call :
S'il manque des pages ou si vous avez des questions veuillez téléphoner à :

Manon Auger
Administrative Assistant/adjointe administrative
Standing Committee on Public Accounts/Comité Permanent des comptes publics
House of Commons/Chambre des communes
180 rue Wellington St., Room/Pièce 605-A
Ottawa, Ontario, K1A 0A6
Tel: 613-995-0047/613 996-1664
Fax: 613-996-1626
E-mail/Courriel: Augerm@parl.gc.ca

**THE COMMISSION OF INQUIRY INTO
THE SPONSORSHIP PROGRAM AND
ADVERTISING ACTIVITIES**

**AFFIDAVIT OF
JOSEPH CHARLES GUTE**

EDELSON & ASSOCIATES
Barristers and Solicitors
Suite 600, 200 Elgin Street
Ottawa, Ontario K2P 1L5

Tel: (613) 237-2290
Fax: (613) 237-0071

Counsel for Mr. Gute