

**CANADIAN
HUMAN RIGHTS
TRIBUNAL**



CANADA

**TRIBUNAL CANADIEN
DES DROITS
DE LA PERSONNE**

BETWEEN/ENTRE:

RICHARD WARMAN

Complainant

and/et

CANADIAN HUMAN RIGHTS COMMISSION

Commission

and/et

ALEXAN KULBASHIAN, JAMES SCOTT RICHARDSON,
TRI-CITY SKINS.COM, CANADIAN ETHNIC CLEANSING
TEAM and AFFORDABLESPACE.COM

Respondents

BEFORE/DEVANT:

ATHANASIOS HADJIS

THE CHAIRPERSON/
LE PRÉSIDENT

ROCH LEVAC

REGISTRY OFFICER/
L'AGENT DU GREFFE

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CANADIAN HUMAN RIGHTS TRIBUNAL/TRIBUNAL CANADIEN
DES DROITS DE LA PERSONNE

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TRIBUNAL, 11TH FLOOR, 160 ELGIN STREET, OTTAWA, ONTARIO, ON
FRIDAY, OCTOBER 15, 2004, AT 3:02 P.M. LOCAL TIME

CASE FOR HEARING/CAUSE DEVANT ÊTRE ENTENDUE

IN THE MATTER of a complaint filed by Richard Warman, dated
February 5, 2002, pursuant to section 13, subsection 1 of the
Canadian Human Rights Act against Alexan Kulbashian, James Scott
Richardson, Tri-CitySkins.com, Canadian Ethnic Cleansing Team and
AffordableSpace.com. The complainant alleges that the
respondents have engaged in a discriminatory practice on the
grounds of religion, race and national and ethnic origin in the
matter related to the usage of a telecommunication undertaking.

APPEARANCES/COMPARUTIONS

Richard Warman	on his own behalf as Complainant
Monette Maillet	on behalf of the Canadian Human Rights Commission
Alexan Kulbashian	on his own behalf as Respondent
James Scott Richardson	on his own behalf as Respondent

Telconference

--- Upon commencing teleconference on Friday,
October 15, 2004, at 3:02 p.m.

THE CHAIRPERSON: Hello, everyone.
Good afternoon.

MS MAILLET: Hello.

MR. WARMAN: Good afternoon.

MR. KULBASHIAN: Hi.

THE CHAIRPERSON: I have organized
this conference call to deal with a letter that we
received by electronic mail from Mr. Kulbashian.

Has everyone received a copy of this?

MS MAILLET: Yes, I have.

THE CHAIRPERSON: Mr. Warman?

MR. WARMAN: Yes, I have.

THE CHAIRPERSON: And Mr. Richardson?

MR. RICHARDSON: Yes, I have.

THE CHAIRPERSON: So that we are
aware of what is being requested here, I will read it
into the record.

Mr. Kulbashian writes that he would
like to request a subpoena for Detective Terry Wilson's
employment records from the London, Ontario police.
The request includes, first, his employment records;
second, any complaints filed against him; third,

anything they have on file about him while he was employed there. That's it.

Mr. Kulbashian, can you explain to me in greater detail why you want this subpoena?

MR. KULBASHIAN: Okay. Basically, the night of my mailing I received three pieces of e-mail from British Columbia, from people who are in the jurisdiction of Detective Wilson at the moment, notifying me of actions that are consistent with actions that he had taken in London that would pretty much be in violation of his duties and as well as be somewhat illegal.

I know for a fact that there is an ongoing lawsuit against him right now for some of those actions, still ongoing from a few years ago, as well as complaints that were filed.

The problem is this stuff just got to my attention because it was just sent to me the same night that I e-mailed off the request for a subpoena.

Basically the reason I need a subpoena is because it is going to be a credibility issue, because Detective Wilson has admitted to being the one in charge of the case, as well as the primary collector of the information and disclosure.

There is information, an indication

of a possible modification of disclosures, lies in British Columbia, as well as indications that he might have also done -- well, not might have, actually did do that in London.

THE CHAIRPERSON: Can you be more explicit on what you are talking about. Modification of what exactly?

MR. KULBASHIAN: Disclosure. Basically as far as making things up, going as far as making things up or trying to see -- just throwing everything that he had and hoping that something sticks.

Do you want a little more detail, like specific examples?

THE CHAIRPERSON: Yes. We need detail because, as you will recall, our disclosure rules require you to state what a witness will say. So we need to know what you are talking about.

