PROFESSIONAL BIOGRAPHY OF BROOKS L. HILLIARD CMC® CCP

Brooks Hilliard, President of Business Automation Associates, Inc., is one of fewer than 15 professionals in the world who is both a Certified Management Consultant™ (CMC) and a Certified Computing Professional (CCP). Business Automation is an independent consulting firm based in Scottsdale, Arizona and specializing in computer system selection and problem resolution. In his consulting capacity, Mr. Hilliard has been engaged by more than 200 firms in a wide variety of industries and professions. Although it has no affiliation with any supplier of computer products or services, Business Automation has recommended systems incorporating products from nearly every major hardware manufacturer and software developer. In order to maintain its objectivity and avoid any possibility of conflict of interest, Business Automation does not do software development, implement computer software or systems, or sell any computer products or services.

Approximately a half of Business Automation's engagements have been expert witness/consultant projects. Mr. Hilliard has testified more than 50 times and has been engaged for several dozen expert assignments in 37 states, including matters relating to computer system non-performance (both software and hardware), recovery of missing and deleted data, the use of fraudulent computer evidence, intellectual property and computer security. His activities have included assistance with case evaluation, development of pre-trial and deposition strategies, evaluation of damages, development of expert opinions and deposition/courtroom testimony. He has been successfully Daubert tested and qualified as in expert in both state and federal jurisdictions. Prior to founding Business Automation in 1980, Mr. Hilliard worked for several computer companies where his responsibilities, included positions in software development, sales, marketing, field service, contract negotiations and general management.

The CMC designation is awarded by the Institute of Management Consultants, USA, the US chapter of the only world-wide certifying body for management consultants. The CCP designation is awarded by the Institute for the Certification of Computer Professionals, an international certifying authority sponsored by more than twenty domestic and international computer professional associations. To achieve these certifications, Mr. Hilliard has undergone peer reviews, client audits, competency tests and oral interviews; he has complied with continuing education requirements and has pledged to uphold the Codes of Ethics for both organizations. He has also served as a member of the national Board of Directors and Chairman of the Ethics Committee for the Institute of Management Consultants, USA.

In addition to his consulting activities, Mr. Hilliard has served as an officer or board member for the Arizona Chapter of the Institute of Management Consultants, the Arizona Harvard Business School Association, MIT Alumni Club of Phoenix, the Arizona Chapter of the National Conference of Christians and Jews (NCCJ), Devereux Foundation Arizona Advisory Board and the Phoenix 100 Rotary. He has also been an active participant in the Arizona State Bar Technology Task Force, the Arizona Technology Council, the Independent Computer Consultant Association and the Forensic Expert Witness Association. He is a member of the IEEE (formerly the Institute of Electrical and Electronics Engineers) and the Project Management Institute. He has done commentary for Public Radio International's nationally syndicated MARKETPLACE news program, led seminars for the American Management Association and spoken professionally at numerous computer, management, professional, corporate and trade association meetings.

Mr. Hilliard has also authored a book, "Buying a Computer for Your Growing Business, An Insider's Guide", which was published by Dow Jones.

Mr. Hilliard's educational background includes an M.B.A. from Harvard Business School with emphasis on small business management and marketing. He also holds a Baccalaureate degree in mechanical engineering with Deans' List academic honors from the Massachusetts Institute of Technology. In addition, Mr. Hilliard has served as a Faculty Associate with the Arizona State University School of Business.

Born and raised in Los Angeles, Mr. Hilliard has lived in Arizona, California, Massachusetts, Maryland and Washington, D.C. (where he served as an officer in the U.S. Coast Guard).

BUSINESS AUTOMATION

BROOKS HILLIARD'S EXPERT WITNESS ENGAGEMENTS

Brooks Hilliard has testified in more than 70 computer-related cases and has been engaged as a testifying and/or consulting expert in dozens of others (in more than 36 states) that settled before testimony was required. He has been qualified as an expert and testified in both state and federal courts, as well as giving testimony in arbitrations, mediations and formal governmental hearings. Attorney references and case captions are available on request.

Enterprise software (ERP, CRM, SCM) implementation, functionality and service

Brooks Hilliard has been a consulting and testifying expert, for both buyers' and vendors' counsel, in more than 50 cases involving ERP, CRM, SCM and other enterprise software and systems that were alleged[1] not to have performed as promised.

- Testified for a regional wholesale distributor of construction products that was sold a manufacturing ERP system that failed to perform crucial distribution functions including multi-warehouse inventory management, over-the-counter sales, etc. (favorable jury verdict).

