

This is the 2nd affidavit of Vivian Krause in this case and was made on the 16 day of November, 2023

No. VLC-S-S-217976
Vancouver Registry

In the Supreme Court of British Columbia

BETWEEN

SCOTT COUSENS

PLAINTIFF

AND

VIVIAN KRAUSE

DEFENDANT

1. I am the defendant in this matter and as such have personal knowledge of the matters and facts hereinafter deposed to, except where the same are stated to be based upon information and belief, and where so stated I verily believe the same to be true.

Defamatory Statements

2. The plaintiff claims in the Notice of Civil claim and other material before the court that my words are defamatory. However, when quoting my words in his claim, the plaintiff has truncated some of my sentences. Key statements are quoted only partially such that their meaning is changed. **Exhibit "A"** provides a table that compares what the plaintiff alleges that I said and what I actually wrote.

CRA Audit of Fortius Foundation and Revocation of Charitable Status

3. On November 3, 2022, I learned that Fortius Foundation ("FF") had been informed that CRA intended to revoke its charitable status. I also learned that FF had filed a motion with the Federal Court of Appeal ("**FCA**") for an injunction to stop CRA from publishing FF's revocation in the Canada Gazette. I also learned that FCA had dismissed FF's motion with costs. Attached as **Exhibit "B"** is a copy of the FCA Order dated October 19, 2022.

4. In an affidavit filed with the FCA, the plaintiff argued (paragraph 14) that the CRA audit of FF and its audit report dated September 7, 2021 was "motivated" by my letters to CRA. Attached as Exhibit "**C**" is a copy of the plaintiffs affidavit which I obtained from the court through my legal counsel.
5. From the court records, I learned that FF's motion for an injunction to stop CRA from revoking its charitable status was heard by Justice Donald J. Rennie. In his reasons for dismissing FF's motion, Justice Rennie stated in response to the plaintiff's argument that I somehow influenced the CRA investigation, 743]... *the Minister may often act on third party information or tips. Regardless of the motive of the informant, the question for the Minister remained one of whether Fortius was entitled, as a matter of law, to continued registration as a charity under the 1TA.*" Attached as Exhibit "D" is a copy of the reasons dated October 19, 2021.
6. From the FCA file, I learned that the plaintiff, on behalf of FF, intended to apply to be heard by the Supreme Court of Canada.
7. In May of 2023, I learned from the website of the Supreme Court of Canada that the plaintiffs application for leave had been dismissed. Attached as **Exhibit "E"** is a web-page of the Supreme Court noting that the FF application was dismissed as of May 11, 2023.
8. On August 1, 2023, I learned that CRA revoked the charitable status of FF as of July 29, 2023. Attached as **Exhibit "F"** is a copy of the CRA webpage showing the date of revocation.
9. On August 4, 2023, I received from CRA, upon request, copies of the CRA documents in relation to the CRA audit of FF. One of those, CRA's notice of intent to revoke, dated July 21, 2022, attached as **Exhibit "G"**, states that Fortius "... committed multiple, new serious breaches of the Act which demonstrated a continuous pattern of non-compliance." CRA characterized Fortius's violations as "egregious and continuous." These quotes appear on page 2.
10. The second CRA document, attached as **Exhibit "H"** is the CRA audit report dated September 7, 2021. This CRA audit reveals the following:
 - a) During 2012, CRA audited FF for 2008 and 2009. These were FF's first two years, prior to construction of the sports centre. According to CRA's audit report dated September 7, 2021, serious non-compliance was found during the audit of 2008 and 2009 so the audit concluded with a Compliance Agreement that specified corrective measures to be taken by Fortius (page 2). This Compliance

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Agreement has not been disclosed by the plaintiff and I have not been able to obtain it.

- b) In 2017, CRA began a second audit for a two year period from 2014 until 2016. Four years later, the second audit was finalized and sent to Fortius on September 7, 2021. That was six days after the plaintiff filed his claim against me, on September 1, 2021.
- c) Fortius Foundation was not operating as a bona fide charity. CRA stated, "*... a charity registered under the Act is required to be bona fide - meaning that it must be an organization that is established and operated to confer a tangible or objectively measurable benefit upon the public, without personal or private gain*" (page 7).
- d) Fortius Foundation reported total revenue of \$23 million over an eight year period (2008-2016). However, gifts to eligible recipients were made for a total of only \$150,540, less than 1% of total revenue (page 6).
- e) FF provided undue benefits to Fortius Institute, a for-profit business owned by the plaintiff. CRA's audit report states that the plaintiff is the sole member of Fortius Institute and owns 67% of the share capital while Fortius Athlete Development Centre ("**FADA**"), a related entity, owns the remaining 33% (page 2). CRA found that FF leased its sports centre to FADA which in turn sub-leased it to Fortius Institute.
- f) CRA found that unacceptable, undue benefits were provided in two ways:
 - 1) An "unwritten expense sharing arrangement" existed whereby foundation paid the salaries of employees at Fortius Institute (page 15);
 - 2) The sports centre was leased to FADA but the rent was not collected.
- g) The majority of Fortius's resources "*were devoted to an unstated, non-charitable purpose*" (page 6) While the report does not explicitly say so, my interpretation of the CRA's audit report is that FF effectively subsidized the plaintiff's for-profit business by more than \$12 million. If that had not been so, the charity would have had \$12 million more to spend on charitable purposes.
- h) CRA found that the unwritten expense-sharing arrangement began in 2013 and continued for six years (page 15), meaning that this arrangement goes back to when the sports centre first opened in 2013.