MR. KULBASHIAN: Basically the issue is, for example, there was an issue of a person -- I am not going to name his name.

THE CHAIRPERSON: Mr. Kulbashian, you are going to have to speak slower again, because we have a court reporter here and I am sure he is having some difficulty.

MR. KULBASHIAN: Okay.

THE CHAIRPERSON: Go on slowly,
please.

MR. KULBASHIAN: Sorry about that.

Basically, there is an issue -- I am not going to name the individual involved. The individual had a gun licence, had no pending charges, no criminal record or anything like that. Detective Wilson called him into court, perjured himself on the stand and gave as much information as -- like, basically, he literally perjured himself and hoping that something would stick.

Eventually, with regard to the fact that the guy had no criminal record or impending charges --

THE CHAIRPERSON: Slowly, please.

MR. KULBASHIAN: Yes. Regarding the fact that the guy had no criminal record or pending charges, his gun licence was revoked for life because Detective Wilson had lied, perjured himself on the stand.

That is part of the ongoing lawsuit right now against him.

THE CHAIRPERSON: Where?

MR. KULBASHIAN: In London.

THE CHAIRPERSON: You are saying that there is a lawsuit against this detective.

MR. KULBASHIAN: Yes, from members of a group that were operating in London, including him visiting their workplace and lying to their employers, which is in a way consistent with -- not only lying but threatening their employers on getting them fired, which is in a way consistent with some of the testimony that my correspondence provided during the Tribunal case -- the questions he asked, sorry.

Basically, I am trying to show a pattern of conduct to show that basically lying and not providing information is not beneath him.

THE CHAIRPERSON: Do you have anything that relates to this case specifically?

MR. KULBASHIAN: Yes, we do have some things that relate to this case. The reason I am trying to show a pattern of conduct is so, if possible, my request also would be to drop all disclosure, disregard disclosure that he had provided on behalf of the criminal investigation.

THE CHAIRPERSON: I think you are misusing the word "disclosure". You mean the evidence that he has provided.

MR. KULBASHIAN: Sorry, any evidence

that he has provided that stems from the criminal investigation that the applicants are using against myself and the respondent, the co-respondent.

MR. RICHARDSON: This is Mr. Richardson.

Everything is based on Terry Wilson. He is the arresting officer. He is the one who went to the court cases, the bail hearings. We believe and it is our opinion that he lied to hurt us and to keep us in. It is also his work that Mr. Warman used to pull this case against us.

We are trying to prove that this police officer is going above --

THE CHAIRPERSON: Slowly, please.

MR. RICHARDSON: With other people plus now in his new jurisdiction and it is a pattern. So this whole case is based on one cop's testimony that we are trying to prove has a pattern of lying. It's as plain and simple as that.

THE CHAIRPERSON: All right.

MR. KULBASHIAN: Not just lying, but going to criminal levels of perjuring himself, filing false affidavits, as well as going as far as threatening employers, threatening individuals, harassing, criminal harassment of individuals. That is

kind of like the situation.

I am aware of certain complaints that were filed, that were indicated from the e-mail that I received, from people that were involved with him while he was stationed in London, as well as an ongoing lawsuit by a Raphael Bergmann right now that is being undertaken against him personally, not against the London police but against him.

THE CHAIRPERSON: Let's be more clear here. Your request was fairly broad in nature, but having heard you I think what you are really looking for is information that the London, Ontario, Police Service may have regarding complaints filed against him.

I think the second item is what you are really talking about.

MR. KULBASHIAN: But also the first item because --

THE CHAIRPERSON: Employment records. Why do you want to know if he went on vacation in 1977 or something?

MR. KULBASHIAN: Not necessarily vacation but also the fact that he was demoted from detective to street officer and the reasons behind that.

THE CHAIRPERSON: You could ask those questions to him, you know.

MR. KULBASHIAN: That's right. The problem is whether or not he tells the truth, knowing that he has previously perjured himself, and also --

MR. WARMAN: Member Hadjis, it is Richard Warman here. I am going to have to interject here.

I think the kind of defamation that is going on and Mr. Wilson not being here to defend himself, there is a certain level of decorum that I think the Tribunal should maintain.

MS MAILLET: It is Monette Maillet speaking.