- Testified for a developer of ERP software regarding its culpability for an unsuccessful software implementation done by a third party (favorable jury verdict). Hodell

- Testified for a developer of ERP software for process manufacturers regarding collection of implementation fees after its customer changed its requirements multiple times during the implementation process (deposition testimony, awaiting arbitration decision).

- Testified for a major ERP software developer regarding the implementation of its software for a state government regarding issues resulting from a change in the contracting agency and subsequent overhaul of the functionality requirements (settled after deposition testimony).

Most of these projects involve allegations of fraud, misrepresentation, negligence, ineffective on nonexistent quality control (including failure to adhere to ISO 9000

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[1] The term "alleged" is used purposely to emphasize the fact that, prior to forming an opinion, Mr. Hilliard begins every assignment — whether plaintiff or defense — with no preconceived ideas of which party was responsible for the problem at issue. He believes that no opinion can be fairly rendered or effectively defended unless the expert begins his review from an unbiased starting point.

certified procedures), inadequate testing, flawed development and/or service performance below industry standards.

Actions have included review of actions, documents and issues; production of opinion letters and affidavits; assistance in case strategy; preparation of interrogatories and deposition questions; deposition testimony, trial testimony and assistance in settlement negotiations. References are available on request.

Software Licensing and Systems Contracting

As a consulting and testifying expert, he has been engaged in numerous litigation projects where the understanding of computer industry terms of art and/or the common industry usage of such terms in the context of a computer system or software acquisition or the provision of computer-based services was a primary factor or a significant contributing factor to the understanding of the issue in dispute. Examples include:

- Testified about the normal and customary understanding what perpetual software licenses cover, and what various terms of art are customarily understood to mean, when the license coverage and terms of art in the Software Licensing Agreement (SLA) were not defined in the license itself (settled favorably after deposition testimony).

- Testified regarding developer and customer compliance with terms of an OEM software development agreement (settled favorably after deposition testimony).

- Testified in multiple AAA arbitration hearings regarding meaning of disputed computer industry terms used in software license agreements, and contract-related documents in vendor-customer litigation (multiple matters, including one where arbitration panel's award was confirmed in Federal District Court relying primarily on Mr. Hilliard's opinion).

- Testified regarding software license fees. Software was licensed on a per-user basis with different fees for different types of users and the issue dealt with whether licensee's usage complied with the license terms (settled favorably after deposition testimony).

- Testified in Defense procurement matter, regarding conformance of licensed software to terms of procurement contract (favorable ruling by Armed Services Board of Contract Appeals).

- Testimony ruled admissible after Daubert Challenge regarding the application of specialized knowledge and review of contract terms to software functionality, quality and implementation issues (case in Federal District Court settled favorably subsequent to Daubert ruling, copy of ruling available on request).

Opinions in these engagements were based on Brooks Hilliard's industry knowledge and experience negotiating and reviewing hundreds of software licenses, computer systems and services contracts as an information technology consultant and, prior to founding Business Automation, as an industry executive. Because he is not an attorney, Mr. Hilliard is careful to confine his opinions to normal and customary understanding of the terms of art in the contract rather than expressing opinions on the meaning of the contract itself. References available on request.

Intellectual property (Patent, Copyright and Trade Secret)

Brooks Hilliard has been involved as a consulting and testifying witness in more than a dozen matters relating to the ownership and/or alleged misappropriation of intellectual property. These matters have involved computer software, computer hardware and confidential business knowledge/information. Examples include:

- Testified in copyright matter regarding alleged misuse of licensed software to provide independent third-party support for ERP software (deposition and trial testimony).

- Testified in two software patent cases for SCM (Supply Chain Management) software developer defending plaintiffs' invalidity allegations relating to anticipation and obviousness assertions, including more than 50 systems and methods claims for eight alleged prior art systems (one favorable jury verdict, one favorable settlement after hung jury).

- Prepared reports for patent owner in Inter Partes Review of patents litigated in SCM cases referenced above.

- Multiple engagements relating to whether one ERP software application was derived based on information gained from alleged misappropriation of trade secret gained from another software developer.

- Neutral expert review in a matter related to the functionality of two event management software applications, to determine whether one was derived from the other (expert report accepted by both parties, matter settled amicably based on results of review).