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- i) My interpretation of CRA's audit conclusions is that effectively, what happened is that a charitable foundation, FF, forwarded funds to a for-profit business to cover its payroll. The purported basis of this arrangement was that the employees of Fortius Institute also provided services to the charitable foundation (page 15).
- 1) CRA concluded that the expense-sharing arrangement effectively operated as a loan. Each time that FF paid the wages of employees, the foundation effectively loaned its resources to the Institute. According to CRA's audit report, the auditors found no fixed repayment schedule nor interest rate. As such, CRA determined that by effectively loaning and gifting funds to an ineligible recipient at below fair-market terms, FF provided an unacceptable, private benefit equal to the interest payments that would have been received had the terms been established at a reasonable or market rate.
- k) In 2013, FF began a rental agreement with FADA. According to this agreement, FADA was to pay \$175,000 monthly, increasing to \$183,333 per month in 2014 and \$216,666 in 2015. Interest was to be charged at 8% per year on unpaid rent (page 15).
- l) By leasing the sports centre and then not collecting the rent payments, the directors failed to fulfil their fiduciary duties, CRA concluded. The CRA audit report states, "*Continuing to engage in a rental activity when the tenant failed to pay rent on time for six consecutive fiscal periods (years) is not, in our view, acting in the best interests of the Organization (Fortius Foundation)*" (page 11).
- m) CRA determined that it is unlikely that FF would have similarly enabled an arm's length entity to not pay the rent and interest owed. The lack of any collection-related action to get FADA to pay the amounts owing suggested a willingness to provide a benefit to a related, non-qualified, ineligible recipient, CRA found (page 14).
- n) CRA found that the benefits to Fortius Institute were not necessary, reasonable nor proportionate to the resulting public benefit since there was no benefit to the public (page 14). By enabling FADA to not pay the rent nor the interest owed, CRA determined that FF provided an unacceptable, private benefit that failed to result in any discernable, public benefit.
- o) "Despite the rental agreement, however, in seven consecutive fiscal periods (FPE), the Organization did not collect, or make any attempt to collect, any of the amounts (that is, rents and interest for missing payments) that FADA owed. Rather, the Organization recorded and accrued the amounts owing in its

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accounting books and on its T3010 information return. Additionally, at the end of the FPE September 30, 2017, the Organization reported an allowance for doubtful accounts equivalent to the entire receivable from FADA, consisting of all unpaid rent up to and including the FPE September 30, 2017. It is our view that this indicates that the Organization never expected or intended to collect the amounts owing from FADA according to the rental agreement." (page 13, emphasis added).

- p) Some amounts reported for 2015 and 2016 do not match the corresponding financial statements. Regarding expenditures, the discrepancy was \$4.7 million, primarily related to bad debt. Assets were over-reported by as much as \$11 million (page 26). Furthermore; FF failed to file an explanation of its errors.
- q) CRA calculated that the undue benefits to Fortius Institute totaled \$12,379,192. Since the Income Tax Act allows for a sanction equivalent to 105 percent of the sanctioned amount, CRA determined that FF could be assessed a penalty of \$12,998,151 (page 19). However, CRA's notice of intent to revoke states that penalties will not be assessed as CRA opted to revoke FF's charitable status.

11. In testimony during cross examination (Carmichael Affidavit #1 Ex. A), the plaintiff acknowledged that some loans to Fortius Foundation did not have to be re-paid (starting at Q 368).

Q. You'll agree with me that one of the repeated things in Ms. Krause's article is why on earth is Fortius, who's received upwards of \$100 million in various donations, out there trying borrow money and is in such debt, And then we find out from the audit, oh, there's an explanation for 12 million of it, it wasn't collecting any rent. Don't you think those things are connected?

A No.

Q. You don't see a connection between, gee, why is Fortius who's received all this money still in debt and Fortius's managing of its own affairs in a way that didn't – that not only created debt through that but through the 20 percent interest?

A So the – the debt that Fortius had, but for with Romspen and but for with Almoner, there were no principal payments being made and no interest payments being made. So there was no – there was no operating pressure put on the business or any of the – any of the operations by having those mortgages as part of the capital deck, if you will, of Fortius. (emphasis added)

12. In my first affidavit, I explained why I believe that FF engaged in "manufactured debt" which I defined as debt that does not appear to be true debt in the sense that it was owed between related parties and from the outset, there was an understanding that

it would never be paid. I suggested that "manufactured debt" serves a purpose that has nothing to do with funding the Sports Centre but rather, that it is a component of a circular arrangement created a way to "spend" tax-receipted donations without the amounts actually being paid to outside parties. From both the plaintiffs testimony during cross examination, and in the CRA's audit report on FF, I believe that my characterization of FF's liabilities as "manufactured debt" has been validated.

