

IN THE MATTER OF THE SECURITIES ACT
R.S.N.S. 1989, CHAPTER 418, AS AMENDED (the “Act”)

- AND -

IN THE MATTER OF AN INVESTIGATION IN RESPECT OF
KNOWLEDGE HOUSE INC.

- AND -

IN THE MATTER OF THE MOTION OF DAN POTTER and
KNOWLEDGE HOUSE INC. UNDER sections 6(1) and 151 of the *Act* for orders
revoking or varying certain investigation orders by removing the investigators
named therein and for additional related relief

NOTICE OF MOTION

TAKE NOTICE that a motion will be made by Dan Potter (“Potter”) and Knowledge House Inc. (“KHI”), collectively (the “Applicants”), before a panel of the Commission on a date and time to be set by the Commission for:

1. An ORDER revoking or varying the investigation order in the matter of Knowledge House Inc. issued on February 4, 2003 and the amending orders issued on April 23, 2003 and October 22, 2003 by removing the investigators named therein along with any additional Commission Staff and other persons involved in the investigation and by prohibiting the use of the fruits or work product of the investigation in any amended or new investigation or in any other proceeding on the following grounds:
 - (a) the Commission Staff and other investigators interpreted the *Act* incorrectly and in a patently unreasonable manner and exceeded their jurisdiction under the *Act* when on and after August 25, 2003 they intentionally demanded and took possession of email documents of the Applicants from A. Parish and accessed, copied and reviewed such documents without either obtaining the consent of the affected persons or applying to a judge of the Supreme Court for a warrant for that purpose, pursuant to section 27(5) of the *Act*;
 - (b) by the conduct referred to in sub-paragraph (a), the Commission Staff and other investigators trampled the Applicants’ common law rights to be free from trespass;
 - (c) by the conduct referred to in sub-paragraph (a) the Commission Staff and other investigators trampled Potter’s right not to be deprived of life, liberty and security of the person except in accordance with the principles of fundamental justice under section 7 of the *Canadian*

Charter of Rights and Freedoms and his right to be secure against unreasonable search and seizure under section 8 of the *Charter*;

- (d) by disclosing information or evidence obtained pursuant to the investigation to the RCMP without the consent of the Commission, the Commission Staff and the other investigators breached section 29A of the *Act*;
- (e) to the extent that the information or evidence disclosed to the RCMP included or was based upon information obtained from the Applicants' email documents, the Commission Staff and other investigators violated Potter's right not to be deprived of life, liberty and security of the person except in accordance with the principles of fundamental justice under section 7 of the *Charter* and his right to be secure against unreasonable search and seizure under section 8 of the *Charter*;
- (f) by the conduct referred to in sub-paragraph (d), the Commission Staff and other investigators exceeded their jurisdiction under the *Act* by conducting the investigation for an improper or collateral purpose, namely, for the purposes of the criminal law;
- (g) by refusing to return the documents referred to in sub-paragraph (a) after being repeatedly demanded by the Applicants to do so, the Commission Staff and other investigators committed theft and/or the tort of conversion;
- (h) by accessing and reviewing solicitor-client privileged communications among the documents referred to in sub-paragraph (a), the Commission Staff and other investigators committed egregious breaches of the solicitor-client privileges of the Applicants;
- (i) by refusing to act immediately to have the issue of solicitor-client privilege determined despite being repeatedly advised in writing by the Applicants that the documents referred to in sub-paragraph (a) included solicitor-client privileged communications, the Commission Staff and other investigators egregiously breached legal and ethical duties requiring them to do so;
- (j) by the conduct referred to in sub-paragraphs (a) to (i) and by their subsequent conduct continuing up to the present the Commission Staff and other investigators have manifestly exhibited actual bias or a reasonably apprehensible bias and otherwise failed to conduct the investigation in a fair and impartial manner in accordance with the principles of natural justice;
- (k) by the conduct referred to in sub-paragraphs (a) to (j) the Commission Staff and other investigators have conducted the investigation in a way

that is manifestly unfair to the Applicants, which brings the administration of justice into disrepute and which prejudices and embarrasses a fair hearing in any proceeding that may be brought pursuant to the investigation; and

- (l) such other errors of jurisdiction, law, procedural fairness and natural justice as may appear;
2. An ORDER requiring the return to the Potter of the material filed by the Commission pursuant to paragraph 1 of the December 8, 2005 order of the Supreme Court and subsequently returned to the Commission to be dealt with according to law by the April 19, 2006 Order of the Court of Appeal;
3. An ORDER requiring the return to KHI of all other CDs containing email documents from the KHI email server demanded and obtained from A. Parish on and after August 23, 2003, together any paper-based copies of such documents printed on or on behalf of Commission Staff and the other investigators; and
4. Such other ORDERS as may be considered just and necessary.

AND TAKE NOTICE that the Applicants will serve on the other Parties and the Commission, at least five (5) days before the day on which the motion is to be heard, further documentation setting out the details of the relief sought, the grounds of the motion, a summary of the evidence and authorities relied upon and such other material as may be advisable.

DATED at Halifax, Nova Scotia, this 30th day of June, 2006.



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On behalf of Knowledge House Inc.
and himself

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