I was going to say that I am really concerned about the allegations. These are very serious allegations made against Mr. Wilson, who isn't on trial, by the way. I am afraid that this is going to influence the Tribunal who is sitting and hearing this case and hearing the evidence of Mr. Wilson when, as Mr. Warman said, he is not able to respond to anything.

The complainants talk about seeing what sticks. That may be what is happening here. So I am concerned.

THE CHAIRPERSON: Your point is well taken. You can rest assured that the Tribunal is not being influenced by these statements, although you should refrain from using those types of words, Mr. Kulbashian.

MR. KULBASHIAN: Okay.

THE CHAIRPERSON: You are making these allegations that I have no evidence whatsoever are true in any way on what I have here.

The point of this discussion is you wish to have a subpoena issued, a subpoena duces tecum, I gather, for documents against the London, Ontario, police for at the very least complaints filed against the individual and any consequences related thereto.

MR. KULBASHIAN: That's right.

THE CHAIRPERSON: I realize that a lot of rhetoric may have been heard here, but on that basis, the way I have framed the request, what do the other parties have to say?

MS MAILLET: I will object to Mr. Wilson's either employment records or any other of his work files being disclosed as irrelevant. There has been zero evidence in this case that any documents have been modified whatsoever.

The fact that he had a complaint

against him -- which I don't know if he has -- that is unrelated to this case, I don't see how that would be relevant.

We have to remember that what is at issue here is whether or not hate messages were communicated by the respondents.

I have a really difficult time trying to see how any complaints filed against him that are not related to this case are going to be relevant. There is no indication whatsoever that anything was made up or modified. If they have that evidence, bring it forward.

MR. RICHARDSON: This is Mr. Richardson.

I beg to differ. I think I proved beyond a reasonable doubt the last time we were there, the one day he testified that I was uncooperative and all that, and the fact that he called my boss and lied to him and threatened him, which seems to be a pattern he has been doing with the others we are trying to put in front of you. Also with the fact that he lied basically on my bail request when I proved that beyond a shadow of a doubt the next day.

MS MAILLET: I don't remember any evidence of that.

In any event, when the respondents proceed with their case if they have witnesses they want to call and something has come up as a result of Mr. Wilson's evidence that they feel they have to address, we can look at that at that time.

THE CHAIRPERSON: I think that is what they are trying to do. The subpoena request here, if I understood correctly -- and perhaps I am wrong about this -- would be for their case. It would not be for the cross-examination of this witness. Is it?

MR. RICHARDSON: It is for our case.

MS MAILLET: I would have a difficulty with this material not being put to him.

THE CHAIRPERSON: That's true.

MR. KULBASHIAN: He knows what is in his files. He knows what his employment record is and he knows what he has in there.

THE CHAIRPERSON: So these questions have to be put to him.

I think maybe it is a bit premature.

I am just thinking out loud here.

If you have questions that you want to put to this individual, you could put them to him and see what his reply is and that might determine whether calling in the London, Ontario police is

relevant.

MR. KULBASHIAN: This is
Mr. Kulbashian.

We are not asking to call the London,
Ontario police. We are asking to basically get his
file, first of all, as far as complaints go.

THE CHAIRPERSON: Someone has to
produce the file.

MR. KULBASHIAN: That's right. That
will be the London, Ontario police. We will be
subpoenaing the file.

THE CHAIRPERSON: You don't subpoena
a file. You subpoena an individual.

MR. KULBASHIAN: You subpoena an
individual? Can we subpoena the records?

THE CHAIRPERSON: No, that is not how
it works. You subpoena an individual. You contact a
person. This is perhaps what is missing here. I don't
know if you have attempted to contact the London,
Ontario police and obtain what you may be seeking here.

What you do is you subpoena an
individual. A subpoena orders that person to show up
at the hearing and then you specify to that person when
you show up at the hearing, bring along these
documents, to ensure that the person has those

documents with him or her when they testify.

So it is not documents that you are subpoenaing; it is individuals.

That is why I am surmising from the way your letter was drafted that you intended to ask the Tribunal to issue a subpoena compelling a representative from the Records Department, let's say, of the London, Ontario Police Service to come to the hearing to testify with documents in hand relating to Mr. Wilson's record as it pertains to complaints of fabrication of evidence, modification of evidence, something like that.

MR. KULBASHIAN: Also other allegations too.

In that case, if I could request a subpoena for Sergeant Russell, who was his supervisor for I guess the majority of his involvement with the unit when he was in London.