The \$74 Million Gift From CHIMP and Revocation of the Charities Involved

13. CRA's audit of FF did not cover 2018, the year when Fortius received \$74 million from CHIMP. However, CRA did audit Homestead on the Hill Foundation ("Homestead"), one of the five charities that made a purported "loan" to Fortius Foundation and was involved, in my view, in the unwinding of the \$74 million gift.
14. From my ongoing monitoring of the CRA website, I learned that effective November 4, 2022, the charitable status of Homestead was revoked specifically because of a gift of \$3.7 million that Homestead made to CHIMP. Attached as **Exhibit "I"** is CRA's notice of intent to revoke Homestead, dated September 22, 2022.
15. CRA concludes in the Notice of Intention to Revoke, *"We are of the opinion that it is not a true gift, but part of a series of predetermined transactions used to artificially inflate tax benefits for certain corporations and/or individuals,,"* "The CRA audit report adds, *"... the purported gift to CHIMP did not stay in CHIMP's control but rather was returned to Fortius, and as such, these funds only passed through (Homestead on the Hill) Foundation briefly."* This quote appears at page 2 of Appendix A to the Notice of Intent Revoke.

CRA Audit of Association for the Advancement of Scholarship

16. As I noted in my first affidavit, another of the Bromley charities that made a loan to Fortius Foundation, and a subsequent gift to CHIMP, is Association for the Advancement of Scholarship ("**AAS**").
17. From my ongoing monitoring of the CRA website, I learned that CRA revoked the charitable status of AAS. Attached as **Exhibit "J"** is a copy of the CRA webpage showing that AAS was revoked as of March 25, 2023.
18. According to CRA's audit letter to AAS, CRA found that total gifts made by AAS fell short of the required minimum by \$15,568,806. Attached as **Exhibit "K"** is a copy of the CRA audit letter dated July 3, 2012 which I obtained from CRA, upon request. This finding appears on page 6.

19. The same audit letter states that MS reported \$15,000,000 in tax-receipted gifts of enduring property. However, the CRA audit did not find any tax-receipted gifts received that would be considered an enduring property as defined by the Income Tax Act (page 9).
20. CRA's notice of intent to revoke AAS states that MS "primarily operates for transferring funds to non-qualified donees and participating in a donation arrangement benefitting a private individual" with "little to no activities being conducted" with respect to its registered objects." Attached as **Exhibit "U"** is a copy of the CRA notice of intent to revoke MS dated August 2, 2013 which I obtained from CRA, upon request. These passages appear on page 1 of Appendix A.
21. Attached as **Exhibit "M"** are copies of the e-mails that I exchanged with CRA with regards to the audit of AAS. As the records show, the delay between CRA's notice of intent to revoke, sent in 2012, and revocation effective March 25, 2023, was almost 11 years. The delay in revocation, similar to other examples of delayed oversight of charities which I have observed, is a reason why I have sought to bring these matters to public attention.

Global Charity Fund

22. During my research on Fortius Foundation, I noticed that it had debts for a total of \$94 million, according to its financial statements for 2018 (attached as Exhibit "P" to my first affidavit). I sought to find out to who had made such large loans to Fortius. I found that four of the Bromley charities made loans to Fortius and in all four cases, the loans traced back to gifts from Global Charity Fund ("**GCF**"), which is also a Bromley charity. This leads me to conclude that GCF is a central charity in the history of Fortius Foundation.
23. Tax returns for GCF show that GCF made gifts to three Bromley charities which then made loans to Fortius, as follows:

Recipient of Gift from GCF	Gift from GCF	Year	Cash/Non-Cash
Almoner Foundation (" Almoner ")	\$ 13,950,000	2012	Cash
Foundation for Public Good	\$ 18,710,000	2013	Non-Cash
Homestead on the Hill Foundation	\$	2013	Non-Cash

24. In addition to making gifts to the Bromley charities that then made loans to Fortius, GCF also made a gift of \$1,000,000 directly to Fortius. Pages of the tax returns of GCF showing these gifts are provided in **Exhibit "N"**.

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25. The same year that Almoner Foundation received \$13,950,000 from GCF, Almoner Foundation made a mortgage loan to Fortius Foundation for \$13,000,000. This mortgage loan was **Exhibit "Y"** of my first affidavit. It follows, in my assessment, that the mortgage loan to FF from Almoner Foundation originated from GCF.
26. Balance sheets for Almoner, FPG and Homestead (formerly called BC Farm and Ranch Foundation), attached as **Exhibit "O"**, show that without the gifts from GCF, these foundations could not have made loans to FF since none of them would have had enough money to make the loans. It follows that GCF is the root source of the funds loaned to FF by Almoner, FPG and Homestead.
27. As I described in my first affidavit, I noticed that when the loans were repaid with the \$74 million from CHIMP, the funds that originated with GCF were not returned to GCF. Instead, the principal and the interest was gifted to CHIMP. This raised questions in my mind as to why GCF didn't insist on getting its money back.
28. Attached as **Exhibit "P"** is a series of figures that I prepared to depict the flow of funds from Global Charity Fund to Fortius Foundation and ultimately, to CHIMP.

Stewart Irvine, Original Founder

29. Seeking to understand the history of GCF, I obtained its application for registration from CRA, upon request. Attached as **Exhibit "Q"** is a copy of this application, which was signed on December 14, 1998 by Blake Bromley, Stewart Irvine and Paul Cultum. Through my research I was able to locate and contact Stewart Irvine but not Paul Cultum.
30. On May 25, 2023, in a telephone conversation, Stewart Irvine informed me that he is the original founder of GCF and informed me that GCF was originally registered to receive the proceeds from on-line gambling and transfer these as charitable gifts to the Red Cross/Red Crescent Society. According to Mr. Irvine, Red Cross decided that it was uncomfortable receiving proceeds from online gambling so the initiative was discontinued. Mr. Irvine informed me that he was under the impression from Blake Bromley that Global Charity Fund had been dissolved.
31. Mr. Irvine informed me that he was shocked to learn that Bromley had kept Global Charity Fund alive and appointed one of his employees as a director to replace Mr. Irvine.
32. Corporate records for GCF, which I obtained from publicly available sources, attached as **Exhibit "R,"** indicate that Stewart Irvine was reported as a director for 1999, 2000

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and 2001. The annual reports for these years were signed by Blake Bromley. The fees for filing these reports were paid for by QDDQ Services Inc. which is a former company of Blake Bromley as shown in Reasons for Judgment exhibited to my first affidavit, at Exhibit ZZ.