These engagements have involved the complete range of copyright, patent and trade secret issues. Project efforts have included forensic investigation, production of opinion letters, deposition testimony, trial and arbitration testimony and assistance in settlement negotiations. References are available on request.

Securities Litigation

Mr. Hilliard has been engaged in two matters involving analysis of whether the completion and reliability status of ERP software was accurately disclosed securities analyst briefings, SEC filings and/or annual reports. He has prepared

written opinions and given depositions testimony. References are available on request.

Missing, destroyed and/or fraudulently created data (eDiscovery)

Mr. Hilliard has performed as a consulting and/or testifying expert in more than 50 matters involving the recovery and/or authentication of computer- generated data.

The majority of these matters have dealt areas of practice other than high technology, with the electronic discovery being the only computer issue in the litigation. Examples include:

- Numerous matters involving the discovery/recovery of documents and other evidence — including missing or deleted documents — on opposing litigants' hard drives, servers, e-mail records and/or backup media.
- Several assignments dealing with questions of whether key computer documents have had their dates and/or contents altered after the fact, or whether their purported creation date is consistent with the evidence on the computer hard drive where they are stored.

Engagements have dealt with employment matters relating to documents that may have been taken by departing employees, intellectual property, insurance bad faith, corporate/partnership dissolution and suspected embezzlement of funds.

Business Automation utilizes the same forensic techniques and software used by law enforcement and governmental agencies (not available through common retail distribution channels) to recover missing data, determine whether data has been purged abnormally and/or to authenticate document dating. Assignments have included forensic investigation, production of opinion letters, deposition, hearing and trial testimony and assistance in settlement negotiations. References are available on request.

Computer equipment and software valuation

Mr. Hilliard's assignments have included liquidation and "fair market" valuation of computer systems, software and related equipment for matters dealing with business dissolutions, insurance, bankruptcies and allegations of arson. He has prepared written opinions and given depositions and courtroom/arbitration testimony. References are available on request.

Criminal

Brooks Hilliard assisted with pre-trial discovery as an expert consultant in multiple matters involved alleged fraud. Issues have related to computer security and unauthorized electronic funds transfer. Reference available on request. [Note: Business Automation does not accept assignments relating to allegations of pornography or child abuse.]

Regulatory and procurement irregularity

Mr. Hilliard has performed as a consulting and testifying expert in several matters involving governmental regulation and allegedly flawed commercial and governmental procurement of computer equipment and other regulatory issues. These plaintiff and defense matters have involved such subject areas as:

- Protest of a governmental procurement.
- A utility rate-setting calculation.
- "Whistle-blower" termination cases.
- Immigration status of a computer professional.
- Recission of a computer contract signed under suspicious circumstances.

Brooks Hilliard's efforts have included the production of opinion letters and affidavits, assistance with settlement negotiations, deposition testimony and public testimony at a regulatory agency hearing. References are available on request.

ABOUT THE CMC

Certification

When you see the initials CMC following a consultant's name, it means that he or she is a Certified Management Consultant and has met the strict certification requirements of the Institute of Management Consultants USA, Inc. Candidates for Institute certification undergo a thorough investigation of their consulting experience. CMC (Certified Management Consultant) is a certification mark awarded by the Institute of Management Consultants USA and represents evidence of the highest standards of consulting and adherence to the ethical cannons of the profession. Less than one percent of all consultants have achieved this level of performance.

Code of Ethics

CMCs pledge in writing to abide by the Institute's Code of Ethics. Their adherence to the Code signifies voluntary commitment above and beyond the requirements of law. Key provisions of the Code require that CMCs:

- Safeguard confidential information
- Render impartial, independent advice
- Accept only those client engagements they are qualified to perform
- Agree with the client in advance on the basis for professional charges
- Develop realistic and practical solutions to client problems.

The Institute enforces the Code by receiving and investigating complaints of violations and by taking disciplinary action, including revocation of certification against any member who is found guilty of a Code violation.

Standards of Competence

Every step leading to the CMC designation is designed to verify the candidate's professional competence:

- A CMC must have five years experience in the full-time practice of management consulting, with major responsibility for client projects during at least one of those years plus a bachelors degree.
- The CMC must provide multiple references, most of them officers or executives of clients served. These references are investigated to assure that the consulting relationship met the clients' objectives.
- The CMC must provide written summaries of client assignments (disguised to protect client identity).
- The CMC must pass a qualifying interview by senior CMCs, demonstrating professional competence and current knowledge in areas of specialization, application of experience, and understanding of the management consulting process.