He is from the London, Ontario police. He would be his supervisor, from what I know, for the majority of time. However, he has been uncooperative with any request that I have made to him.

So hopefully a subpoena might compel him to be a little more cooperative.

Hello?

THE CHAIRPERSON: Yes, I am listening.

MR. KULBASHIAN: Sorry. I thought I was getting cut off.

THE CHAIRPERSON: No. That's fine.

MR. WARMAN: It's Richard Warman here. I would just like to interject.

As long as we are covering off some of the things that Mr. Kulbashian has raised, I am personally aware of some of the circumstances that he has described, and it is my personal opinion that he is grossly misdescribing them, sort of mischaracterizing the facts in those cases.

In fact, the materials that he has raised are substantially different from the way that they are being presented to the Tribunal.

MR. KULBASHIAN: My question to Mr. Warman would be: How would you know that they are different than the way I am stating them, from Terry Wilson or someone else?

THE CHAIRPERSON: I am not going to engage in a dialogue here on cross-examination.

The test that I am working with is relevance, if it is relevant to the case.

Respondent Kulbashian and to some

extent Mr. Richardson are saying that the evidence that has been presented -- well, we know that a good portion of the evidence that has been presented was collected by Mr. Wilson, both evidence that was used by Mr. Wilson in his testimony as well as evidence referred to by Mr. Warman in his testimony.

The suggestion here is that the evidence is tainted in some way -- not the evidence of those witnesses, but that the material collected by Mr. Wilson was tainted in some way, and that was relied upon in his testimony and that of Mr. Warman.

In order to demonstrate how they are tainted, I am being asked to look into some records of complaints filed against Mr. Wilson.

Have I characterized it correctly, Mr. Kulbashian?

MR. KULBASHIAN: That's right. It is to establish a pattern. Since he is the witness that they are relying on primarily for the evidence and also identification in some of the more I guess criminal -- well, it is the criminal aspects, but it still does have everything to do with this case.

THE CHAIRPERSON: What do you mean?

MR. KULBASHIAN: Basically since this case didn't come up with the criminal thing, I am not

putting them together. However, since the majority of the evidence that is being presented is from the criminal aspect of the case, and since they are relying on Detective Wilson as a main witness to present that evidence, we are just showing that he has -- basically, we are going to be suggesting that there is a pattern of, I guess, falsification.

THE CHAIRPERSON: There has to be some linkage.

MS MAILLET: Sorry, it is Monette Maillet speaking, if I may.

What I am curious about is what documents were modified. If there is an allegation that the documents that we have relied on, for example, the transcript of the interview with Mr. Wilson and Mr. Kulbashian, if that is the allegation, then I want to know what evidence is there and how Mr. Kulbashian's version of the conversation may differ from what was in the transcript. And in that case we have to look and see who typed that up.

Although Mr. Wilson said it gets typed up, and he told us what the process is, there is no indication whatsoever that it was modified by the typist.

However, is it that document that we

are talking about? Is it the person who did the computer work and that saved the hard drive? Is that what has been modified? Is it the records from the telecommunications company? What is it exactly?

If we could pinpoint what it was -- and I submit that should be put to Mr. Wilson himself -- then maybe we will know what we are talking about.

MR. KULBASHIAN: It is Mr. Kulbashian talking.

As an example, he testified that the copy of the CD of Mr. Richardson's hard drive was a mirror of the hard drive. However, the fact that the CD is lacking any kind of system files, any operating system files, anything like that, there is a strong indication that that cannot be a mirror of the hard drive.

THE CHAIRPERSON: I don't know how getting his employment record helps you in that sense.

What I can tell you is this: I think you may be misrepresenting his evidence on this particular point. I was reviewing my notes, and my understanding is that this question was put to him and he corrected himself.

You may make argument on his having

corrected himself, but he did say that it wasn't a true mirror in the end because clearly it is missing system components. I think you made that point in your cross-examination.

MR. RICHARDSON: This is Mr. Richardson.

If you are using that as evidence and you don't have it all -- a simple point is me trying to prove that it didn't have any programs to download on to the Internet, that is not there. So I can't prove either way. Do you understand?

You need to have files on your computer to upload stuff on to the Internet. If the accusation against me is that I did it from my home at 390 Southdale, but none of that is on the disk, you know what I mean, I can't prove it wrong. So he shouldn't be able to prove right.

So if it is not a true copy, then what good is it?