33. During our phone call on May 25, 2023, I informed Mr. Irvine that according to its 2011 tax return, GCF received \$70,000,000 in non-cash, tax-receipted gifts, and that GCF had made loans to finance both Fortius Sport & Health Centre and Quest University Canada. Mr. Irvine said he was shocked.
34. Mr. Irvine informed me that he did not intend GCF to be used to make loans to Fortius nor to Quest. Mr. Irvine told me that if this had ever been discussed, he would not have agreed.
35. From the tax returns for GCF, I learned that Blake Bromley was a director of GCF for 13 years (1998-2011) and that he went of the board in 2011, the same year that GCF issued tax receipts for a non-cash gifts of \$70,000,000. Attached as **Exhibit "S"** is a copy of the relevant page of the 2011 tax return for GCF. Also included in the same Exhibit is a copy of the CRA webpage erroneously showing that this gift was recorded in CRA's digital database as \$70,000 not \$70,000,000. I have found eleven more examples of CRA's publicly available database being in error by omitting three zeros, in a way that represents extremely large transactions which should warrant attention, as small ones.
36. From the 2023 annual return for Global Charity Fund, included in Exhibit "R," above, I learned that Blake Bromley is currently a director of GCF and has been since 2020. I also learned that GCF has not held an annual meeting since 2016. From these facts, I conclude that Bromley has been directing the transactions of GCF. These facts lead me to conclude that the four charities that made loans to FF were not only related, they were effectively all under the direction of Blake Bromley. This is consistent with my over-arching thesis that Fortius Foundation is a small part of a much larger operation, a cog in the wheel, so to speak, and that the Bromley charities effectively operate like multiple pockets in the same pair of pants.

Charitable Impact Foundation

- 37.1n** my first affidavit, I explained that Charitable Impact Foundation "**CHIMP**" has been central in the history of FF. CHIMP made a gift to FF for \$74 million, then CHIMP effectively got back the entire amount via the payment of "debts" that FF had to five Bromley charities. FF used the \$74 million to pay the "debts" and then the same five charities made gifts to CHIMP for a total of \$76 million.

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38. Given the importance of CHIMP in the understanding of FF's transactions, history and pattern of behaviour, I have followed the finances of CHIMP. According to CHIMP's website, CHIMP has received \$1.2 billion in donations and 189,000 people have used CHIMP's website to make gifts to 13,400 charities across Canada. Attached as **Exhibit "T"** is a copy of the relevant page of CHIMP's website.
- 39.1 found three media stories, attached as **Exhibit "U,"** in which John Bromley, the CEO of CHIMP, refers to the Bromley enterprise as a "merchant bank for charity." This prompted me to analyze the loans made by the Bromley charities.
40. According to my analysis, attached as **Exhibit "V,"** 15 of the Bromley charities have made loans that earned \$29 million (2015-2022) in interest, an average of \$4 million per year. This leads me to conclude that the loans made to FF are part of a bigger picture.
41. Upon request, I obtained from CRA the 2022 tax return and financial statements for CHIMP (relevant pages attaches as **Exhibits "W" and "X"**). These show that during 2022, CHIMP reported tax-receipted gifts for \$196 million (page 8 of Exhibit "W"). This brings the total tax-receipted gifts reported by CHIMP to nearly \$800 million (2011-2022). Attached as **Exhibit "Y"** is a summary table that compiles information from CHIMP's tax returns.
42. For the year ended July 31, 2022, CHIMP reported a loss on revaluation of investments of \$32,798,240 (page 8 of Exhibit "W" above). This large loss prompted me to analyze the losses reported by other Bromley charities.
43. According to my calculations, attached as **Exhibit "Z,"** 33 of the Bromley charities have reported losses on fair market value and disposal of investments for a total of \$304 million, not including the \$35 million (2013-2022) reported by CHIMP. These losses are equivalent to 82 percent of the total value of all tax-receipted gifts reported by the 33 charities.
44. From CRA, I obtained, upon request, a spreadsheet that lists all gifts to qualified donees made by CHIMP since it began in 2011. By my analysis of this data, CHIMP has made 28,000 gifts (2011-2022). Of these, my analysis finds that 10,000 gifts were \$99 or less. In fact, more than 3,000 gifts were \$19 or less. Attached as **Exhibit "AA"** is a table that presents my analysis of the distribution of CHIMP's 28,000 gifts by dollar value, and a graph that I prepared.