Mark of Excellence

The CMC designation is a valuable tool to help executives select a management consultant. It indicates that individuals meet the profession's standards of competence and ethics. Certification by the Institute of Management Consultants is the mark of excellence among management consulting professionals.

❖ **Position Paper - Fact Sheet**

Institute for the Certification of Computing Professionals (ICCP)

Offering the only broadly applicable and internationally recognized certification program in the profession, the ICCP is seen as the standard bearer for all professionals in the business data and computer industry.

Since its founding in 1973, the ICCP, a non-profit 501(c) (6) organization, has dedicated itself to the establishment of high professional standards and the furthering of the goals of its parent societies.

It's sister organization the ICCP Education Foundation, a 501(c)(3) charitable organization, offers important educational programs and services to computer professionals, educators, the computer industry, government and the general public. As the industry grows and changes rapidly, the ICCP explores and develops new examinations with business partners and sponsorship by leading organizations.

Research

The ICCP and ICCP Education Foundation, celebrating 40+ years as the standard bearer for professionals in the computer industry, have extended their efforts to promote the computer profession with the Center for Computing Education Research (CCER) that provides outcome assessment of program quality for colleges and universities for (re)accreditation purposes in Computing Science, Information Systems and Information Technology

The ICCP funds ongoing ICCP research through Athabasca University – Canada's Open University which links researchers at many Universities and from industry on emerging knowledge standards and skills required for jobs internationally.

Certificates

By offering certification for all professional designations – such as Certified Data Governance & Stewardship Professional, Certified Data Scientist, Certified Big Data Professional, Certified Business Intelligence Professional (CBIP), Certified Computing Professional (CCP), Certified Data Management Professional (CDP-DM), and Certified IT Consultant (CITC), Certified Applications Developer, Certified Computer Scientist, etc., ICCP provides for all industry needs. For recent entrants into the IT field ICCP offers the Associate Computing Professional (ACP), Computer Science Associate (CSA), Information Systems Analyst (ISA) and Associate Business Data Management Professional (ABDMP) - the ICCP has helped to define and raise the standards of the industry.

ICCP examinations have been evaluated by the American Council on Education for Credit by Examination with the goal of creating a high uniform standard for computer knowledge and expertise at the Undergraduate and Graduate levels.

For HR Departments, departmental and quality improvement managers, the ICCP examinations deliver a practical means of employee assessment, through Skills Gap Analysis, providing for objective and formalized promotion in the workplace that supports the creation and maintenance of centers of excellence.

Membership Summary

Over 55,000 computing professionals have already earned the recognition and rewards gained from passing ICCP exams -- the most widely accepted means of professional certification in the industry.

Manager/Director/CIO/VP: **30% of membership**
Company size >1,000 employees: **60% of membership**
Job Types: **Systems Analysts, MIS Managers, Software Engineers, Systems Developers, Programmer-Analysts, Senior Technical Architects, Business Analysts, Data Managers, DBAs, Data Analysts, Business Intelligence Analysts, Systems Integrators, Business Process Managers, Systems Programmers, Project Managers, Network, Application and Systems Architects.**

By Industry

(15%)	Network Companies/Comn.-Telcos
(14%)	Government: Federal, State, Local
(12%)	Education and Academic Programs
(10%)	Manufacturing Process Industries
(9%)	Legal Services/Insurance / Real Estate
(7%)	Finance / Banking / Accounting
(7%)	Manufacturing & System Integrators
(7%)	IT General & Data Processing Services
(5%)	Business Services/Ecommerce/Internet
(4%)	Transportation / Utilities
(4%)	Health / Medical / Dental Services
(3%)	Retail/Wholesale/Distribution/Service
(2%)	Research / Development Lab/ Aerospace
(2%)	Engineering/Construction/Architecture
(1%)	Publishing/Broadcast/Advertising
(1%)	Pub. Relations/Marketing/Travel/Recreation

By Company Size

(39.9%)	1,000 to 4999 employees
(20.5%)	Less than 50 employees
(20.1%)	More than 5000 employees
(9.0%)	100 to 499 employees
(8.3%)	500 to 999 employees
(2.2%)	50 to 99 employees

By Geographic Location

(91.0%)	North America
(3.0%)	Asia Pacific
(2.0%)	Caribbean & Latin America
(2.0%)	Middle East & Africa
(2.0%)	European Economic Community

iccp Institute for Certification of Computing Professionals

"The standard that all others covet",
Former CIO NASA