MR. KULBASHIAN: This is Mr. Kulbashian, by the way.

Also another questionable aspect of that would be that if the directory structure was modified, meaning that there was physical manipulation, like data manipulation of the way things were arranged

on the CD after they were written off the hard drive, there is also a possibility that there is data manipulation of actual files and actual specific -- you know, anything that he would be presenting that was taken off that CD.

THE CHAIRPERSON: Those are arguments that you can make whether or not you have his employment records.

MR. KULBASHIAN: But by showing a pattern of conduct --

THE CHAIRPERSON: You mean he has done that before? You are saying that you will find evidence that he modified computer records?

MR. KULBASHIAN: That he has, I guess, perjured himself before and perjured himself afterwards; so showing there is a pattern of conduct.

It is just to show that -- okay, I am alleging. I am not going to try to --

THE CHAIRPERSON: You are not going to try to what? Slow down, please.

MR. KULBASHIAN: Sorry. I am not going to try to, as Mr. Warman put it, I am not going to try to, I guess, disclaim him right now, as he put it. What I am trying to do is in the court we will work on showing that there are allegations that he has

previously gone outside of his duties, outside I guess the bounds of his duties to take certain actions that would be frowned upon, that would be illegal, and that would be I guess tantamount to lying outright about evidence, lying outright on evidence.

That is kind of what I am dealing with.

MS MAILLET: Again, if there are any allegations that Mr. Wilson has ever been charged and convicted of perjury, that is one thing. In my view, to have this type of, if I could say, witch hunt to go looking for all of his records, any complaints filed against him and anything else that the London police may have, information they may have, is totally irrelevant to the issues before this Tribunal.

MR. KULBASHIAN: In that case, it shouldn't make a difference whether or not I was charged and convicted on the initial criminal trial, whether or not any of the evidence that you guys include should be able to be used against me.

It is all about probability, which is what we are trying to prove, the balance of probability.

MS MAILLET: There is no complaint filed in this hearing against Mr. Wilson.

THE CHAIRPERSON: No, there is not. That has to be kept clear, Mr. Kulbashian. Mr. Wilson is not on trial here.

Mr. Kulbashian, on these complaints, are there any convictions of perjury, to your knowledge, akin to what was just mentioned before by Ms Maillet?

MR. KULBASHIAN: Let's put it this way. Basically the information itself would be provided, to try to work on the balance of probabilities.

THE CHAIRPERSON: No, no. Do you know for a fact --

MR. KULBASHIAN: Aside from that, if he lied, then I have every intention to make sure that he does get charged for perjury for this specific case.

THE CHAIRPERSON: No.

MR. KULBASHIAN: Basically, the point is making sure that there is enough -- to make sure that I have a fair, I guess, access to this case.

THE CHAIRPERSON: Mr. Kulbashian, do you know for a fact that he was found -- and I don't mean necessarily convicted of perjury, that he was in some way found, that a determination has been made in Mr. Wilson's professional past of his having

misrepresented evidence?

MR. KULBASHIAN: Now, yes --

THE CHAIRPERSON: If it is, it might
be --

MR. KULBASHIAN: The problem is
concerning the fact that the London police and his
supervisors were not cooperating with me to even answer
those questions. I know that there were complaints
filed. I don't know the response of those complaints.
I don't know any kind of action they would have taken.
I know that he was demoted from detective to street
officer.

They won't even answer my questions
when I call them up and ask them. So what I am trying
to do is show that basically the complaints would have
had some merit and basically that there has been some
issue with his conduct; and that there is an ongoing
issue right now, still ongoing. As of now, it is --
what is the word for it?

THE CHAIRPERSON: What? What
exactly?

MR. KULBASHIAN: In British Columbia.

THE CHAIRPERSON: What?

MR. KULBASHIAN: Do you want an
example? Okay. Basically --

THE CHAIRPERSON: We need details here.

Mr. Kulbashian, you are asking for something which I fail to see on its face how it connects to the complaints that have been made against you.

You have to establish the connection.