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45. CHIMP's website states that CHIMP provides an online giving platform that enables its clients to make gifts to any of the 86,000 registered charities in Canada. CHIMP also says that its giving accounts are "free" to open and use. Attached as Exhibit "BB" is a copy of the relevant pages from CHIMP's website. This led me to wonder how CHIMP is able to cover the cost of processing tens of thousands of gifts for free.
46. From CHIMP's 2022 financial statements, I learned that during 2022, CHIMP paid \$13,632,500 to a for-profit company, Chimp Technologies Inc. ("Chimp Tech") (page 8 of Exhibit "X" above), My first affidavit included a company summary for Chimp Tech (Exhibit "MM" to my first affidavit) showing that its directors are Blake Bromley and John Bromley.
47. The \$13,632,500 paid to Chimp Tech in 2022 brings the total that CHIMP has paid to this company to nearly \$68 million. Exhibit "LL" in my first affidavit included pages of CHIMP's financial statements showing the annual amount paid to Chimp Tech. On an annual basis, the amounts that CHIMP has paid to Chimp Tech have soared, as follows:

Year Amount Paid from
CHIMP to Chimp Tech

2011	\$	50,522
2012	\$	81,429
2013	\$	158,540
2014	\$	681,701
2015	\$	2,573,169
2016	\$	3,573,722
2017	\$	3,484,139
2018	\$	12,773,997
2019	\$	7,202,359
2020	\$	10,118,606
2021	\$	13,641,648
2022	\$	<u>13,632,500</u>
Total	\$	67,972,332

48. Given that most gifts made via CHIMP are processed for free, I became concerned about the origin of the \$68 million that CHIMP has paid to Chimp Tech and did more research.
49. From CHIMP's website, I learned that on publicly traded securities and private company shares, CHIMP charges 0.5 percent on the first \$1,000,000 and 0.25 percent after that (in Exhibit "BB" above). Even if CHIMP had charged 0.5 percent on the

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entire \$800 million that CHIMP has reported as tax-receipted donations since it began, CHIMP would have collected only \$4 million. This leads me to conclude that CHIMP did not pay the \$68 million out of fees collects for processing online donations.

50. From CRA's website, I noticed over the past year that CRA has revoked a total of 19 charities that have been handled by Bromley's business. Attached as **Exhibit "CC"** are the relevant pages of the CRA website showing that all 19 charities share one of the two addresses used by Blake Bromley's business:

- a) Suite 1250 1500 W Georgia St. Box 62, Vancouver, B.C.
- b) 203 — 815 Hornby Street, Vancouver, B.C.

51. From CRA, I obtained, upon request, the audit reports, notices of intent to revoke and some of the correspondence relevant to the revocation of the 19 Bromley charities. My review of these documents found that several were revoked because of real estate transactions.

52. According to the CRA audit report on Timothy Foundation, its charitable status was revoked in part because more than 90 percent of the foundation's total expenditures were for "real estate management activity". Attached as **Exhibit "DD"** is a copy of the CRA audit report on Timothy Foundation. This prompted me to see if CHIMP and other Bromley charities were also involved in real estate activity. This reference is at page 7.

53. Records provided to me, upon request, from the B.C. Land Title & Survey office show that CHIMP and a related company called Chimp Holdings Inc. have been involved in the sale of at least 34 real estate properties in Coquitlam, Chilliwack, Hope, Langley, Merritt and Fernie. Attached as **Exhibit "EE"** is a copy of these records and a summary table that I prepared.

54. From the B.C. Assessment website, I determined that the current assessed value of the 34 real estate properties sold by CHIMP or Chimp Holdings Inc. is approximately \$37 million. The data on which this calculation is based is included in the table in Exhibit "EE" above.

55. During my research, I found that CHIMP is not the only Bromley charity involved in real estate transactions. By my analysis, ten of the Bromley charities, including CHIMP, have owned 188 real estate properties with a current market value of \$288 million, as follows:

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<u>Name of the Charity</u>	<u>Number of Properties</u>	<u>Years</u>	<u>Current Market Value</u>
CHIMP & CHIMP Holdings Inc.	34	2011-2022	\$ 37,811,800
Almoner Foundation	83	2018-2022	\$ 49,237,000
Global Charity Fund	4	2011-2022	\$ 27,310,000
Global View Foundation	3	2016	\$ 28,037,500
A Cappella Foundation	2	2017	\$ 6,412,500
Yunnan Foundation	1	2018	\$ 7,327,710
Sea to Sky Foundation	2	2012	\$ 4,004,000
Theanon Charitable Foundation	52	2009-2018	\$ 111,779,000
Timothy Foundation	5	2016-2022	\$ 1,436
Eden Glen Foundation	2	2016-2022	\$ 16,975,000
Total:	188		\$ 288,895,946

56. Attached as **Exhibit "FF"** is a summary table of my analysis and the title searches and pages of financial statements on which my analysis is based.
57. Noting that CHIMP's online giving platform is "free" and yet CHIMP was able to pay \$68 million to Chimp Technology Inc., I am concerned that the thousands of very tiny gifts that CHIMP makes are a facade that obscures the real estate transactions that CHIMP other Bromley charities are involved in.
- 58.1 am also concerned that "manufactured debt" and the loans made by the Bromley charities, including Fortius Foundation, serve no charitable purpose but are, instead, part of tax planning arrangements designed to confer undue tax benefits by abusing the privilege of charities to issue receipts for tax purposes.
59. From CRA audit reports, it appears to me that most of the 19 revoked, Bromley charities were part of complex tax planning arrangements that were designed to confer undue tax benefits.
- 60.1n one case, CRA revoked three of the Bromley charities (John & Lorena Redekop Foundation, Oak Tree Foundation and Steward's Charitable Foundation) that issued tax receipts for donated shares valued at \$32 million. CRA found that donated shares were returned to their donor via 19 transactions over seven years. Attached as **Exhibit "GG"** are the pages of the CRA audit report on these transactions ("the Redekop transactions").
- 61.1n another case, a donor, Stewart Blusson, made a tax-receipted gift of shares of his mining company, valued at \$30.5 million. A CRA audit found that Mr. Blusson got back his company's shares without paying to buy them back. For this and other violations, CRA revoked the charitable status of HSEF Renaissance Academy.

