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6   KING COUNTY DISTRICT COUNTY
            EAST DIVISION
7   NORTHEAST COURTHOUSE

8
    STATE OF WASHINGTON,   )
9   )
                           Plaintiff,   )   No. CR0656KC &Y40023762
10   )
            vs.   )
11   )   DECLARATION OF DR. BARRY
    RICHARD G. BEARDEN   )   LOGAN
12   Defendant,   )
)
13   )
)
14 _____)

15   I, DR. BARRY LOGAN, declare under penalty of perjury under the laws of the State of
    Washington that the following is true and correct:
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17   1. I am the State Toxicologist for the State of Washington, and Director of the State
            Toxicology Laboratory. I review, authorize and approve protocols, procedures and
            methods required in the breath test program.
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19   2. I reviewed, authorized and approved the software version 76016-004 for use in the
            Datamaster. This software is calibrated to perform a mathematical calculation on all
            duplicate breath samples when the mean of the two samples is .01 g/210 L of breath,
20   or higher, to determine that the two samples agree within +- 10% of their mean, and
            to produce an error code "20" in the database if the samples do not agree.
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22   3. In 1995, Sergeant Gullberg notified me of proposed changes in the software for which
            he was seeking my approval. His correspondence clearly indicates that the software
            was not calibrated to perform the calculation or to produce an error code when the
23   mean of the two samples was lower than .01 per 210/L of breath. I was aware of this
   when I approved this version of the software.

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4. In the Douglas County case, cited by the defense, I testified that I did not recall whether I was consciously aware of the exception in the software in 1999 when I again approved the software. I had already approved the software in 1995 with that exception, and it was not changed by the 1999 letter from Sergeant Gullberg so I would not have been focused on that issue. At the time I testified I had not had an opportunity to review the 1995 correspondence, which would have refreshed my memory.

5. Sergeant Gullberg and I exchanged correspondence when changes were made to the software in later years. Specifically, in 1997, 1999 and 2004, we exchanged letters for the purpose of identifying additional changes to the software. When I approved the software on those dates, it was clear in my mind that I was approving the entire software – including the specific functions that were being changed as well as all the myriad of functions which had not changed from the last version. There was no need, nor would it be practical, to specifically mention in my approval letter the hundreds of software functions that had not changed, since those functions had already been approved in earlier versions of the software.

I certify under penalty of perjury that the above testimony is true and correct.

Signed at ___Seattle___ , Washington   Date___3/25/05_____
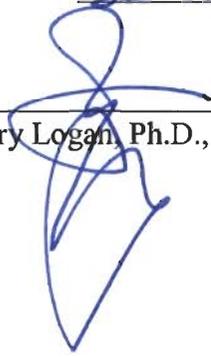
_____
Barry Logan, Ph.D., Washington State Toxicologist

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