MR. KULBASHIAN: Detective Wilson, to start off, and his new partner up there in British Columbia where his working, they went and confronted two individuals at a restaurant, threatened them that they would be arrested if they didn't leave, for anything they could find; threatened them and told them to leave and never come back to the area, and made allegations against them to the restaurant owner, even though the restaurant owner wasn't kicking them out. He told them --

MS MAILLET: I am sorry to interrupt, but I fail to see how Mr. Kulbashian making allegations that are, I don't know, third, fourth-hand information -- I am assuming they are people that you know, Mr. Kulbashian -- without Mr. Wilson here, in order to form a basis for obtaining his employment record, I just don't understand how the Tribunal can come to a conclusion about the validity of the information given

to us here on the phone by Mr. Kulbashian as a basis for subpoenaing somebody from the London police in order to bring employment records.

I think it is a stretch, and I am wondering about the link and again the validity and the reliability of it all.

MR. KULBASHIAN: This is Mr. Kulbashian talking.

First of all, this is second-hand information which is very similar to a lot of the second-hand information that has been given in court, I guess hearsay from other officers. This is second-hand information from someone who personally contacted me and gave me the information.

THE CHAIRPERSON: Then inherently less reliable.

MR. RICHARDSON: Why don't we have another conference call and get him involved. If you want him to defend himself, then let's do it.

MR. KULBASHIAN: He is coming in from B.C. The thing is the individual lives in B.C. right now.

Another issue is that we want to show more of the way he was when he was in London than the way he was when he was in B.C.

THE CHAIRPERSON: It has to be linked to the case itself. He may have been a very nasty person, or whatever, in London but somehow you need a linkage to the case. You have to somehow demonstrate to me how gaining this information will assist in determining the credibility of his evidence here regarding your case.

MR. KULBASHIAN: Okay. In direct relation to my case?

THE CHAIRPERSON: Yes. Otherwise, it just confuses the issues and is irrelevant.

MR. KULBASHIAN: Detective Wilson did call my employer while I was on the line listening, because my employer said there was a detective on the line to try and talk to him. I was listening on three way but with my phone muted, and he did make allegations. This is after I was arrested.

THE CHAIRPERSON: So what, though? What I am trying to say is --

MR. KULBASHIAN: The point is that he lied just to prove that -- the problem is right now, because we are playing with balance of probabilities, I am trying to make sure that any evidence that he gives is taken with a grain of salt because I know first-hand stuff that I have witnessed, as well as stuff that I

know second-hand.

MS MAILLET: Again, if Mr. Kulbashian and Mr. Richardson want to cross-examine Mr. Wilson -- he is still on the stand -- with respect to the evidence he has given, they are free to do that.

THE CHAIRPERSON: Yes.

At this stage, I am not convinced that this relates to an issue -- especially since the opportunity has not been given to the witness to be confronted with all of these issues that are being raised.

MR. KULBASHIAN: Then he will be.

THE CHAIRPERSON: He will be at the hearing, exactly. He is the first witness, is he not?

MS MAILLET: Yes, he is.

THE CHAIRPERSON: What would the parties say to my proposal here that we put off this discussion until the close of his evidence so that we have all the issues in front of us that relate to Mr. Wilson, that emerge through the cross-examination.

If at that point it appears necessary that the Police Service be called in, then a subpoena could be issued at that time.

MS MAILLET: Perhaps through some of Mr. Wilson's answers the Tribunal can determine the

relevance of where Mr. Kulbashian and Mr. Richardson are going and how it relates to the issues before the Tribunal.

THE CHAIRPERSON: That is what I am proposing.

Mr. Kulbashian, what do you have to say?

MR. KULBASHIAN: Particularly once Detective Wilson's testimony is closed, I don't know if we will be able to bring him back to the stand and be able to question him on further information that we could have received now, or maybe be able to be aware of now, and then ask him questions about that directly while he is still on the stand.

THE CHAIRPERSON: I would not have let you interrupt him anyway. His evidence is coming in next, no matter what.

MR. KULBASHIAN: Right.

THE CHAIRPERSON: If I issue your subpoena, the Police Service will testify afterwards, in any event.

MR. KULBASHIAN: But it might also compel them to give me some information that I have been asking them for for a while.

THE CHAIRPERSON: You see, I am not

going to let you use my process here to try to achieve some other motive, where you are trying to get back at the Police Service for what you see as a malicious prosecution.

MR. KULBASHIAN: I am not trying to get back at them, though.

THE CHAIRPERSON: As I have told you before, you must focus on the evidence that is being presented to you against you in this present case. I won't let you start fishing using subpoenas issued by this Tribunal, to fish for information for some other purpose that you may have.