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Relevant pages are attached as **Exhibit "HH"** are copies of the relevant pages from the CRA Audit report on HSEF Renaissance Academy outlining the complex series of transactions whereby Mr. Blusson got back his donated shares. This revocation occurred in 2022, some 21 years after Mr. Busson donated the shares.

62. The CRA audit reports regarding the Redekop and Blusson transactions lead me to believe that the \$74 million "gift" between CHIMP and Fortius Foundation fits a very concerning pattern.

The Public Interest and Chill

63. Considering the magnitude of the plaintiff's claimed "donation" to FF and corresponding tax benefit to him, as well as the magnitude of the "gift" of \$74 million to FF from CHIMP — the largest it has ever made — and that CHIMP has issued tax receipts for \$800 million, I believe that the matters I wrote about, for which I am now defending this lawsuit, are of significant public interest.

64. This lawsuit has now been hanging over me for more than two years. It has had an adverse impact on my ability to express and publish my views and research on these important matters. Since the lawsuit, I have not been able to get any article published by media on this matter.

65. Attached as **Exhibit "II"** is an e-mail from Wendy Cox, Vancouver editor of The Globe and Mail in which she states, "We won't be accepting the Op-Ed because of the lawsuit surrounding it."

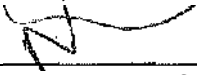
66. I believe that the threat of legal action directly resulted in a CTV media story being spiked. The story included commentary and information from me. A legal threat letter had been written by the plaintiffs legal counsel on behalf of the plaintiff as well as Blake Bromley, John Bromley, Fortius Foundation and CHIMP. Attached as **Exhibit "Jr"** is the letter sent by counsel for the plaintiff and the Bromleys to the legal department of Bell Media Inc. on March 1, 2021. The refers to upcoming media coverage by CTV journalist, Alissa Thibault.

67. On March 3, 2021, two days after the letter threatening legal action, I received a text, included in Exhibit "JJ" from Ms. Thibault. She wrote, "I've been in talks with the lawyers the last couple of days after sending in my story and my bosses have decided to put a pause on it."

68. Attached as **Exhibit "KK"** is a copy of a story (in both tear sheet and larger type versions) by Dan Fumano about the revocation of Fortius Foundation. The story was

published by The Vancouver Sun in May of 2023. The story does not mention me nor my research. Mr. Fumano told me that the version of his article that he submitted for publication did include a section about my research. However, that section was not published. Mr. Fumano told me that he believes that it was removed because of the ongoing legal action against me.

SWORN BEFORE ME at the City of
Vancouver, in the Province of British
Columbia, this 16 day of November, 2023



A Commissioner for taking Affidavits for
British Columbia



VIVIAN KRAUSE

DANIEL W. BURNETT, K.C.

Barrister & Solicitor
R.O. 80x 1
2900-733 SEYMOUR STREET
VANCOUVER, B.C. V6H 0S6
(604) 681-7150

No. VLC-S-S-217976
Vancouver Registry

In the Supreme Court of British Columbia

BETWEEN

SCOTT COUSENS

PLAINTIFF

AND

VIVIAN KRAUSE

DEFENDANT

A F F I D A V I T

OWEN BIRD LAW CORPORATION

P.O. Box 1
Vancouver Centre 2
2900 – 733 Seymour Street
Vancouver, BC V6B 0S6

Attention: Daniel Burnett K.C.
File No. 33554-0001

Analysis of Presentation of Alleged Defamatory Statements in Scott Cousens' Statement of Claim

Letter #1	As Stated in Scott Cousens' Claim	As Written in Vivian Krause's Letters
	<p>"Fortius has long said that it began with a donation of \$23 million from Scott Cousens. However, financial statements and tax returns tell a different story. According to these records, Fortius Sport & Health Centre began with a loan for \$17.1 million, not a gift of \$23 million. The total amount of gifts to Fortius from the private foundation of Scott Cousens, is \$130,000, not \$23 million...</p> <p>Instead of making a true donation of \$23 million, [Scott Cousens] became the front man of an elaborate scheme that involved loans, not true gifts. Furthermore, the actual money that was used to pay for the construction of building the sports centre came from lenders, not donors. And now, those lenders want their money back. Thus, the real reason that Fortius Sports Centre is being sold isn't COVID; its that Fortius Foundation needs to cash out so it can pay back its secret lenders...</p> <p>Fortius has engaged in a massive tax fraud scam whereby tax-receipted donations have been reported for donations that never existed. One of these bogus "donations" is the original, tax-receipted \$17,885,500 that was reportedly gifted to New Dimensions Foundation ("New Dimensions") back in 2008 and 2009. As we now know, that wasn't gifted to Fortius Foundation. Instead, Fortius got a loan for \$17.1 million. If that tax-receipted donation had been given to Fortius as a gift, Fortius Foundation would not have needed the loan of \$20 million at 10.25% interest from Romspen Investment Corp." [emphasis added through bold and underline]</p>	<p>Fortius has long said that it began with a donation of \$23 million from Scott Cousens. However, financial statements and tax returns tell a different story. According to these records, Fortius Sport & Health Centre began with a loan for \$17.1 million, not a gift of \$23 million. The total amount of gifts to Fortius from the private foundation of Scott Cousens, is \$130,000, not \$23 million, tax returns show (attached).</p> <p>My guess is that what may have happened is this: Scott Cousens had a dream to build a big, spectacular sports centre but for whatever reason, he wasn't prepared to pay for it out of his own funds. So instead of making a true donation of \$23 million, he became the front man of an elaborate scheme that involved loans, not true gifts. Furthermore, the actual money that was used to pay for the construction of building the sports centre came from lenders, not donors. And now, those lenders want their money back. Thus, the real reason that Fortius Sports Centre is being sold isn't COVID; its that Fortius Foundation needs to cash out so it can pay back its secret lenders.</p> <p>If my analysis is correct then writ large, Fortius has engaged in a massive tax fraud scam whereby tax-receipted donations have been reported for donations that never existed. One of these bogus "donations" is the original, tax-receipted \$17,885,500 that was reportedly gifted to New Dimensions Foundation ("New Dimensions") back in 2008 and 2009. As we now know, that wasn't gifted to Fortius Foundation. Instead, Fortius got a loan for \$17.1 million. If that tax-receipted donation had been given to Fortius as a gift, Fortius Foundation would not have needed the loan of \$20 million at 10.25% interest from Romspen Investment Corp.</p> <p>The following pages present my questions and the information and analysis upon which they are based. If I have presented anything that is factually incorrect or if I have missed any important points, please let me know. If I do not hear from you by the end of this week, I will assume that you do not dispute anything that I have stated here.</p> <p>In advance, thank you for taking time to consider this letter and reply.</p>

Analysis of Presentation of Alleged Defamatory Statements in Scott Cousens' Statement of Claim

Letter #2	As Stated in Scott Cousens' Claim	As Written in Vivian Krause's Letters
	<p>"[I]t is clear to me that the major "gifts" that have been made to fund The Centre appear to be part of a massive tax fraud scam involving hundreds of millions of dollars in tax-receipt donations and charitable gifts...</p> <p>The Bromley Charities that funded the start-up of The Centre:</p> <ul style="list-style-type: none"> o New Dimensions Foundation – this foundation is now closed. o Imladris Foundation – Scott Cousens' private family foundation o Fortius Foundation – This foundation is the current owner of the Centre. <p>The three charities listed above ('Fortius Trio') are run by the same people and for the same purpose: the financing of the original construction of The Centre...</p> <p>Scott Cousens is a director of all three. Imladris Foundation is under the sole direction of Scott Cousens, his spouse, and other individuals with the same family name.</p> <p>As I'll explain ahead, I believe that when The Fortius Trio is assessed as a whole, one sees that these and other of The Bromely Charities have misused tax receipted donations, making loans, not gifts, and then chalked up</p>	<p>On the basis of the information that I present ahead, it is clear to me that the major "gifts" that have been made to fund The Centre appear to be part of a massive tax fraud scam involving hundreds of millions of dollars in tax-receipted donations and charitable gifts.</p> <p>// 12 PARAGRAPHS //</p> <p>In November of 2020, when it was announced that The Centre would be purchased by the City of Burnaby, I wrote to the CRA to request the financial statements for a trio of The Bromley Charities that funded the start-up of The Centre:</p> <ul style="list-style-type: none"> o New Dimensions Foundation – This foundation is now closed. o Imladris Foundation – Scott Cousens' private family foundation o Fortius Foundation – This foundation is the current owner of The Centre. <p>The three charities listed above ("The Fortius Trio") are run by the same people and for the same purpose: the financing of the original construction of The Centre. Even though these are legally distinct entities, this trio of charities must, in my view, be assessed as a whole because of the transactions between them and because</p> <p>Scott Cousens is a director of all three. Imladris Foundation is under the sole direction of Scott Cousens, his spouse and other individuals with the same family name.</p> <p>As I'll explain ahead, I believe that when The Fortius Trio is assessed as a whole, one sees that these and other of The Bromely Charities have misused tax-receipted donations, making loans, not gifts, and then chalked up</p>

Analysis of Presentation of Alleged Defamatory Statements in Scott Cousens' Statement of Claim