Any evidence that is coming before me, from your end at least, will be to deal with the evidence that is being presented by the complainant and Commission against you. That is the only purpose for which the evidence can be used.

Any other issue is entirely collateral to this case.

MR. KULBASHIAN: This is Mr. Kulbashian again, by the way.

If I can't challenge his credibility, then where do I stand?

THE CHAIRPERSON: You can challenge his credibility, but you should use the tool of

cross-examination, to begin with. Put any claims you have of wrongdoing to him and let's see what his answer is.

I think it is a prudent approach to follow. If you need to have him testify afterwards, based on evidence that you may somehow acquire afterwards, we will deal with it as it comes.

In several other cases we are using the facilities of videoconferencing. Perhaps that might be a solution if we were to come to that, but I am not telling you that you will have the right to do so.

Frankly, I think it is a little premature if you haven't even cross-examined the individual on what you are alleging here in terms of his credibility.

The issues to which you refer in your letter do not on their face seem relevant to the complaint that is being led against you. You are bringing it up in terms of the evidence of this particular witness. Until this witness' evidence is done, I am not prepared to say that the areas that you intend to cover with this representative from the London, Ontario police are relevant.

MR. KULBASHIAN: My issue is that we

are dealing with the balance of probabilities. I find that it would further benefit my case to be able to prove that kind of pattern of conduct. If it is an issue of beyond reasonable doubt, then I feel that we pretty much have already settled, all we need to settle. But since it is about balance of probabilities and since I need to make sure that I will be able to fully, I guess -- I don't know, tap his mind for anything that I might be able to find useful to defend my case at the Tribunal, that is why I am requesting a subpoena.

MS MAILLET: The way I see it, these records and these people are being subpoenaed in the hope that something might be out there. Before putting any suspicion -- and it has to be relevant to the case -- of Mr. Wilson's conduct, then it should be put to him before a guessing game happens in terms of trying to obtain as much information they can in order to see what is out there.

THE CHAIRPERSON: I think this approach is a fair approach to all sides. As I say, on its face, the request does seem directly relevant to this case, but there is some suggestion that as a consequence of the evidence of this current witness, Mr. Wilson, the relevance may become clear.

Therefore, I will put off my decision on whether to issue the subpoena until such time as the cross-examination of Mr. Wilson is complete. I won't even wait until his re-examination. Well, let's wait.

The re-examination may be important too. So until the evidence of Mr. Wilson is complete at this stage.

We are in the middle of cross-examination by Mr. Richardson. Correct?

MR. KULBASHIAN: Yes, followed by myself.

THE CHAIRPERSON: You had suspended your cross-examination, if I recall.

MR. KULBASHIAN: Yes.

THE CHAIRPERSON: When that gets done, which presumably will be in the first or second day of the hearing, I will deal with the question of subpoena.

I know that might be a tight timeframe vis-à-vis the London, Ontario police. But, Mr. Kulbashian, it is up to you to make your own case.

You should try to communicate with the London police and try to prepare your case yourself instead of having to rely on Tribunal subpoenas to make your case.

MR. KULBASHIAN: Concerning the case that was against me and the way it ended, they have

been extremely uncooperative in responding to either my phone calls or my requests --

THE CHAIRPERSON: Let me back up a second, Mr. Kulbashian.

MR. KULBASHIAN: Yes.

THE CHAIRPERSON: Trying to enter into evidence complaints that were filed and dismissed or not treated by whatever authority deals with complaints will not get you very far in terms of probity. It won't prove much.

What you are looking to prove here, be it convictions or condemnations or findings, that type of information may be available publicly in terms of decisions of the Police Review Board or something -- I don't know what they would have in London -- or maybe from the superior court or maybe from a criminal court.

If that material is out there, then not only is it important to you but it is your duty to find that information in advance and present it to this witness when he testifies.

Don't just say that I have called the police and they don't give me an answer. This material may simply be out there, available publicly. As I say, you have an obligation to put it to the witness and challenge him with it if it is relevant to his

testimony.

MR. KULBASHIAN: In that case, related to this, I would request that I be allowed to add some -- not very much but a little bit more disclosure that I will be receiving from an attorney named Douglas Christie, who is now in B.C., certain files and documents about a case and complaints that he might have.

THE CHAIRPERSON: You have an ongoing duty of disclosure, as all parties do. As soon as you come to the understanding that there is a document that is arguably relevant to a case, you have a duty to disclose it at the earliest possible time.