Letter #2 Cont'd	As Stated in Scott Cousens' Claim	As Written in Vivian Krause's Letters
	<p>millions of dollars in interest payable on these loans. Far from serving a charitable purpose, these charities have undermined the purpose that they purport to serve and are now set to collect \$26.6 Million from The City of Burnaby...</p> <p>Fortius Foundation has long claimed that The Centre began with a donation of \$23 million from Scott Cousens. However, according to tax returns and financial statements, The Centre began not with a gift of \$23 million but rather with a loan for \$17.1 million from Scott Cousen's private foundation (Imladaris Foundation). Tax returns indicate that the total amount that Scott Cousens' foundation gifted to Fortius Foundation was \$130,000, not \$23 million...</p> <p style="background-color: yellow;">This means that instead of making a \$23 million gift to The Centre, a loan was made and then Scott Cousens' foundation charged \$9.6 million on that loan...</p> <p>Scott Cousens wanted to build a sports centre but for whatever reason, he wasn't prepared to pay for it. Instead of making a true gift of \$23 million, he became</p>	<p>millions of dollars in interest payable on these loans. Far from serving a charitable purpose, these charities have undermined the purpose that they purport to serve and are now set to collect \$26.6 million from The City of Burnaby.</p> <p style="background-color: yellow;">// 2 PARAGRAPHS //</p> <p>Fortius Foundation has long claimed that The Centre began with a donation of \$23 million from Scott Cousens. However, according to tax returns and financial statements, The Centre began not with a gift of \$23 million but rather with a loan for \$17.1 million from Scott Cousen's private foundation (Imladaris Foundation). Tax returns indicate that the total amount that Scott Cousens' foundation gifted to Fortius Foundation was \$130,000, not \$23 million.</p> <p style="background-color: yellow;">Financial statements for New Dimensions Foundation show that it tax-receipted \$17.9 million in non-cash donations in 2008 and 2009. Instead of giving \$17.9 million to Fortius Foundation as a gift, New Dimensions gave a loan for \$17.1 million. The note receivable for that loan and the interest owing were immediately transferred to Imladris Foundation which charged \$9.6 million (2010–2018) in interest in subsequent years. This means that instead of making a \$23 million gift to The Centre, a loan was made and then Scott Cousens' foundation charged \$9.6 million on that loan. In 2018, the note receivable for the loan and unpaid interest was transferred to CHIMP Foundation as a "gift" of \$29.3 million. I believe that the "gift" of \$29.3 million consisted of the mortgage against The Centre.</p> <p style="background-color: yellow;">// 10 PARAGRAPHS //</p> <p style="background-color: yellow;">My guess is that what may have happened over the years is this:</p> <p>Scott Cousens wanted to build a sports centre but for whatever reason, he wasn't prepared to pay for it. Instead of making a true gift of \$23 million, he became</p>

Analysis of Presentation of the Alleged Defamatory Statements of in Scott Cousens' Statement of Claim

Letter #2	As Stated in Scott Cousens' Claim	As Written in Vivian Krause's Letters
Cont'd	<p>the front man of an elaborate scheme that involved mostly loans, not true gifts. The actual money to pay for The Centre's construction appears to have initially come Rompsen Investment Corp. (in 2011), and subsequently from lenders, not donors who provided loans via The Bromley Charities. Most of the Bromley "gifts" were loans that just kicked the debt down the road.</p> <p>Of course, Fortius Foundation could donate The Centre to the people of Burnaby as a gift but then The Bromley Charities would not be able to extract \$26.6 million from the City of Burnaby."</p>	<p>the front man of an elaborate scheme that involved mostly loans, not true gifts. The actual money to pay for The Centre's construction appears to have come initially from Romspen Investment Corp. (in 2011) and subsequently from lenders, not donors who provided loans via The Bromley Charities. Most of the Bromley "gifts" were loans that just kicked the debt down the road.</p> <p>Of course, Fortius Foundation could donate The Centre to the people of Burnaby as a gift but then The Bromley Charities would not be able to extract \$26.6 million from the City of Burnaby.</p>

Analysis of Presentation of the Alleged Defamatory Statements of in Scott Cousens' Statement of Claim

Letter #3	As Stated in Scott Cousens' Claim	As Written in Vivian Krause's Letters
	<p>The \$23 Million "Donation" from Scott Cousens</p> <p>Fortius has long said that it began with a \$23 million donation from Scott Cousens, a local mining executive...</p> <p>Tax returns show that gifts to Fortius from Scott Cousens' private foundation total \$130,000, not \$23 million...</p> <p>As I explained in my initial letter, on the basis of my extensive research it is clear to me that Fortius Foundation is part of a massive tax fraud scam involving hundreds of millions of dollars in tax-receipted donations and charitable gifts that are a SHAM. For examples of tax-receipted donations and gifts that I believe are a sham, click here.</p> <p>The reason that I would characterize these gifts as a sham is because I believe that no real money changed hands. ...</p> <p>Furthermore, I believe that there was no true transfer of property since these gifts are between related parties and were not made without expectation of something in return. For these reasons, I believe that these gifts are sham transactions, paper shuffles conducted in a circuit of charities that operates like multiple pockets in the same pair of pants. ..." [emphasis added through bold and underline]</p>	<p>The \$23 Million "Donation" from Scott Cousens</p> <p>Fortius has long said that it began with a \$23 million donation from Scott Cousens, a local mining executive. However, as The Globe and Mail reported with an in-depth investigation by Kathy Tomlinson, this narrative is contradicted by tax returns and financial statements obtained from the Canada Revenue Agency.</p> <p>Tax returns show that gifts to Fortius from Scott Cousens' private foundation total \$130,000, not \$23 million.</p> <p>// Four paragraphs //</p> <p>As I explained in my initial letter, on the basis of my extensive research it is clear to me that Fortius Foundation is part of a massive tax fraud scam involving hundreds of millions of dollars in tax-receipted donations and charitable gifts that are a SHAM. For examples of tax-receipted donations and gifts that I believe are a sham, click here.</p> <p>The reason that I would characterize these gifts as a sham is because I believe that no real money changed hands.</p> <p>For a gift to be a true gift, there must be an intention on behalf of a donor to benefit the recipient, with a corresponding impoverishment to the donor.</p> <p>Furthermore, I believe that there was no true transfer of property since these gifts are between related parties and were not made without expectation of something in return. For these reasons, I believe that these gifts are sham transactions, paper shuffles conducted in a circuit of charities that operates like multiple pockets in the same pair of pants.</p>