MR. KULBASHIAN: Thank you.

THE CHAIRPERSON: You have a duty to disclose. So if you have something in your possession, you should disclose it immediately to the other side.

MR. KULBASHIAN: It is actually not in my possession now. I will be requesting it from that attorney.

THE CHAIRPERSON: My statement is clear. This is what our Rules state. You have a duty to disclose all arguably relevant documents as soon as you acquire knowledge thereof and obtain possession.

MR. KULBASHIAN: Give me one moment,

please. I will be right back.

MS MAILLET: Mr. Hadjis, while we are waiting, I am wondering if the location has been determined.

THE CHAIRPERSON: Yes. It is at the Hilton Garden Inn, I think it is called. It is one exit east --

MR. KULBASHIAN: Sorry about that.

THE CHAIRPERSON: Mr. Kulbashian, I have been asked the location of our next hearing, and that is what I am in the process of explaining here.

We will be at the Hilton Garden Inn, Oakville, 2774 South Sheridan Way in Oakville. My understanding is that it is one or two exits to the east of where we were last time, along the QEW.

MS MAILLET: Thank you.

THE CHAIRPERSON: A Notice of Venue will be issued Monday on this.

For your information, it is farther away from the centre of the town. So for those coming from out of town, vehicles may be more important to have.

MS MAILLET: That is good to know.

THE CHAIRPERSON: Do you want to say anything else, Mr. Kulbashian?

MR. KULBASHIAN: That's it for now.

THE CHAIRPERSON: At this time, I am in a way suspending my decision. I don't see the necessity at this point to be issuing the subpoena. However, it will depend in large measure on the evidence that will be entered by Mr. Wilson after the cross-examination which would occur at the outset of the next set of hearing dates.

I am advising all parties that they have an ongoing duty of disclosure, and I am also advising the respondents that they should undertake to obtain all information that they feel is relevant themselves, without necessarily depending on whether or not I issue a subpoena, especially if we are talking about public records.

That is as far as I will go on that.

There is a transcript that will be sent by e-mail, I am informed, in the normal fashion. Our discussion today is being recorded by a court reporter.

MS MAILLET: There is also going to be a package that is going to be sent out to the parties with respect to the materials that were in Mr. Wilson's binders that were ordered by the Tribunal.

The strike has kind of slowed things

up in terms of scanning and numbering the documents, so hopefully we will get that out by next week.

THE CHAIRPERSON: Thank you.

One moment, please.

--- Pause

THE CHAIRPERSON: Some of the exhibits that were produced last time were photocopies of photographs, and they were rather poor. I believe Mr. Wilson had clean copies in his book or he had access to them, and we had requested if cleaner copies could be obtained, or colour copies maybe.

MS MAILLET: If I am not mistaken, those were documents that were taken from his binders that were photocopied by Mr. Richardson or that were provided to Mr. Richardson as photocopies.

THE CHAIRPERSON: Yes.

MS MAILLET: If that is the case, that material has been sent to us by Mr. Wilson, so I will make sure that the copies are as clean as they can be.

THE CHAIRPERSON: It doesn't have to be colour, but you can set the copier for grey scale so they look better than pure black and white.

MS MAILLET: Sure. I will take a look at that.

THE CHAIRPERSON: I believe we have covered off all the issues in terms of the management of the file as well.

Anything else?

MR. KULBASHIAN: That is fine for me.

THE CHAIRPERSON: Mr. Warman?

MR. WARMAN: Yes, that's fine.

THE CHAIRPERSON: Mr. Richardson?

MR. RICHARDSON: I'm good.

THE CHAIRPERSON: And Ms Maillet?

MS MAILLET: Yes, that's fine.

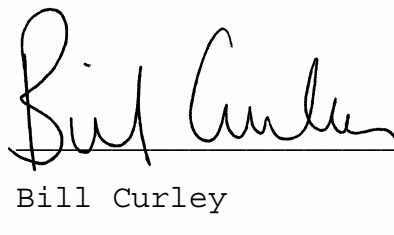
THE CHAIRPERSON: Unless something else comes up, we will see each other next month.

MS MAILLET: Thank you.

MR. KULBASHIAN: Thank you.

--- Whereupon the teleconference concluded at 3:44 p.m.

I HEREBY CERTIFY, to the best of my skill and ability, that the foregoing is a true and accurate transcript of the proceedings



Bill Curley

StenoTran